Conservation of Heritage Curtilages in Kuala Lumpur, Malaysia

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ABSTRACT

Built environment heritage is increasingly vulnerable in South East Asia due to increasing urbanisation and rapid urban development. This dissertation examines the value of the concept of heritage curtilages in Malaysia, with an explicit focus on Kuala Lumpur. The concept is still relatively new in the field of heritage conservation and it is closely related to concepts of setting or context. Curtilage comprises a broader aspect as it takes into consideration all elements involved in retaining heritage curtilage and interpreting the significance of a specific heritage item within an area. Among these elements are the functional uses, visual links, scale and significant features. The conservation of heritage curtilage has the significant potential to enhance the richness and contextual settings of heritage buildings in Malaysia. While conservation efforts are improving, there is still limited research which focuses on the implementation of heritage curtilage as a conservation practice and a strategy. Moreover, it is necessary to improve understanding of how heritage curtilage relates to and enhances the significance of individual heritage places.

This dissertation initially discusses the theoretical issues and complexities related to the definition of heritage curtilage, with reference to specific initiatives in Malaysia, as influenced both by the local legislators and international heritage organisations. This discussion is followed by a comparative analysis of Gazetted heritage buildings in Kuala Lumpur. The study is further informed by a series of open-ended interviews with selected practitioners, conducted in Australia and Malaysia, who were invited to define and visualise the value and importance of local heritage curtilage in Malaysia. The results from the comparative analysis and interviews provided detailed insights into the current conservation issues related to heritage curtilage development in Malaysia. The findings revealed varied disciplinary understandings of the theories and the concepts of heritage curtilage as well as diverse attitudes to the legal aspects of implementing the concept of heritage curtilage in Malaysia.

Based upon qualitative analysis of this data, this dissertation has defined the relevant criteria that could be applied to identify local heritage curtilages. This criterion is therefore proposed with a view to aid future Malaysian conservation efforts together with effective legal implementation. Hence, it is intended that this criteria will establish a methodological and procedural framework to conserve the heritage significance of the curtilage of Malaysian heritage buildings and not just buildings in their own right.

I certify that this work contains no material which has been accepted for the award of any other degree or diploma in my name, in any university or other tertiary institution and, to the best of my knowledge and belief, contains no material previously published or written by another person, except where due reference has been made in the text. In addition, I certify that no part of this work will, in the future, be used in a submission in my name, for any other degree or diploma in any university or other tertiary institution without the prior approval of the University of Adelaide and where applicable, any partner institution responsible for the joint-award of this degree.

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Nadiyanti Mat Nayan

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Nayan, N. M., Khamis, M. K., Sakip, S. R. M., & Rahman, N. A. (2015). *Reviving Sydney Lake as the Historical Park of Kuala Lumpur*. Science Direct Procedia: Social & Behavioral Sciences, Pages 578-586.

Ali, W. N., Hassan, N., Hassan, K., Nayan, N. M. (2015). *The Morphology of Heritage Trees in Colonial Town: Taiping Lake Garden, Perak, Malaysia*. Science Direct Procedia: Social & Behavioral Sciences, Pages 621-630.

BOOK CHAPTER

Nayan, N. M. & Jones, D. S. (2011). *Conserving the Heritage Spaces of Kuala Lumpur: A Case Study of the Old Market Square (Medan Pasar)* in Multifaceted Aspects of Asian Heritage, School of Social Sciences, Universiti Sains Malaysia (USM), ISBN 978-967-394-043-1

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Nayan, N. M., Khamis, M. K., Sakip, S. R. M., & Rahman, N. A. (2015). *Reviving Sydney Lake as the Historical Park of Kuala Lumpur*. Paper presented at the AicQol2015 "Quality of Life in the Built & Natural Environment 3" (25 – 27 April 2015), Jakarta, Indonesia (*peer reviewed).

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Nayan, N. M. (2010), ***Conserving the Old Town of Kuala Lumpur***, Paper presented at the Outback & Beyond: The Future of Historic Towns, Industrial Heritage & Pastoralism (22 – 25 April 2010), Broken Hill, Australia. Proceedings by Australia ICOMOS.

Presentation: ***Heritage Issues in Malaysia***, School of Architecture, Landscape Architecture and Urban Design, Postgraduate Research Symposium: Cultural and Sustainable Landscapes (25 April 2009), The University of Adelaide, Australia.

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ACT	Australian Capital Territory
AKDN	Aga Khan Development Network
AWPNUC	Asia and West Pacific Network for Urban Conservation
BWM	Heritage of Malaysia Trust (*Badan Warisan Malaysia*)
CA	Conservation Analysis
CMP	Conservation Management Plan
DA	Discourse Analysis
DKLCP2020	*Draft Kuala Lumpur City Plan 2020*
DOCOMOMO	International Committee for Documentation and Conservation of Buildings, Sites and Neighbourhoods of the Modern Movement
DPMM	Department of Museums Malaysia
EPP	Entry Point Project
HIA	Heritage Impact Assessment
HMP	Heritage Management Plan
HREC	Human Research Ethics Committee
ICCROM	International Centre for the Study of the Preservation and Restoration of Cultural Property
ICOM-CC	International Council of Museums – Committee for Conservation
ICOMOS	International Council on Monuments and Sites
KLCH	Kuala Lumpur City Hall
KLSP2020	*Kuala Lumpur Structure Plan 2020*
MPPP	Penang Municipal Council
NGO	Non-government Organisation
NKEA2020	National Key Economic Area 2020
NMCI	Nara Machizukuri Center Incorporated

NSW:	New South Wales
NT	Northern Territory
OUV	Outstanding Universal Value
SAP	Special Area Plan
UK	United Kingdom
UNESCO	United Nations Educational, Scientific and Cultural Organization
UofA	University of Adelaide
US	United States
USA	United States of America
WHS	World Heritage Sites
WMF	World Monuments Fund

Conservation of Heritage Curtilages in Kuala Lumpur, Malaysia

1.1   Overview

This thesis developed criteria to implement heritage curtilage conservation in the context of Malaysia's built heritage. The development of this criteria involved a thorough and detailed analysis of practical, theoretical and legal definitions of heritage curtilage and qualitative analysis of knowledge and understanding amongst representative participant stakeholders including government authorities, state authorities, Kuala Lumpur authorities, non-government organisations (NGO) and professional practitioners. This criteria was further refined to appraise actual situations and issues of heritage conservation practices in Malaysia. Hence, to achieve this goal, this chapter introduces the overall focus of this research, and it is organised as follows:

   i.   Background of the research;
   ii.   Research aims and objectives;
   iii.   Research questions;
   iv.   Scope and limitation of the research; and
   v.   Structure of the thesis.

1.2   Background of the Research

Heritage is crucial in our life because it helps us to know about ourselves, our history, and the identity of our community and our nation. Heritage has traditionally encompassed landscapes, buildings, or places. For conservation purposes and historical reasons, heritage is usually divided into three categories: natural heritage, cultural heritage and Indigenous heritage. The categories also encompass tangible and intangible aspects of heritage. In the case of cultural and Indigenous heritage, increasingly broad and inclusive conceptions of culture have established new scope in conservation activities. As Bryne (2009) states:

Those of us who have pushed for recognition of 'the intangible' in heritage work are also those who tend to stress the 'cultural' in cultural heritage. We try to resist the tendency of heritage discourse to reduce culture to things, we try to counter its privileging of physical fabric over social life (Bryne, 2009, p. 229).

Conservation efforts have involved "social practices, skills, and traditions as the equivalent of heritage objects, places or landscapes" for comprehensive actions (Bryne, 2009, p. 229). These elements are priceless and irreplaceable. In this sense, heritage is clearly something of worth to be conserved, preserved, and protected.

In Malaysia, the evolution and interest in conserving Malaysia's cultural heritage began more than twenty years ago with the formation of the Heritage of Malaysia Trust in 1993. However, regarding legal documents, the implementation of conservation *Acts* and guidelines are still new in Malaysia (Hussin, Salleh, & Ariffin, 2011, p. 12; Yusoff, Dollah, & Kechot, 2013, p. 65). Malaysia only implemented its first *Act* that was related to the protection of heritage property in 1976.[1] In 2005, the first heritage *Act*[2] was introduced.

The gap in legal aspects, especially in the formulation and gazettement of a comprehensive *Act* is one of the main reasons why there is lack of awareness in protecting heritage buildings in Malaysia (Idid & Ossen, 2013, p. 301; Yusoff et al., 2013, p. 76; Zuraidi, Akasah, & Rahman, 2011, p. 7). The 'absence' of appropriate guidelines to conserve heritage buildings has caused the stakeholders involved to take different approaches to conserve heritage. Actions taken at present include either saving the property from being demolished or neglected. But, although a building may be 'safe', the surroundings of the building, which once was part of the building's history, may be demolished or severely compromised.

Conserving heritage buildings is not only about the physical structure of the building but also about the space that surrounds it. Mason (2002, p. 9) clearly articulates the conceptual and practical difficulties encountered in any effort to describe the values attached to a particular heritage site due to the different priorities of varied stakeholders (not least, the art historian, the economist, or the resident). Many conservation efforts often emphasize the building and not the area of land thereto. Even though a curtilage is an area that bounds a heritage building, it also contributes to place making and is a part of the identity of the built heritage. Hence, it is vital to include curtilage as part of heritage assessment because little attention

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[1] *Antiquities Act 1976 (Act 168)*
[2] *National Heritage Act 2005 (Act 645)*

has been given to conserving and protecting this area. Unfortunately, there is still a lack of information about practical approaches to conserve heritage curtilage. Therefore, it is a challenge to the parties involved to ensure that the heritage curtilage of structure remains valuable and retains its identity for future generations.

A review of the heritage curtilage conservation literature revealed that the term 'curtilage' is still new in conservation efforts. New South Wales (NSW), for example, is the only state in Australia which has a complete manual on the conservation of heritage curtilages. Further, UNESCO and other international bodies do not refer to curtilage terminology in their documents. UNESCO for example, adopted the terms boundary, context, setting and buffer zone to acknowledge the space surrounding a building. Moreover, curtilage is commonly implemented in the legal context, especially in the United States of America, the United Kingdom, and Australia. Recognising this issue, this research takes an in-depth examination of the criteria needed to apply this concept to conservation works in Malaysia.

In addition, from the analysis of literature, various factors need to be considered in establishing a heritage curtilage. Each effort taken around the world to establish a heritage curtilage needs to be evaluated and measured as it carries strengths and weaknesses. Each term and concept applied needs to be analysed to find the most suitable criteria for application based on local needs (Aplin, 2002, p. 122; McClean, 2007, p. 17). The opportunities and constraints of existing methods practiced in the selected countries are discussed in Chapter 04: Theories of Heritage Curtilage.

The benefits of conserving built heritage are well established, but in the case of curtilage conservation, the benefits remain vague (Anthony, 1988, p. 15; Mynors, 2006, p. 13). Thus, to achieve a comprehensive conservation approach, one needs to understand policy makers and practitioners' perspectives and experiences. This appraisal method therefore seeks to identify criteria that meet the current situation relational to the present *Acts* and regulations practiced in Malaysia.

1.3   Research Objectives

The objectives of this research are identified below:

i. To explore the concept of heritage conservation articulated in selected regions around the world and to evaluate how these heritage items and spaces have been treated using the relevant legislation or criteria;

ii. To identify relevant theories or concepts of heritage curtilage implemented by selected countries (United States of America, United Kingdom, and Australia)[3] and organisations and generate an analysis based on these theories or concepts;

iii. To identify legal documents and heritage curtilage conservation in Malaysia;

iv. To test whether these heritage curtilages are valid according to the relevant legislations and criteria applied in Malaysia; and

v. To propose a set of criteria for appropriately conserving this local curtilage heritage.

1.4   Research Questions

The research questions were structured to identify and address the main issues identified in this research and they are also used to realise the objectives of the study. The relationship between the research objectives and the research questions is crucial to obtain a reliable result for the research problems and the findings (Figure 1.1). The research questions for this research are:

i. What are the theories or concepts of heritage space conservation that could be applied in this research?

This question seeks to address the implementation of different theories and concepts of heritage spaces or area conservation that have been practiced by various parties in the selected countries and international conservation bodies. Through the understanding of these terms and concepts, it helps to develop the knowledge of the practicality of these concepts according to the different situations and issues. This question is discussed in Chapter 03: Understanding of Heritage. Further, this question underpins the main questions in the questionnaire that sought to obtain ideas and feedback of policy makers and practitioners' understanding of curtilage conservation.

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[3] The theories and concepts applied by these countries will be discussed thoroughly in Chapter 04: Theories of Heritage Curtilage.

ii. Is heritage curtilage around the world properly considered and what is the legislation or criteria used to conserve this form of heritage?

This question provides additional knowledge to the legal aspects of the conservation of curtilage. Views gained from legal documents and precedents by different organisations help to refine the criteria needed in heritage curtilage conservation. These issues are discussed in Chapter 04: Theories of Heritage Curtilage.

iii. Is heritage curtilage recognised in Malaysia for heritage buildings?

This question seeks to address the main gap in knowledge which relates to the implementation of the concept of curtilage conservation in Malaysia. The literature comprises an analysis of curtilage conservation from different approaches and terminologies. In addition, the discussion also considers legal documents implemented and heritage conservation practice in Malaysia. These discussions are contained in Chapter 05: Heritage Curtilage Conservation in Malaysia.

iv. Is Malaysia's heritage curtilage being properly considered in terms of the relevant legislation and criteria used in Malaysia, or in other related countries?

This question seeks to obtain information about participants' experiences and knowledge, and thus their perceptions of heritage curtilage. This question frames the development of the questionnaires. The chapter reviews the key issues being addressed to obtain thorough feedback from the participants. Findings from this research investigation are analysed in Chapter 07: Analysis of Heritage Curtilage in Malaysia.

v. What are the most appropriate criteria for conserving heritage curtilages?

This section discusses the importance of gathering participants' perceptions, concerns, and feedback regarding the feasibility of establishing heritage curtilages in Malaysia. Reflecting upon this question, the researcher suggests that appropriate criteria are one effective approach to identify heritage curtilage.

Problem Statement: Heritage curtilage is important to ensure the heritage significance of a building is conserved appropriately. However, there is still a lack of resources which identify the best approaches to conserve the curtilage.

RO1

RO2

Answered by RQ1 & RQ2

Conservation of heritage space, criteria and management of this space.

RQ1

RQ2

Site Assessment: Field Observation

RO3

RO4

RO5

Answered by RQ3, RQ4 & RQ5

Perception of heritage curtilage, regulations and law regarding this space.

RQ3

RQ4

RQ5

Interviews: Stakeholders, Government, NGO, Professional Practitioners, Kuala Lumpur Local Authorities

Evaluation

Develop criteria for local heritage curtilage in Kuala Lumpur, Malaysia

* RO: Research Objectives

* RQ: Research Questions

Figure 1.1: The relationship between the problem statement, research questions, and research objectives.

1.5   Scope and the Limitations of the Research

This research used a qualitative approach to identify heritage curtilage conservation issues and concerns from stakeholders, non-government organisations (NGOs), and heritage practitioners in terms of their understanding and experiences. These issues arose from the conservation of curtilages which had been overlooked in conservation practices and legal documents. This situation reflects the scope of the study as follows:

i. Participants' perceptions of heritage and heritage conservation in Malaysia and their experiences dealing with the issues. By addressing the differences between 'perceived' and 'actual' situations, the results will identify the need for improvement due to the issues;

ii. Participants' experiences in the heritage conservation field and their sensitivities to the curtilage or the area surrounding the heritage building; and

iii. Participants' reactions and feedback towards the existing Acts and guidelines implemented in Malaysia on how relevant these regulations were in protecting Malaysia's built heritage.

The assessment of participants' knowledge, experiences, and remarks on heritage conservation in Malaysia are one of the principal sources of references. These participants are significant because they are the ones who understand the practicalities of dealing with conservation processes and works. Therefore, the selection of participants focused on individuals who are involved in conservation fields and who deal with the regulations that seek to protect Malaysia's built heritage. Participants' backgrounds are quite varied. Although the main case study was conducted in Kuala Lumpur, there were also participants selected from Penang and Melaka to obtain their first-hand experiences in dealing with the UNESCO World Heritage Site management of George Town, Penang and Melaka. This wide-ranging knowledge obtained from various participants was crucial in adapting general criteria for Malaysia's heritage curtilages.

Kuala Lumpur has been selected as the main case study and as a pioneering example due to its status as the capital of Malaysia, and for the reason that this area is seen as a good option for the purpose of implementation of heritage curtilage conservation aspects. Moreover, the locations of the selected national heritage listed buildings are coincidently situated in the heart of the Old Town of Kuala Lumpur, located within the greater Kuala Lumpur Metropolitan region. To confirm this examination, the history of the Old Town of Kuala Lumpur has been profiled in Chapter 02: Kuala Lumpur in Historical Perspectives. The selection of heritage buildings is based upon the gazetted heritage buildings listed under the *National Heritage Act 2005 (Act 645).* However, the scope of the study area has been expanded to historical areas and elements located near heritage buildings and the Old Town of Kuala Lumpur. This identification was deliberate to ensure that context was included so as to provide an understanding of why it is important to conserve these buildings as a whole instead of a single building.

1.6   Structure of the Thesis

The thesis is organised into eight chapters as outlined in Figure 1.2.

- Understanding the historical elements of the Old Town of Kuala Lumpur → Heritage Significance of the Site (Case Study)

HISTORICAL BACKGROUND
Chapter 2:
Kuala Lumpur in Historical Perspectives

1. Historical background of Old Town of Kuala Lumpur
2. The development of Kuala Lumpur from a *kampong* to a city
3. Heritage issues of Kuala Lumpur

- Understanding the theories and concepts of heritage / cultural heritage / conservation

- Understanding the theories and concepts of heritage conservation / heritage space / area / site, etc. implementation by international organisations and Malaysia → to relate it with heritage curtilage

- Approaches / legal actions taken by international organisations and Malaysia in heritage curtilage conservation.

THEORETICAL BACKGROUND
Chapter 3:
Understanding of Heritage

1. Concepts and definitions of heritage and cultural heritage
2. Review of cultural heritage conservation and urban conservation
3. Criteria on cultural heritage conservation from different scales

THEORETICAL FRAMEWORK
Chapter 4:
Theories of Heritage Curtilage

1. Concepts and definitions of heritage curtilage
2. Review of different terminologies related to curtilage
3. Criteria on heritage curtilage conservation

THEORETICAL FRAMEWORK
Chapter 5:
Heritage Curtilage Conservation in Malaysia

1. Review of *Acts* and regulations of heritage conservation in Malaysia
2. Review of different terminologies related to heritage curtilage based on the legal documents

REPORT FINDINGS
Chapter 7:
Analysis of Heritage Curtilage in Malaysia

1. Identify heritage conservation weakness and strength in Malaysia
2. Review of different terminologies related to curtilage
3. Heritage curtilage conservation in Malaysia

METHODOLOGY
Chapter 6:
Research Design

1. Selection of study area (Pilot and Case Study)
2. Choice of research methods and techniques
3. Process of Data Analysis

Validation Process → Interview Questions

CONCLUSIONS AND RECOMMENDATIONS
Chapter 8:
Discussion

1. Heritage curtilage conservation theories and concepts in Malaysia
2. Roles of government and conservation bodies in conserving heritage curtilage in Malaysia
3. Criteria of heritage curtilage conservation in Malaysia

Figure 1.2: Thesis Outline

Chapter One presents the overall research flow of the introduction by introducing the background of the study, research aims and objectives, research questions, scope and limitations of the research, and the structure of the thesis. Chapter Two begins with an introduction to the historical background of Kuala Lumpur. This chapter will discuss the development of the Old Town of Kuala Lumpur since its early tin mining era until it became the capital city of Malaysia. This introduction underscores the significance of the heritage of Kuala Lumpur as the main case study in this research.

Chapter Three considers previous and current research on cultural heritage conservation. The discussion commences with the conservation of a single monument before moving on to larger scale conservation efforts including urban conservation. This discussion will reveal the influence of site or area conservation in relation to the heritage monument. This chapter establishes the context for the subsequent discussions about heritage curtilage.

Chapter Four is a continuation of Chapter Three and presents the process in developing the theoretical framework to appraise the implementation of heritage curtilage conservation in other countries including international organisations. This chapter will review the concepts and theories applied by these agencies to conserve the heritage elements and the spaces surrounding them. Findings from this chapter will identify various understandings of heritage curtilage by different parties and organisations from local and international perceptions.

Chapter Five examines the status of heritage curtilage conservation in Malaysia. It reviews the implementation of *Acts* and regulations commencing from the National Government level to the States (Penang and Melaka) and Federal Territory of Kuala Lumpur. The hierarchies of the implementation of *Acts* and the regulations provide input to the understanding of different laws enforced in Malaysia. Hence, the chapter considers the impact of these regulations upon heritage conservation in Malaysia. It also involves the selection of potential research participants that inform the criteria as to the purpose and reliability of this research.

Chapter Six concentrates on the selection of a reliable methodology for the evaluation of the implementation of heritage curtilage in Malaysia. Each participant represents one or more organisations in Malaysia. This chapter also introduces the pilot interviews and the main case study interviews that were conducted in Kuala Lumpur. It describes the case study background and the justification of the selection of participants for the case study. In addition, this chapter also discusses the process of obtaining and analysing the data including the Case Study Analysis, Conversation Analysis (Jeffersonian techniques) and Discourse Analysis. These methods are applied to ensure the validity and reliability of the data.

Chapter Seven presents a cross-case analysis of the findings based on the list of questions presented to the selected participants. Discussions in this chapter help inform the ensuing discussion about the best criteria for the conservation of local heritage curtilage.

Chapter Eight expands upon the findings as discussed in Chapter Seven. The data results are refined and discussed, having regard to the framework that tracks the ability of the existing *Acts* and regulations in Malaysia to protect local heritage curtilage. In addition, the chapter explains the role of government, local authorities and non-government organisations in developing a comprehensive law on conserving Malaysia's heritage. A comprehensive set of criteria is proposed for the conservation of the local curtilage applicable for the Malaysian context. In addition to the above, the key contributions to knowledge and directions for future designs are also suggested in this concluding chapter.

CHAPTER 02:

Kuala Lumpur City in Historical Perspectives

2.1 Introduction

This chapter examines the origins and development of Kuala Lumpur. While there is a long history of settlement in the area, that was increasingly substantial after 1850, the city now comprises a mix of traditional dwellings and new buildings. Kuala Lumpur was granted the status of a city in 1971. To identify heritage curtilage in Kuala Lumpur, it is crucial to provide an overview of the original settlement of Kuala Lumpur and to understand how the different areas, buildings and road networks have developed. Early written sources provide key data which informs this chronology of the historical development of the area and the City of Kuala Lumpur. In doing so, this chapter reveals the originality of this city which has shaped its identity.

The information presented in this chapter provides a framework for interpreting Kuala Lumpur's heritage curtilage and developing appropriate criteria. This information also informs subsequent chapters by enhancing understanding of actions taken by various countries and organisations to conserve cultural heritage (Chapter 03), and to analyse theories and concepts of heritage curtilage implemented by selected countries and international organisations (Chapter 04). The discussion in this Chapter also underpins understanding of the implementation of the current heritage *Acts* and legislation in Kuala Lumpur and Malaysia (Chapter 05), and recommendations for the establishment of Kuala Lumpur's heritage curtilage (Chapters 07 and 08).

2.2 Kuala Lumpur City in Historical Perspective

The origins of Kuala Lumpur lie at the confluence of two rivers, the Gombak and Klang rivers. It is believed that the name of Kuala Lumpur derived from this context. The terms are of Malay origin; '*kuala*' means 'confluence' and '*lumpur'* means 'mud.' The literature on the early history of Kuala Lumpur is limited and hard to trace. Records obtained from Kuala Lumpur City Hall (1996) mention that 'Kuala Lumpur' existed "as early as the nineteenth-century near the confluence of Klang and Gombak rivers" (Kuala Lumpur City

Hall, 1996, p. 6). However, the record does not include further details about the settlement or the people that once lived there. Gullick[1] (1998), stated that the people who lived in 'Kuala Lumpur' were "Malays, mainly Sumatran immigrants," and they "had long settled on the banks of Klang River" (Gullick, 1998, p. 13). Both sources agree that Kuala Lumpur's early settlements were located on the main river. However, neither source mentions the exact date of when 'Kuala Lumpur' was founded. The earliest map was sketched by Sir Frank Swettenham, dated 1875, and the earliest image of Kuala Lumpur that the researcher retrieved is dated 1884 (Figure 2.1 and 2.2).
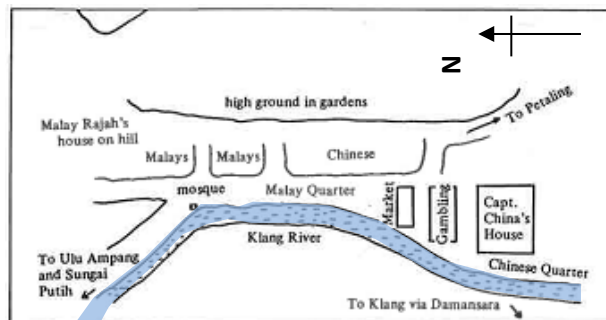
Figure 2.1: Swettenham's sketch of Kuala Lumpur in 1875 is the earliest map of Kuala Lumpur.
Source: (From Sir Frank Swettenham's *Malayan Journals* in Gullick, 1998, p. 5).

Figure 2.2: One of the earliest photos of Kuala Lumpur in 1884 showing the 'houses' in Kuala Lumpur during that time.
Source: (Gullick, 2000, p. 312).

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[1] J. M. Gullick, a Western scholar of Malayan history, emphasized the establishment of Selangor and Kuala Lumpur in the 18th century due to European colonial impact.

2.2.1   Kuala Lumpur in the early 1850s

Lack of sources about the early history of 'Kuala Lumpur' may be attributed to the alternative names that existed for the settlement. 'Kuala Lumpur' was only used by the locals and "did not appear generally in contemporary records until after the civil war (1867–73) was over" (Gullick, 1998, p. ix). It is not even mentioned by the "officials and businessmen in the towns of the Straits Settlements[2] until the early 1870s" (Gullick, 1998, p. ix). The only place mentioned was 'Klang', referring to "the entire Klang Valley" (Gullick, 1988, p. 4; 1998, p. ix).

So far, the only reference to 'Kuala Lumpur' which relates to the early history is documented in an interview by Datuk Onn bin Jaafar, in 1935, with one of the 'original' residents of Kuala Lumpur, Haji Abdullah Hukum bin Abdul Rahim. Even though Haji Abdullah Hukum did not mention the exact date of Kuala Lumpur's origin, he did recall details of the settlement of Kuala Lumpur during this period. The series of interviews was published in *Warta Ahad* from 6 October until 17 November 1935, and has been compiled in a book by Adnan Haji Nawang in 1996.

Based on the interview, when Haji Abdullah Hukum arrived in Kuala Lumpur in 1850:

> …there were only two streets existing during those times which are Java Street and Market Street. Business activities are still dominated by the Malays, mainly *Rawa* and *Mendahiling,* selling clothes, food and there were even fish ponds owned by Sutan Puasa at Lorong Ceti (now known as Ampang Street). In fact, even the community rulers are still the Malays, Sutan Puasa and Raja Bilah. Other parts of Kuala Lumpur are still undeveloped (jungle). … . There was no 'exit' road from this area and the 'main' routes to this village are only by the river (using a *sampan*) or walking through the 'footpath' that has been used by the residents regularly (Nawang, 1997, pp. 28-29).

Building materials during those times were easily obtained from the surrounding jungle. "Houses are built using clay 'bertam[3] leaves' and shophouses are built using bamboo and 'bertam' leaves for the roof" (Nawang, 1997, p. 4). Even the bridge at Java Street was made from bamboo, and the one in Market Street was built using only two logs. There

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[2] The Straits Settlements in Malaya (Malaysia's name before 1963) consisted of Penang, Malacca and Singapore.
[3] A palm tree species that grows in the tropical rainforest.

was also a small stream (where Foch Avenue is). However, this stream has already vanished (Nawang, 1997, p. 10).

2.2.2 Kuala Lumpur in the mid-1850s to 1860s

The history of Kuala Lumpur started to change when tin was discovered in Ampang, two miles from Kuala Lumpur, in 1857. Raja Abdullah, a Malay chief from Klang, sent a party of eighty-seven Chinese miners from Lukut to Gombak River. The party then arrived at the confluence of the Klang and Gombak rivers and started their search for a new tin mining area.

Two years later, two Chinese traders known as Ah Sze 'Keledek' and Hiu Siew, came from Lukut to open a new shop in Kuala Lumpur in association with one of Kuala Lumpur's Malay rulers, Sutan Puasa. The place that had been chosen "was on the right-hand side (east) of the Klang River (facing upstream)" and "somewhere about where Cross Street now runs" (Gullick, 1998, p. 2; Kuala Lumpur Municipal Council, 1959, p. 8).

Hiu Siew was said to be the 'founder' of Kuala Lumpur and he was recognised as the first Capitan China (headman) of Kuala Lumpur (Middlebrook & Gullick, 1983, p. 12; Kuala Lumpur Municipal Council, 1959, p. 8). However, based on Abdullah Hukum (Nawang, 1997, p. 10), the first Chinese Capitan during that time was Ah Sze 'Keledek'. However, there is ongoing disagreement about who the real founders of Kuala Lumpur are, either Malays or Chinese. Referring to Abdullah Hukum's story, Kuala Lumpur already had Malay rulers as early as 1850 known as Sutan Puasa and Raja Bilah; they could be the founders of Kuala Lumpur. Based on Buyong (1981), Raja Abdullah was the 'real' founder of Kuala Lumpur, because he was the one that was willing to take a risk to search for a new mining area in Kuala Lumpur, and not the Chinese (Haji Buyong Adil, 1981, p. 51). Sardar (2000) agrees, stating that "Malays had been mining tin for millennia" (Sardar, 2000, p. 48). However, these facts are 'rejected' by Gullick (2004), as "there is no contemporary evidence to support this assertion" (Gullick, 2004a, p. 49).

There was little change to the settlement before the 1850s, besides the addition of new businesses and new mining sites. However, the number of Chinese immigrants to Kuala Lumpur increased and they chose to settle and pursue farming on the west side of the river, most probably where Pudu Street is today. Given these points about the early history of Kuala Lumpur, and the mixed community in Malaya (Nawang, 1997, p. 27), the evidence points to the multi-cultural origins of Kuala Lumpur beginning with these groups; Malay and Chinese.

2.2.3 Kuala Lumpur in the early 1860s

In the 1860s, Kuala Lumpur continued its prosperity. It has been said that "1862 to 1867 was a period of steady expansion" for Kuala Lumpur (Gullick, 1998, p. 12) until the Civil War started among Selangor's aristocracy in 1867. This war had a negative impact on Kuala Lumpur's development and presented tough core stances for Yap Ah Loy, who was appointed as the third Capitan China in 1868 (after Liu Ngim Kong[4]). Again, there is a dearth of literature that discusses this period of the development of Kuala Lumpur.

Even though Sutan Puasa, Raja Bilah and Raja Abdullah are mentioned earlier as founders of Kuala Lumpur, their involvement in the development of Kuala Lumpur is still vague. Most scholars, Malay or Western, only discuss their involvement during the Civil War and their business activities in Kuala Lumpur. Sutan Puasa, for example, had an excellent business relationship with Yap Ah Loy. Besides the business activity, he was the one that assisted "Yap Ah Loy's installations as the third Kapitan China of Kuala Lumpur and leader of the Fei Chew Hakka" (Lubis & Nasution, 2003, p. 20). Thus, this Selangor aristocrat indirectly contributed to the administration of Kuala Lumpur.

2.2.4 Kuala Lumpur in the early 1870s

The official development history of Kuala Lumpur coincided with the conclusion of the Civil War in 1870. At this time, Kuala Lumpur was not a safe place to live and "during this period (1870 – 1873) Kuala Lumpur was threatened, either closely or at a distance" by fire and war (Gullick, 1998, p. 14). In August 1872, it burnt to the ground.

After the war, Kuala Lumpur enjoyed a period of peace, the economy started to improve in Kuala Lumpur (Gullick, 1998, p. 7). Mining industries and agricultural activities began to develop. While the Chinese worked hard in mining, agricultural industries were mainly dominated by the Malays and the "Malay community was an active and busy part of Kuala Lumpur in the 1870s" (Gullick, 1998, p. 8). Coffee and pepper were planted at Setapak, Hulu Gombak, Batu, Pudu and Petaling generating new income for the people in Kuala Lumpur. Besides these plantations, there were also small plantations planted with vegetables, sugar cane, banana, *Piper betle* (Betel) and other crops in the Bukit Bintang area.

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[4] Liu Ngim Kong was appointed as the second Capitan China of Kuala Lumpur from 1862 until 1868.

In March 1875, during Swettenham's visit, he stated that Kuala Lumpur was:

> the best mining village I have seen, the streets wide and excellently arranged, the shops most substantial...in the front of the Captain's house are the Gambling Booths and the Market...there are about 1,000 Chinese in the town and some 500 to 700 Malays (Swettenham's Journal, March 1875 in Gullick, 1998, p. 7).

In 1878 to 1879 the mining industries in Kuala Lumpur boomed when the price of tin rose rapidly. The population increased to 2,000 by 1878, and within twelve months it increased by another thirty percent (Gullick, 1993c, p. 57; Kuala Lumpur Municipal Council, 1959, p. 13).The total population of Kuala Lumpur in October 1879 was 1,906 Chinese and 424 Malays (Gullick, 2000, pp. 20-21).

Besides the increased population in Kuala Lumpur, the urban fabric of Kuala Lumpur also changed gradually. In Hornaday's diaries in 1878, the American naturalist was impressed by the views on the way to the mining site:

> …the road was good all the way and lay through open uplands of dark alluvial soil. We passed several fine fields of sugarcane, two of tobacco, and my guide pointed out several coffee bushes hanging full of berries. There were houses and huts of both Malays and Chinese scattered along the road, and the two could always be distinguished at a glance (Hornaday, 1993, p. 39).

By the time of Sultan Abdul Samad's[5] first visit in May 1879 Kuala Lumpur had developed further. The British Resident at this time was Bloomfield Douglas.[6] In his diaries, Douglas wrote that the city was well prepared during the Sultan's visit due to the:

> …beauty of its site, the nice appearance of the bridge and the decorations so profusely exhibited in honour of the Sultan's visit….We stopped at a very nice gateway and entered the Captain's kampong, all nicely decorated and certainly on this occasion most scrupulously clean. There were strong bamboo fences all-round the quarters prepared for the Sultan…. (The Bloomfield Douglas Diaries: 1876 – 1882 in Gullick, 1993a, p. 128).

Impressed by the capability of Kuala Lumpur to develop after the war, and the demand for the tin industries, by September 1879, the British decided to move their administration centre from Klang to Kuala Lumpur (Figure 2.3).

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[5] Sultan Abdul Samad was the fourth Sultan of Selangor. He was installed in 1857. During this time, Kuala Lumpur was one of the districts in Selangor.
[6] Bloomfield Douglas was appointed as the second Resident of Selangor from 1876 – 1872.
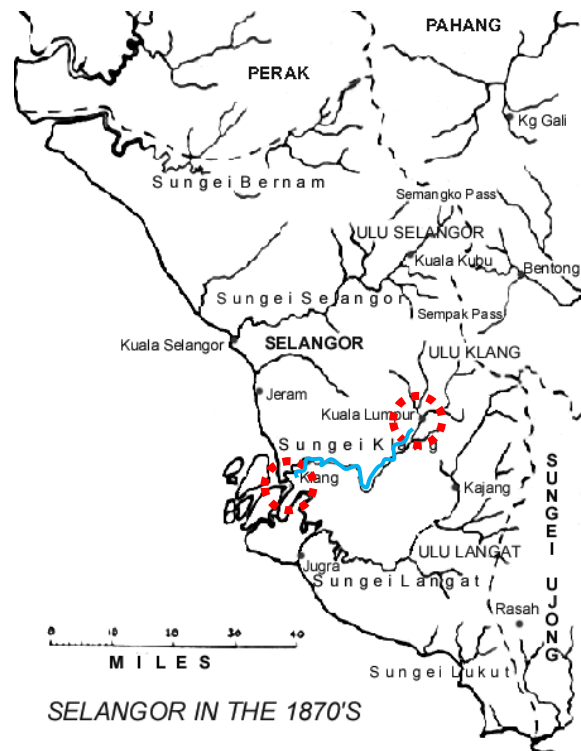
Figure 2.3: Map of Selangor in the 1870s. The administration centre was moved from Klang to Kuala Lumpur in 1879.
Source: (Gullick, 2004b, p. 20).

2.2.5　Kuala Lumpur in the early 1880s

Further development of Kuala Lumpur occurred in early 1880. The administrative headquarters of the state Government were relocated from Klang to Kuala Lumpur. In March 1880, the British Resident and his officers were moved to Kuala Lumpur and in the same year, Kuala Lumpur was officially designated the state capital by Sultan Abdul Samad. Since then, Kuala Lumpur became well-known among the British and Eurasian officers. They started to note the physical appearance and social lifestyle of Kuala Lumpur in their daily records, diaries or journals (Gullick, 1988, p. 17).

However, Kuala Lumpur was still a small town. Money and materials had been the major constraints in the development of Kuala Lumpur. Even the buildings for the British officers were built from reclaimed materials. Most materials used for building construction were gleaned from the previous buildings in Klang that had been dismantled. It was then "shipped up the river to be reassembled in Kuala Lumpur" (Isabella Bird in Gullick, 2000, pp. 35-36). The use of 'recycled' materials was the best solution to reduce the cost during those critical times.

Besides these constraints, Yap Ah Loy managed to establish his fortune at this time. Kuala Lumpur was referred to as "Yap Ah Loy's Kuala Lumpur" as he owned 64 buildings from 220 buildings in Kuala Lumpur (Middlebrook & Gullick, 1983, p. 98) and "108 lots (17 acres) were also recognized as his property" (Gullick, 2000, p. 39). Besides the Chinese, Malays also played their role in developing Kuala Lumpur. One successful Malay, "who shared authority with Yap Ah Loy" was Haji Tahir (Gullick, 2004a, p. 86). However, in 1881 Haji Tahir decided to move to the agricultural area near Klang, where Sultan or Sutan Puasa, one of the Malay rulers was already based (Gullick, 2000, p. 41). Since then, Kuala Lumpur was left under the 'management' of Yap Ah Loy.

Despite this period of growth after the Civil War, on 4 January 1881, a fire destroyed the whole town. The total loss was estimated to be approximate $100,000, and almost 500 people became homeless. The majority of houses and buildings had been built using flammable materials which were the primary reason why Kuala Lumpur could not be saved. Hence, "a collection of flimsy, overcrowded atap huts" had exposed Kuala Lumpur to this kind of danger (Kuala Lumpur Municipal Council, 1959, p. 15).

Learning from this mistake, Kuala Lumpur was rebuilt with more durable materials such as brick with tile rooves. In addition, the residents widened the streets to make more space between each building to minimize the opportunities for the fire to spread. However, the location of Kuala Lumpur at the confluence of the two rivers had made it prone to flooding. On 21 December 1881, a flood inundated Kuala Lumpur which started from the Klang River and caused great damage to the town. 92 buildings were destroyed, and the only bridge at Market Street was also swept away by the flood (Middlebrook & Gullick, 1983, p. 98).

Colonial policies and a new building program for Kuala Lumpur began in 1882 when Frank Swettenham was appointed as the new Resident of Selangor. Swettenham and his new team, J.P Rodger (the Chief Magistrate) were responsible for the improvement of the living conditions of Kuala Lumpur. As his first task, Swettenham "introduced a policy which might be described as the first Building Regulation for Kuala Lumpur" in 1883 (Yeang, 1992, p. 63). Under this plan, all buildings in Kuala Lumpur had to be rebuilt. One of his plans was to replace all the old building materials with more durable materials such as "mud or wattle walls with baked brick, and palm thatch roof with tiles" (Gullick, 1998, p. 12). Under the first phase, "the entire Chinese settlement of some 500 houses" had to be rebuilt and at the same time the roads were to be widened when the new building frontages were moved back (Gullick, 1998, p. 12).

When the first phase was completed, the whole Chinatown area (the Old Market Square) had been reinvented. Subsequently, in 1884, Swettenham introduced "a law that Kuala Lumpur must be rebuilt street by street" (Kuala Lumpur Municipal Council, 1959, p. 15) and the number of houses rebuilt under Swettenham's new law reached 234 houses (Middlebrook & Gullick, 1983, p. 98). Since then, more and more buildings were built including the first school in High Street.

On September 1884, another natural catastrophe occurred and damaged Kuala Lumpur. A "violent storm blew down 14 houses and a wing of the newly erected Police barracks..." (Middlebrook & Gullick, 1983, p. 99). However, this time, Kuala Lumpur was better prepared, and the damage was not as bad as 1881 because of the improvements in the construction and Swettenham's law was not affected by this situation. The number of houses built under his plan increased with 214 brick houses rebuilt in 1885, 159 in 1886, and another 518 in 1887 (Gullick, 2004a, pp. 142-143; Yeang, 1992, p. 63).

In 1885, the British government took over the Old Market Square from Yap Ah Shak; the fourth Capitan China. The government began structural improvements on the site but then realized that the Old Market Square area was too small to be used as the new market. It was then cleared to be used as open space.

In 1886, during Governor Weld's visit to Kuala Lumpur, he noted that Kuala Lumpur was "the neatest and prettiest Chinese and Malay town...picturesque houses and shops brightly painted and often ornamented with carving and gilding form the streets" (Gullick, 1998, p. 14). During this era, Kuala Lumpur owned "15 brick kilns and six lime kilns around the town" (Kuala Lumpur Municipal Council, 1959, p. 15). With these emergent industries, Kuala Lumpur now had enough materials for the further building construction.

2.2.6   Kuala Lumpur in the early 1890s

A new decade began and the town continued to develop. Starting with a small village, it had now "grown into a sizeable town with a population of about 20,000 comprising several different communities" (Gullick, 1998, p. 19). As a result, the town became more congested. For those that were rich and prosperous, they decided to depart from the "crowded, noisy, and sometimes smelly" town into a more peaceful area (Gullick, 1998, p. 22). These new areas that were chosen were either "along the road to Ampang" or "to the north of the town" (Gullick, 1998, p. 22). This action led to the expansion of Kuala Lumpur.

In 1890, the Kuala Lumpur Sanitary Board was founded. This Board was responsible for "providing, and to coordinate, public services such as street cleaning and maintenance, building regulations, traffic control, urban policing and rudimentary town planning" (Gullick, 2004a, p. 146; Kuala Lumpur City Hall, 1996, p. 2). This Board was "the first municipal body in the Malay states" (Gullick, 2004a, p. 146). Given this initiative, Kuala Lumpur was one of the well-managed towns in Malaya. Within its first five years, the "Kuala Lumpur Sanitary Board have passed 53 plans for the new buildings" (Selangor Journal, IV. p. 289, 1 May 1896 in Gullick, 2007, p. 5). In 1895, another 79 plans were approved.

The number of new buildings also responded to the settlements' population grown. In 1895, the population was estimated to be 25,000 (Gullick, 1998, p. 68) and reached 30,000 residents by 1900 (Kuala Lumpur Municipal Council, 1959, p. 21). Furthermore, the number of shophouses built also increased to cater the needs of its residents. It was estimated that in 1898, there were approximately 1,200 shophouses[7] in Kuala Lumpur (Sanitary Board Annual Report, 1898 in Lim, 1996, p. 8).

In 1893, the government agreed to build the government office buildings. A site was chosen located close to the town centre with adequate space. In 1894, the first building was built on the east side of the Parade ground[8] and it took almost three years to be completed (Figure 2.4 (a) & (b)). The new building was first designed by A. C. Norman in the Renaissance style but C. E. Spooner, the State Engineer, ordered he change the design to a Moorish style that he considered more appropriate to the surroundings (Kuala Lumpur Municipal Council, 1959, p. 19). The building is now known as Bangunan Sultan Abdul Samad (Figure 2.5 (a) & (b)).

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[7] Shophouses that were built before 1900 were typically two-storey shophouses.
[8] It was then known as *Padang* before the government changed its name to Merdeka Square in 1957.
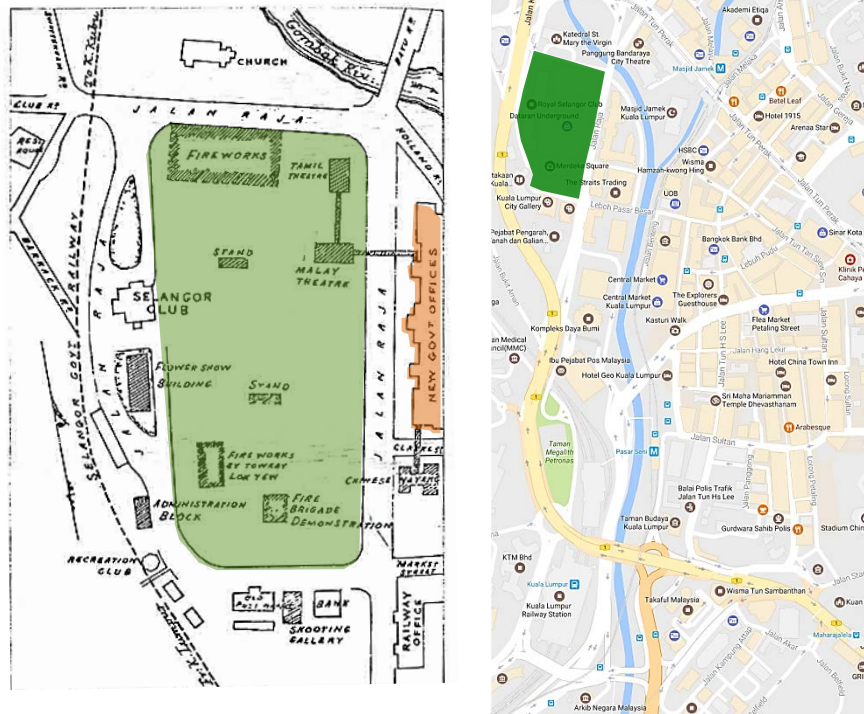
Figure 2.4: (a) The Padang (Merdeka Square) and the government buildings in June 1897; (b) Padang Merdeka in 2017.
Source: (Google Maps, 2017; Gullick, 1998, p. 46)
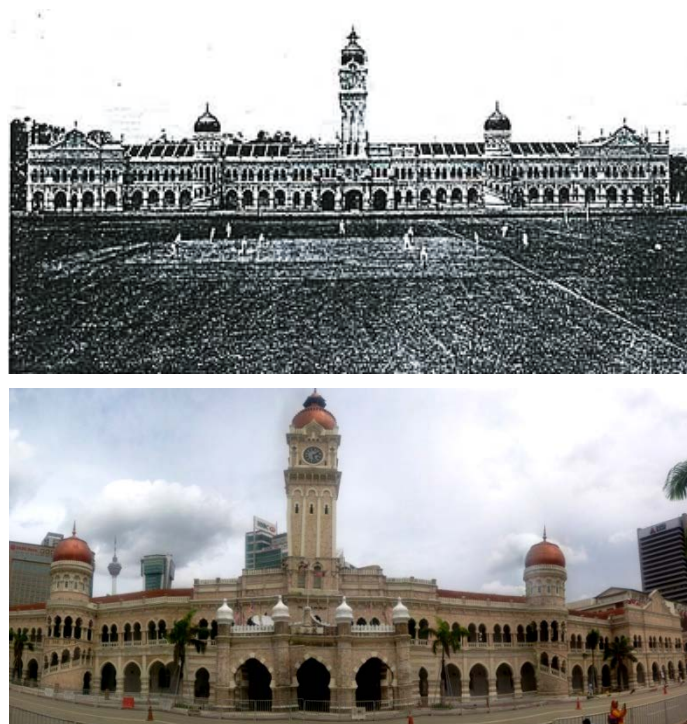
Figure 2.5: (a) Bangunan Sultan Abdul Samad in 1903 (Gullick, 1998, p. 28); (b) The same view of the building in 2016 (Author, 2016).

With these achievements, this decade was known to be one of the most prosperous eras for Kuala Lumpur and has been perceived as a new benchmark for other buildings built in the 1900s (King, 2008, p. 184). For administrative purposes, in 1896, Kuala Lumpur was designated as the capital of the Federated Malay States.[9]

2.2.7   Kuala Lumpur in the 1900s

Continuing the pace of development of Kuala Lumpur in the late 1890s, more government buildings were built. The first government office building was followed by the Sanitary Board Building (1904), the Federated Malay States Railway offices (1905), the General Post Office Building (1907), the Survey Department Building (1910), the Railway Station Building (1911), the Supreme Court (1915) and the Railway Administration Building (1917). These buildings also adopted the Moorish style on the building façades.

To maintain the grandeur of the buildings,[10] the Kuala Lumpur Sanitary Board decided to improve the old and dilapidated houses in the town centre (King, 2008, p. 184). This action required the government to relocate:

> a class of people whose earnings did not probably average more than $10 per month, and who lived in very poor and dilapidated houses in one-quarter of the town, … the land having been sold and nice villas having been built….(Mr. Hale's Report, 22nd Oct. 1903 in Lim, 1996, p. 22).

With this new plan, only those that were rich enough could afford to buy the villas and stay in the town. Thus, Europeans, who mostly worked as officers, had a greater chance of living in Kuala Lumpur. The number of Europeans living in Kuala Lumpur increased from 150 of 20,000 (1891) to 1396 of 47,000 in 1911 (Gullick, 1998, p. 60).

In 1917, Kuala Lumpur moved one step further when the "Federated Malay States government enacted a *Town Improvement* legislation and in 1921 a town-planning department was established in the Federated Malay States administration" (King, 2008, p. 58). With this new enactment, the Town Planning Board was established and Kuala Lumpur now had its town planner (Kuala Lumpur Municipal Council, 1959, p. 23). Kuala Lumpur's first town planner was Charles C. Reade who was appointed on 18 January

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[9] The Federated Malay States consist of four states in Malaya: Perak, Selangor, Negeri Sembilan and Pahang. Under the agreement between the Governor of the Straits Settlements and the States Sultans, they were administered under the advice of the British Government.
[10] The grandeur of the buildings with the Moorish style exceeded anything previously seen in the Peninsula or Archipelago and its popularity (among the British) and influence were immediate(King, 2008, p. 184; Yeang, 1992, p. 77).

1921, "for whom the overriding agenda seems to have been a land-use scheme, directed towards the orderly arrangement and distribution of lots between the government and private landowners" (King, 2008, p. 58). Moreover, the policy focus was "mainly on economy and efficiency measures such as the building of main roads, zoning, reserves for government purposes, health and safety, open space, parks and recreation grounds" (King, 2008, pp. 58-59). In 1933, the Town Planning Board had "completed a plan for dividing the town into different zones"[11] which was mainly based on "first, second and third class residential districts" and even a special zone for the factories (Kuala Lumpur Municipal Council, 1959, p. 23).

The written record of Kuala Lumpur's history was evident in residents' journals, diaries, and reports were limited when the Japanese troops entered Kuala Lumpur on 11 January 1942. It was when "a new era and a grim ordeal for Kuala Lumpur had begun" (Gullick, 1998, p. 72). Kuala Lumpur was subsequently under Military Administration. During the Japanese occupation, all government buildings including Bangunan Sultan Abdul Samad were controlled by the Japanese Troops. This episode lasted for less than three years, when the Japanese surrendered on 13 December 1945.

After the Japanese occupation, the British Military Administration took over Kuala Lumpur. Kuala Lumpur became a Municipality on 15 March 1948 and now has its own Municipality Board. Later, the Municipality Council had been established (Kuala Lumpur City Hall, 1996, p. 6).

In 1957, Kuala Lumpur and Malaya were no longer under British administration when "Malaya's Independence was proclaimed in the new Merdeka Stadium on August 31, 1957" (Kuala Lumpur Municipal Council, 1959, p. 25). After 77 years of British administration, Kuala Lumpur gained full responsibility for developing and managing the settlement. In 1972, Kuala Lumpur City Hall was founded and later Kuala Lumpur became the Federal Territory on 1 February 1974. Nowadays, with an area as large as 243km^2, Kuala Lumpur is now the capital of a free and united nation.

2.3   Kuala Lumpur: From a Village to a Town

In the early nineteenth century, before the name 'Kuala Lumpur' emerged in the early journals, diaries, and reports in British records, it was only a Malay village. However, this

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[11] Under British authority, these different zones were based on a hierarchy for administrative purposes (Hassan, 2009, p. 309).

'kampong' was transformed when tin was discovered in 1857. For scholars, Kuala Lumpur began as a "shop or a trading post at the river junction" (Gullick, 1998, p. 4; Sardar, 2000, p. 75). Since then, Kuala Lumpur became a mixed community comprising Malays and Chinese migrants (Figure 2.6).
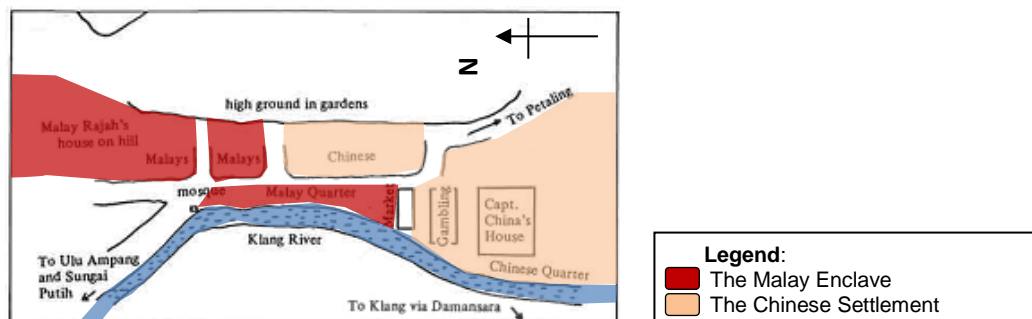
Figure 2.6: "Even Sir Frank Swettenham hardly remembered the two rivers" (Gullick, 1998, p. 5), he still managed to draw the division between the Malays and Chinese area.
Source: (From Sir Frank Swettenham's Malayan Journals in Gullick, 1998, p. 5).

After 23 years of sharing the wealth, Kuala Lumpur received another new 'community' in 1880; the British. Kuala Lumpur was then divided, on mutual terms, between the three main cultural groups; the Malay enclave, the Chinese settlement and the British area.

These three main spatial 'divisions' have been interpreted in racial terms for their basis in "colonial stereotyping prejudices" in Malaya, including Kuala Lumpur, since this period (King, 2008, p. 58). These three "racial stereotypes" are the Malay enclave in the north of the Klang and Gombak rivers, the Chinese town to the east, and the British administration area to the west (King, 2008, p. 16). In fact, these three 'divisions' can be seen clearly, even from the earliest map of Kuala Lumpur, drawn by Swettenham in 1875, before the British moved their administration into the area in 1880. This was also the main reason why the British decided to establish their administration on the west of the river because it was already 'crowded' on the other side of the rivers.

Furthermore, these separate areas had three different typologies: the "dense, seemingly opaque, horizontal labyrinth of the Chinese Town", the "loose, dispersed space" of the Malays kampong, and the "expansive, hierarchically ordered, administrative town" of the British (King, 2008, p. 20). These three incredibly different spaces and identities created a unique settlement which differentiated Kuala Lumpur from other towns in Malaya during that time.

Hence, to understand the development of Kuala Lumpur, it is crucial to understand the uniqueness of each of these three areas, because it does shape the identity of Kuala Lumpur today. Each community had different social enclaves which were related to the different settlement typologies and even though the indigenous areas often seemed crowded and filthy, they were still part of Kuala Lumpur's identity. All the spaces and streets still exist today, maintaining the spirit of old Kuala Lumpur.

2.3.1 The Malay Enclave

As stated previously, there are few records documenting the early history of Kuala Lumpur during the Malay period after the 1870s (Gullick, 2000, p. 41). Most of the facts are based on the memory of Haji Abdullah Hukum, recorded in the interview in 1935. He managed to portray the early lifestyles of the Malays during those periods of Malay rule under Sutan Puasa and Raja Bilah. Based on this interview, there were only two main streets where Malays chose to settle in Java Street and Ampang Street. There were also Malay shophouses and businesses in this vicinity (Figure 2.7).
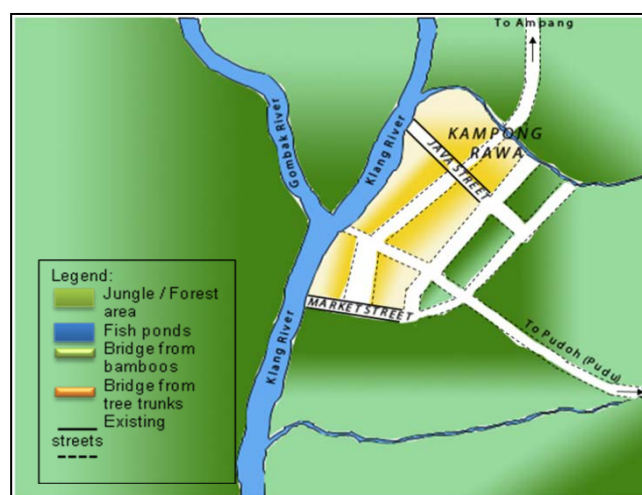
Figure 2.7: Kuala Lumpur under Malay rulers in 1850. The illustration is based on the Abdullah Hukum description in 1997.
Source: Map adopted from (Middlebrook & Gullick, 1983, p. 18).

However, in 1857, the original layout of the early Malay settlement changed when the Chinese migrated to Kuala Lumpur. The Malays chose to move their settlement further north to distance themselves from the Chinese communities. Even though Malays and Chinese still lived side by side, as Muslims, they preferred to live in separate quarters because of cultural differences and specifically because of the pigs raised by the Chinese. Muslims "would not live near pigs as it was offensive to them" (Sardar, 2000, p. 51). Hence, a 'boundary' was created between these two communities, which became Java Street (now Jalan Tun Perak) that "become a line of friction" for both communities (Gullick,

1998, p. 5; Sardar, 2000, p. 52). Since then, the Malay community settled to the north of Java Street which they called Kampong Rawa and this original Malay *kampong* is "still commemorated by Malacca, Johor and (on the other side of the river) Malay Streets" (Gullick, 2000, p. 181) (Figure 2.8). So far, even after the separation, the Malay's *kampong* remains unrecorded (King, 2008, p. 29).

Figure 2.8: Java Street (1884), one of the earliest Malay enclaves in Kuala Lumpur.
Source: (Sardar, 2000, p. 47).

Another early record was written by Hornaday, during his journey in July 1878. He mentioned that "all along the river bank, the houses of the Malays stand in a solid row of piles ten feet high, directly over the swift and muddy current" (Hornaday, 1993, pp. 26-27). Based on Gullick, the settlements along the river mentioned by Hornaday were probably situated to the "east side of Klang River" (Gullick, 1998, p. 5).

Besides the Malay *kampong* to the north of Kuala Lumpur and the riverine settlement, there was also a traditional seat for the Malay authority, which was located in Bukit Nanas. An *istana* (castle) was built here for the use of His Highness. The British had chosen a bigger site for the new *istana* at the "hill behind Sultan Street" (Gullick, 1993b, p. 15). Unfortunately, this site had never been used and the new *istana* was not built as the Sultan's successor preferred to have his new *istana* at Klang.

Others properties owned by the Malay community were located in the triangle of land at the confluence of the two rivers (Figure 2.9). This land was a Malay cemetery before but had been closed when a mosque was built here in 1908. This mosque known as Masjid Jamek is still used today. Besides this, there was also agricultural land owned by the Malays such as the vegetable garden which was located to the west of Klang River (Gullick, 1998, p. 5) and "along the roads between the town and major mining centres" (Gullick, 2004a, p. 128). This produce was sent to the Old Market Square for sale.

Figure 2.9: The highlighted image depicts the Malay enclave during the early days of Kuala Lumpur.
Source: Author's drawing adapted from (Middlebrook & Gullick, 1983, p. 89).

In late 1890, "the old Malay kampong remains" were hard to trace and the "declining culture and status of the Malays in Kuala Lumpur" was concerning (King, 2008, p. 32). Hence, in 1900, the British government gazetted 101 hectares of land "outside the town…for a model, self-supporting, semi-agricultural Malay settlement" known as Kampong Bharu (King, 2008, p. 34). The houses built here "were built in Malay village than Kuala Lumpur urban style" (Gullick, 2000, p. 191) to preserve the Malays' identity.

2.3.2   The Chinese Settlement

The Chinese community was likely the second community that settled in Kuala Lumpur. As discussed earlier, the first Chinese settlement was founded at the confluence of two rivers, Gombak and Klang River, when Hiu Siew and Ah Sze started their business there. This first settlement then expanded from the river bank to the upper ground, which later became one of the busiest business centres in Kuala Lumpur in this period (Figure 2.10).
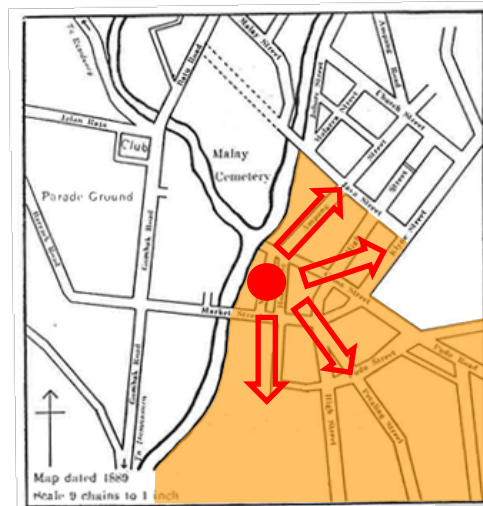
Figure 2.10: The highlighted section was the Chinese Settlement in Kuala Lumpur in the early years. The Old Market Square was the focal point for all activities in this area.
Source: Author's drawing adapted from (Middlebrook & Gullick, 1983, p. 89).

The first Chinese settlement consisted of "two double rows of shanties" facing each other to form a street. There were three main streets that were formed by these shophouses; Ampang Street, Market Street and Pudu Street. Besides these streets, there were other streets that bounded these settlements after the mid-1880s, specifically, Hokkien Street to the east and Macao Street to the west. Market Street was located to the south of these settlements (Gullick, 1988, p. 17). These streets, plus the river located to the west, and High Street to the south, created a 'rectangular' space which then became the main focal point for the settlement, known as the Old Market Square. This space then became the main focal point and 'heart' of the settlement as well as the main "public gatherings and ceremonies" for the Chinese as well as Malays (Gullick, 2000, pp. 6-8). It became the centre of development for the Chinese settlement and Kuala Lumpur Old Town (Figure 2.11).

Figure 2.11: The Old Market Square in 1884, the heart of Kuala Lumpur and one of Yap Ah Loy's properties.
Source: (Middlebrook & Gullick, 1983, p. 92).

Being one of the richest people in Kuala Lumpur, Yap Ah Loy's properties were located mostly in this town centre; which formed the shape of the old town of Kuala Lumpur. In 1880, his properties were estimated to be as large as 17 acres which included 108 lots. Overall, he held "approximately two-thirds of the urban land of Kuala Lumpur east of the Klang River" (Middlebrook & Gullick, 1983, p. 98).

However, the form of Yap Ah Loy's town changed when the British implemented Building Regulations relating to building materials. Since then, the shophouses have been rebuilt replacing loose-board and atap with brick and tiles. The single-storey buildings were then "replaced with 'shophouses,' typically of two but sometimes (after 1900) of three storeys" in addition to the five-foot setback (Gullick, 1998, p. 19). These shophouses were then "decorated with mock pillars and artwork known as 'Chinese Rococo'" (Sardar, 2000, p. 69) (Figure 2.12). These decorations reflected "the wealth and status of the wealthy merchants" (Bristow & Lee, 1994, p. 3).

Figure 2.12: The shophouses along Market Street, with brick and tiles of 'Chinese Rococo' decoration.
Source: (Middlebrook & Gullick, 1983, p. 344).

In the 1900s, these original Chinese settlements spread along the east bank of the Klang River. When the population increased, the town became congested within the "limited urban spaces" (Gullick, 1998, p. 19). Hence the Chinese settlements could only expand further to the east of Petaling Street. These settlements could not be developed further to the north because of the border between the Malay and Chinese communities. Even though Kuala Lumpur had become a mixed community, there was still a gap between the Malays and the Chinese.

2.3.3 The British Empire

The appearance of Kuala Lumpur totally changed when the British decided to move their administration centre from Klang to Kuala Lumpur in late 1879. The old town was transformed from an "unmapped, scarcely observed Malay *kampong*" and the "dense, uncontrolled, labyrinthine…Chinese town" to a more "dispersed, uncrowded, colonial landscape" of the colonial regime (King, 2008, p. 16). However, the boundaries still existed between the Malays, the Chinese and now the British, as if the town was separated "between different urban worlds" (King, 2008, p. 16). "The figure of 'Y'" from the two rivers virtually "divides the town into three approximately equal portions" (Malay Mail, October, 1920 in Lim, 1996, p. 84) and these three main areas are the foundation of today's urban form of Kuala Lumpur (Figure 2.13).
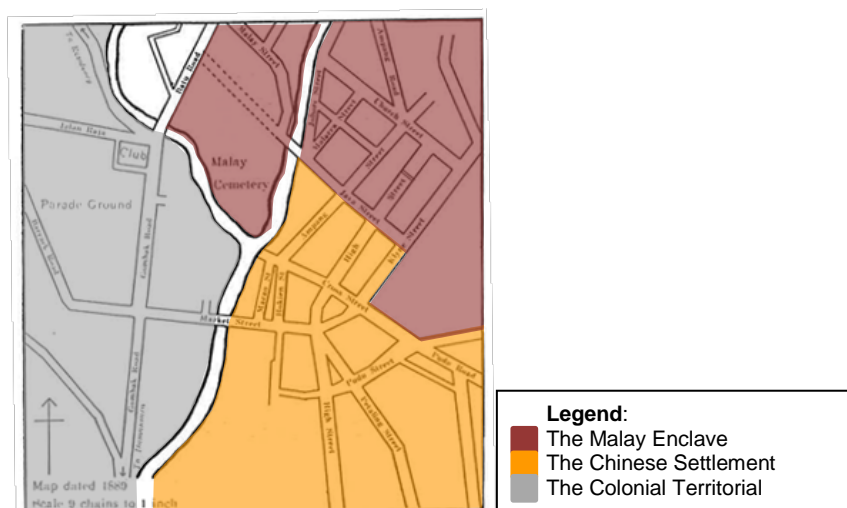
Figure 2.13: Three major territories in Kuala Lumpur in the 1880s.
Source: Author's drawing adapted from (Middlebrook & Gullick, 1983, p. 89).

When the British officer was first appointed to Kuala Lumpur in September 1879, Kuala Lumpur was already occupied by the Malays and the Chinese on the east side of the Klang River. The other side of the river (to the west of Gombak River) was uninhabited. However, it was used as vegetable gardens by the Malays. For the British, this was the only site available for them to settle in Kuala Lumpur. Besides the availability of the site, it was said that the British purposely chose this site "in order to have a natural defensive barrier if attacked" (Middlebrook & Gullick, 1983, pp. 92-93). When the Resident came in 1880, he decided to locate his residency on the hill as part of the military defence (Figure 2.13).

The site was chosen to the west of the river and then levelled. This uneven, swampy flat area" and the vegetable gardens were then cleared to create an open space. When the police barracks were built on the edge of this area, this open space was then used as a parade ground. This first settlement was then expanded to higher ground, known as the Bluff Road, where the new "government offices and the bungalows" were built (Gullick, 2004a, p. 10). The residential area was then settled on "the rising ground southwest" of Kuala Lumpur town (Middlebrook & Gullick, 1983, pp. 92-93).

As the new British settlement expanded on the other side of the town, a new and proper bridge was urgently needed at the end of Market Street to link it to the other part of the town. A wooden bridge was then constructed in 1883 to replace the old one which consisted of a tree trunk. With this new bridge, the two areas of Kuala Lumpur were now linked to one another.

Three years after the British settled in Kuala Lumpur, they had enough resources to "build a new and prestigious office block" (Gullick, 1998, p. 27). If the Chinese settlement based on the Old Market Square, the British *padang* became the central part of this new development. These first government offices were built to the east of the *padang* in 1884, followed by the Sanitary Board in 1904 (north-east), the General Post Office in 1907 (southeast) and the Survey Department Offices in 1910 (north-east). Besides these government offices, there were also private buildings built close to this open space: The Selangor Club building was built to the west of the *padang* in 1890, followed by the Chartered Bank in 1891 to the southern end and the St. Mary's Church in 1895 which was constructed to the northern end of the *padang*. As an important gathering place for the British elite, the *padang* was also quite close to other prestigious buildings such as the Federated Malay States (FMS) Railway Station (1905) and the Railway Administration building (1917). All these buildings were placed with "each maintaining a correct relationship with one another" (King, 2008, p. 19) (Figure 2.14). This plan had turned the *padang* from the vegetable plots to the real set piece in the new development of Kuala Lumpur.

With all these new buildings built during this period, Kuala Lumpur became one of most well-planned cities in Malaya. Compared to the chaotic layout of the early settlement, the new colonial space was more open and spacious. It had hierarchically ordered institutions and it showed the "entanglement of power, law and the legitimating institutions of civil society", as well as the "ultimate symbol of their economic order and support for industry and trade" in the British era (King, 2008, p. 16). Even though the gap between

communities was still there, each area of the earlier town managed to maintain its unique character until today. The *padang* and the government buildings still exist and became the major landmarks of Kuala Lumpur (Figure 2.14 (a) & (b)). Even with different functions, the spirit of the Old Town of Kuala Lumpur in this iconic precinct. Hence, the *padang* and the buildings need to be conserved as one district and not separately to ensure the originality of the area is fully protected.
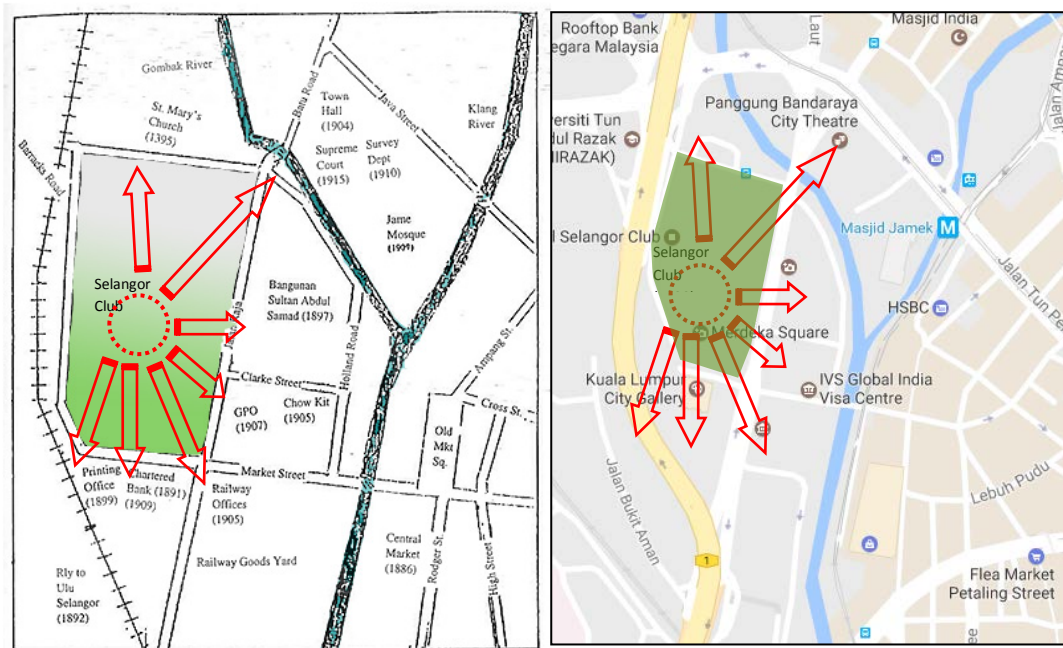
Figure 2.14: (a) The relationship between the *padang* and other buildings built during the colonial period; (b) The *padang* and the buildings in 2016.
Source: Author's drawing adapted from (Gullick, 1998, p. 158; Google Maps, 2016).

2. 4   Kuala Lumpur: From Shanty Town to Metropolitan City

The urban formation of Kuala Lumpur started with a mix of Malay native villages, Chinese architecture and British Moorish-style buildings. These three elements made Kuala Lumpur one of the unique cities in Malaya in its early days due to the distinctive urban fabric and town pattern. However, the British had the biggest impact on the urban development of Kuala Lumpur. This can be seen from the unique street pattern, the building styles and façades, and the urban spaces.

2.4.1   Streets in Kuala Lumpur

The shape of Kuala Lumpur's town was derived from the old streets developed by the pioneers of Kuala Lumpur. Most of the streets that were once a footpath used by the

native people and the miners were then upgraded as the main routes for carts, the main transportation during those times. Nowadays, after 160 years, most of these streets have been upgraded to main roads and are still in use today (Gullick, 1998, p. 4; 2000, p. 50; Yeang, 1992, p. 64). These streets form the layout of Kuala Lumpur today.

The two earliest streets which existed in Kuala Lumpur were Java Street which was previously known as "the slum of slums," occupied by the Malays, and Market Street one of the major Chinese business centres (Malay Mail, 25 Nov 1903 in Lim, 1996, p. 37). They are still being used today and they are now known as Jalan Tun Perak and Leboh Pasar Besar. As for the Malay settlement, those streets that were located in this 'native town,' such as Malay Street, Malacca Street and Batu Road (Jalan Tuanku Abdul Rahman), are still preserved and have now become the busiest streets in the Kuala Lumpur commercial district. However, another street, Johore Street has vanished.

In the Chinese settlement, most of the streets formed during Yap Ah Loy's era still exist, such as the High Street (Jalan Tun H. S. Lee) which was well known as the "longest and most handsome street in Kuala Lumpur" in the 1890s, Pudoh Street (Jalan Pudu), Ampang Road (Jalan Ampang) and Petaling Street (Jalan Petaling) (Gullick, 1988, p. 3). However, when the Old Market Square was pulled down in 1886 to make way for a bigger and more organised open space, two streets which once existed, Hokkien Street and Macao Street, were demolished.

As for the British settlement, most of the major roads built to the west of the Klang River, such as the Holland Road (Jalan Mahkamah Persekutuan) and Gombak Road (Jalan Raja and Jalan Sultan Hishamuddin) still have the same layout even though they have undergone reconstruction and changed their names.

Even though most of the 'old' streets still exist and follow their original layout, unfortunately most of the street names have changed drastically, especially after Independence Day in 1957, and sometimes more than once; the name of Java Street has changed twice; Mounbatten Street is now known as Jalan Tun Perak. These changes erase tangible traces of the British era and "the new names give no indication of what those streets used to be" (King, 2008, p. 194). The changes to the original names not only makes it difficult for future generations to identify the historical context, but it also erases the early history and character since most of the original names derived from the cultures and common activities which once existed there. For example, Market Street which is now known as Leboh Pasar Besar still carried the old history of the street although it has been translated

into Malay terms; 'Pasar', 'market' in English, referred to the market which once existed at the area (Figure 2.15 (a) & (b)).

As clues to the history of Kuala Lumpur, these streets should retain their 'old' names as they were part of Kuala Lumpur's identity and "form an oasis in a modern city" (Gullick, 1988, p. 3). However, most of Kuala Lumpur's street names have been renamed after iconic people that contributed to the most recent history of Malaysia. In fact, there is no "programme to bring to consciousness the diversity of memories held by diverse communities and hence the sheer richness of the city" which had been evident in Kuala Lumpur's original street names (King, 2008, p. 195). For Kuala Lumpur City Hall (KLCH), the streets were renamed to address the contribution of current individuals or events (Nair, 2014, para. 7). Although being criticized by business owners and residents, this action, for City Hall, was necessary and the residents are now familiar with the new names (Nair, 2014, para. 7-9).

Figure 2.15: (a) The streets of Kuala Lumpur in 1889; (b) The streets of Kuala Lumpur in 2016. Highlighted are streets that retain the same names today.
Source: (Middlebrook & Gullick, 1983, p. 89; Google Maps, 2016).

2.4.2 Shophouses in Kuala Lumpur

As mentioned earlier in section 2.1.6, the form of the shophouse buildings in Kuala Lumpur changed when Swettenham implemented his law, in 1892, to improve the safety of Kuala Lumpur. This new development improved the visual appearance of old Kuala Lumpur especially with its distinctive architectural style. Until today, there is still "abundant evidence of the exuberant and eclectic style of shophouse buildings" (Gullick, 2000, p. 171) in Kuala Lumpur especially in Market Square (Medan Pasar) and the Chinatown area. These areas have at least managed to retain their Chinese identity even after 118

years, to "exude the ambience of an older world flavoured with juxtaposition and contradiction that befits the original hub from which Kuala Lumpur emerged" (Sardar, 2000, p. 91).Thus, these shophouses help to sustain the "history and narration of the city's existence" and function as the "living evidence to document all the past architecture for the benefit of the future generation" (Azhari & Mohamed, 2012, p. 275).

However, pressures from new development plus the value of the land in these areas have been the main threat to the survival of these shophouses. Most of these shophouses which only have a maximum height of three storeys have a bleak future given the potential profits which can be gained from large developments in their stead (Toong & Utaberta, 2015, p. 60). Most of the original shophouses have been demolished and rebuilt with high rise buildings using modern materials. Given that the former rows of shophouses are interrupted, it is now hard to appreciate their original urban character (Figure 2.16 and 2.17). Consistent rows of these shophouse precincts are fewer and fewer. It is crucial to preserve the character of these original shophouses because they were the first among other Straits Settlements in Malaya that were built using this 'indigenous' style and design in this period (SSD 4, October 1886 in Gullick, 2000, p. 45).

Figure 2.16: The shophouses in Old Market Square (Medan Pasar) and surrounding development (2009) (view from the confluence between Sungai Gombak and Sungai Kelang).
Source: Author, 2009.

Figure 2.17: Shophouses in the Old Market Square (2016) (view from the Medan Pasar – the Square).
Source: Author, 2016.

2.4.3   Moorish Style Buildings in Kuala Lumpur

The impact of the British administration in Malaya was not only reflected in the new urban form of the streets and shophouses in the old town of Kuala Lumpur, it also extended to the construction of the new government offices begun in 1893. This new "European colonial city" on the west of the Klang River was both "physically and symbolically an exemplar" of a civilizing outlook (King, 2008, p. 19) which then transformed the image of Kuala Lumpur. The construction of the buildings included the government office building (the Sultan Abdul Samad Building), the Sanitary Board Building, the General Post Office Building, the Public Works Department Building, the Chartered Bank Building, the Government Printing Office Building, the Royal Selangor Club Building and the St. Mary's Church Building. Further south of the main centre of Kuala Lumpur is the Kuala Lumpur Railway station building and the Malayan Railway Administration Building. The Sultan Abdul Samad Building, 1894-97 introduced Mogul architecture which was adopted for new buildings along the *Padang* (Merdeka Square) for the next two decades (Fee, 2006, p. 16). There is no denying that the sprawling Moorish style gives a picturesque distinctiveness to the city of Kuala Lumpur.

The majority of these buildings were clustered together facing the *padang* as the main focal point. This group of buildings "do not form a good group, a planned group; but they live quite peacefully together" (Julius Posener's comment (1950) in Yeang, 1992, pp. 75-76). These groups of buildings were also interpreted as "the total fantasy of the nearly theatrical setting, the only theatrical setting ever devised for British administration in the

wide range of the Empire…" (Comment by Maxwell Fry (1957) in Yeang, 1992, p. 76). Despite the varied attitudes to these colonial buildings, their visual impact presented "no formality, with no grand axes, ceremonial avenues or radiating plans" (King, 2008, p. 19).

The Kuala Lumpur Municipal Council (1959) once mentioned that "Kuala Lumpur would not be Kuala Lumpur without its ornate row of Government buildings facing on to the Padang" (Kuala Lumpur Municipal Council, 1959, p. 68). When strolling along these old buildings, it will give the sense of colonial presence to the visitor which is reflected in the building elements constructed during Kuala Lumpur's formative period. In fact, because of its outstanding value, until today these buildings have become one of the major landmarks in Malaysia. Therefore, it is important to conserve these buildings as one heritage area instead of individually listed items. This action is to accord protection to the heritage buildings and the area as a whole.

2.4.4 Historical Spaces of Kuala Lumpur

Besides the town developments in Kuala Lumpur, including the nostalgia of the shophouses and the outstanding architecture of the 'Raj-style' buildings, there are 'hidden' spaces which were once the earliest public spaces for each community in Kuala Lumpur. Most of these spaces are formed by the streets that bounded these areas. There were three significant areas for each different community: the Kampong Rawa for the native Malay community, the Old Market Square for the Chinese and the *Padang* for the British. These spaces had already existed for more than 130 years and they "still carried the marks of the community clustering that had in part underlain their production and, in turn, reinforced racial stereotyping by their profound differences" (King, 2008, p. 16) (Figure 2.18 (a), (b) and (c)).

Legend:
- Klang and Gombak Rivers
- Parade Ground / *Padang*
- Market Square
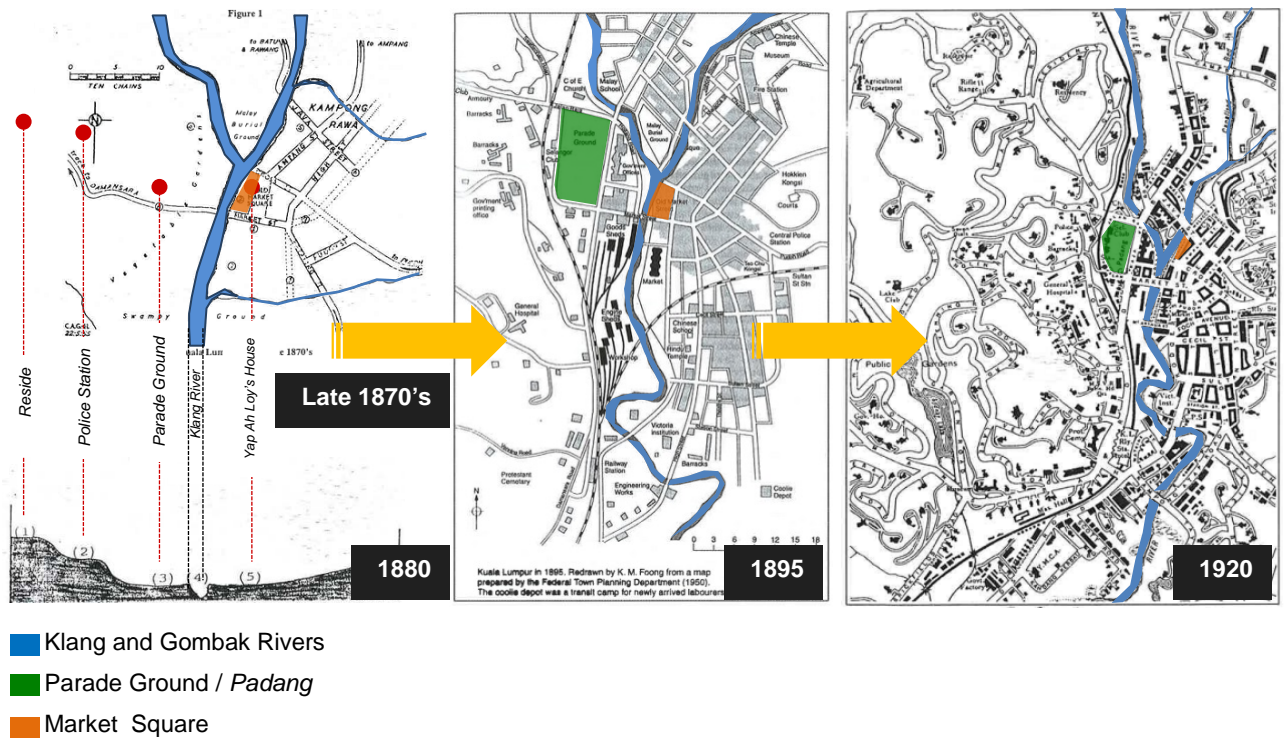
Figure 2.18: (a) Map of Kuala Lumpur in late 1870s acknowledged the Old Market Square and the vegetable garden; (b) Profile of Swettenham's proposal for Kuala Lumpur in 1880. Included in the plan were the Parade Ground and the Yap Ah Loy's House in the Old Market Square area; (c) 1895 map with the government buildings; and (d) Kuala Lumpur in 1920 with proper road and railway system.
Sources: (Gullick, 2000, pp. 9, 35, 231; 2004a, p. 147)

For the Malays, Kampong Rawa was the first Malay *kampong* in Kuala Lumpur. This *kampong* which was located to the north of Kuala Lumpur has become the major focal point for the residents' daily activities. It was once completed with "market, mosque, and school, along with the river bank north of Java Street, [and still managed to] preserve its character" (Gullick, 1998, p. 22). Unfortunately, this unique *kampong* vanished from Kuala Lumpur's map and now it was already being replaced by shop-offices to become one of the busiest places in Kuala Lumpur. Once this *kampong* vanished, Kuala Lumpur would lost its unique identity because "Kuala Lumpur itself is a distillation of *kampong*, a great gathering that has no meaning without the innumerable villages from which its citizens originate" (Sardar, 2000, p. 75).

On the other hand, for the Chinese community, the first commercial centre in the earliest history of Kuala Lumpur, the Old Market Square is still there and is now known as Medan Pasar (Figure 2.18 (a), (b) and (c)). Even with the new image and the new surroundings, this space is still "a relic of the earliest times" of Kuala Lumpur (Gullick, 1998, p. 5).

As for the British community, when they decided to settle in the west part of Kuala Lumpur, the Padang was only a vegetable garden (Figure 2.18 (a), (b) and (c)). When the Selangor

Club House was built on the west side of the *Padang*, this space became a 'meeting' place for the residents where the "government servants living on the hills behind the Selangor Club converged there in the evenings and weekends for their stengahs or tiffins and dinners" (Nui, 1997, p. 21). Today, this space is still being used for important events held in Malaysia such as the Merdeka Day (Independence Day), New Year's Eve celebrations, the parade during the Prophet Muhammad's Birthday, His Highness's Birthday, and other special campaigns.

For the *Padang*, the level of appreciation of this space and its important continual use today has protected the development from demolition. However, without any particular regulations, this site might also be threatened like other spaces. It is important to at least include this space on a local authority heritage list at least to ensure that this space could be protected for future generations.

Preserving these spaces, no matter which community they belonged to before, is crucial to manage new development and the older spaces surrounding it. Besides the importance of the heritage elements, these spaces also represent "a plethora of places where mixing of the races and even of the social classes" once did and still occurs in Kuala Lumpur (King, 2008, p. xxv). This unique element makes Kuala Lumpur more distinctive, and these special places need to be preserved.

2.4.5 The Future of the Old Town of Kuala Lumpur

The metropolitan city of Kuala Lumpur took more than 160 years to become what it is today. From a mere collection of huts and sheds near the confluence of the Klang and Gombak rivers, it is now a city of mega structures with entirely different materials and building styles. From "a very small place in the midst of jungle"[12] (Gullick, 2000, p. 102), it is now filled with glass and steel buildings. These new rapid developments took place after independence from the British in 1957. Most of the Malaysian population accepted the development as "symbols of independence, of what was ignored under colonialism" (King, 2008, p. 57; McKie, 1963, p. 142). This new development is also a symbol of success for Kuala Lumpur. As a capital city, Kuala Lumpur has become a benchmark for other development in Malaysia.

However, when the "real-estate agents, land developers, foreign companies, get-richer-quicker tycoons of all colours" took the place of the development in Kuala Lumpur, without

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[12] E. Stratton Brown, 'Looking Back on Selangor in the Nineties', in Fifty Years of Progress 1904-1954, *Malay Mail Supplement*, 1954.

proper management from the Government, Kuala Lumpur has turned out to be "crude, brash, noisy, crowded and still in many ways provincial" (McKie, 1963, p. 141). Beginning with the Government's good intentions "to change an up-country rubber and tin trading village into one of the capitals of the world," it has turned out to be "[an] ugly creation of modern man – an unplanned city" (McKie, 1963, p. 141). The old elements which were once embraced by Swettenham have now been overshadowed by modern architecture. It can be argued that if the city continues to change at this pace, the history of Kuala Lumpur may be eroded entirely.

In the former colonial area, most of the original government offices are still in use by the local authorities and some of these buildings have been reused as museums or galleries. When these buildings are occupied, they do at least retain and preserve them from being demolished or vandalised. In the name of modern development, some of these heritage buildings were demolished, to make way for businesses and commercial activities.

Shophouses were one of the most threatened buildings in the old town. They are "disappearing fast" and being replaced by the "excreta of modernity, neon signs and fast food boards" (Sardar, 2000, p. 69). If this continues, it is possible that one day whole rows of the shophouses will disappear as in the case of Kampong Rawa, where there are "no traces of the old kampong" today (King, 2008, p. 34).

Besides the shophouses, there were also other relic buildings built during the early days of Kuala Lumpur that have been demolished and this has generated controversy amongst conservationists and the public. One example is the Bok House, which was built in 1926 and demolished on 14 December 2006, less than a year after the new *National Heritage Act 2005* (Act 645) had been gazetted (Figure 2.19 (a) & (b)). Even with a letter of appeal from the Malaysian Heritage Trust (Badan Warisan Malaysia) and letters from the public to include this English Palladian style mansion on the National Heritage List their appeals were rejected. Thus, at a post-Cabinet Meeting on 22 February 2006, the Ministry of Culture, Arts and Heritage decided it was no longer interested to take over, or, to gazette Bok House as a Heritage Building. This 55,929 sq.ft. land had been bought by Dijaya Corp Bhd "to build expensive units on the prime land, a stone's throw from the Petronas Twin Towers" for which they paid RM123 million (Johari, 2009, para. 3). For the Minister, Bok House was "just a house belonging to a rich man" ("Historian: Bok House important part of KL's history," 2006). However, for the historian, it was part of the streetscape of Jalan Ampang and the history of Kuala Lumpur. The memory of the building was lost with the demolition, completely changing the character and atmosphere of the area.

Figure 2.19 (a) The Bok House before demolition; (b) after the demolition process.
Source: (The Star, 2006).

In 2009, another part of the early history of Kuala Lumpur was erased. This time, the first gaol built in Kuala Lumpur, the Pudu Jail, was demolished. This gaol was constructed in 1891, and completed in 1895 (Figure 2.20). In 2009, this 7.65 ha site had been sold by the government to the Urban Development Authority (UDA) Holdings Bhd., at the cost of RM100 million (Kuala Lumpur City Guide, 2010). Even with the world's longest mural painted on the outside wall, this was not deemed a sufficient reason to conserve the gaol (Figure 2.21 (a) & (b)).

Figure 2.20: The X shape plan of the Pudu Jail is said to be similar to Kindy Jail, in Bogambia.
Source: (Jabatan Penjara Malaysia, 2008).

Figure 2.21 (a) Pudu Jail in 2010; (b) Pudu Jail in 2013 after demolition.
Source: (Sidhu, 2014).

If all of these demanding and uncompromising developments are allowed in the old town of Kuala Lumpur without strict regulations, it is possible that one day Kuala Lumpur will lose its identity, as pointed out by Sardar (2000), "its diverse and varied spaces [are] becoming more and more submerged, monolithic and banal, its perspective evaporated in a meaninglessness riot of high-tech, late modernity" (Sardar, 2000, p. 233). In addition, the Old Town of Kuala Lumpur is the only "monument that Kuala Lumpur has" which needs to be conserved (King, 2008, p. 171). Such an action would automatically conserve the elements inside it; otherwise, the spaces, architecture and the culture will likely be forgotten. Once the new development takes place, it will eliminate the history of this old town.

2.5   Conclusion

From "a collection of flimsy, overcrowded atap huts" (Kuala Lumpur Municipal Council, 1959, p. 15), Kuala Lumpur nowadays is bigger and more congested than it was 160 years ago. Despite the small population of 80 people in 1857, the population has grown to more than 1.713 million in 2012, with a land area estimated at 243.65 km^2 (Department of Statistics Malaysia, 2014). In this period, this city has "transformed from rather a ramshackle town into what is arguably Southeast Asia's most spectacular metropolis in its architecture and urban design" (King, 2008, p. xxii).

Even though the façades of many of the old buildings and spaces still exist, they are obscured by high-rise development. This old town is now overshadowed by skyscrapers that have created a new skyline of Kuala Lumpur with "vertical acres of steel and glass" (McKie, 1963, p. 137).

As the development of Kuala Lumpur has become "a stern taskmaster," appropriate regulations are needed (Sardar, 2000, p. 124). Such regulations will permit development that takes into account the older part of Kuala Lumpur for the benefit of future generations. Despite the challenges, it is the best way to conserve Kuala Lumpur's identity and to maintain its uniqueness among other cities in Malaysia. Importantly, then, the history of the Old Town of Kuala Lumpur is not only about the buildings. The history is shaped by the spaces between these buildings and the activities which once existed in the area. Hence, this entire area needs to be conserved rather than singling out individual buildings for conservation.

3.1 Introduction

Today, people are more aware of the importance of heritage and its role in representing the identity of a nation, including Malaysia. However, not all individuals or parties understand how this heritage is conserved. Until recently, there has been a misunderstanding about 'what,' 'how' and 'why' heritage needs to be saved and conserved. As a result, many heritage items in Malaysia were left unprotected or unpreserved, and at times compromised for new developments. To address the lack of appreciation and knowledge, a deep generational understanding of heritage should be nurtured to ensure that heritage can be passed down from one generation to the next. As concluded by UNESCO during its 2012 UNESCO Youth Summit at Maritime Greenwich, "understanding heritage can help us to become aware of our roots, and of our cultural and social identity" (UNESCO, 2012, para. 3). Hence, continuous actions from all levels of society, professionals or non-professionals, are needed to ensure that our heritage is conserved.

The importance of heritage and the best methods to conserve heritage items is the basis of this chapter. The chapter is structured into five main topics, commencing with 'what is heritage.' Additional discussions will review the concept of cultural heritage and its conservation and the concept of urban conservation. The last section will synthesise previous discussions about heritage conservation and its practice in Malaysia.

3.2 Heritage

What is 'heritage'? The *Oxford Advanced Learner's Dictionary* (2016), defines heritage as "the history, traditions, and qualities that a country or society has had for many years and that are considered an important part of its character" (Oxford, 2016b, para. 1). It is a legacy inherited from the past or handed down by tradition for future generations (National Trust of Australia (WA), 2007, p. 5). Additionally, there is no restriction about the things that can be passed down (Fairclough, 2009, p. 29). Heritage items exist either in the form of property, social practice, skills, culture or tradition (Bryne, 2009, p. 229; Weiler, 1984, p. 5). As the term

has been used for some decades, heritage is considered to be an 'old' terminology because it revolves around 'old' property, practice, culture and tradition (Fairclough, 2009, p. 25). However, for scholars, the evolution of this term is new (Ashworth, 1994, p. 15; Nadel-Klein, 2003, p. 175; Spearritt, 2012, p. 1) and its definition has "morphed over time" (Littler & Naidoo, 2004 in Graham & Howard, 2008, p. 1). The term is evolving, and the concept extends "far beyond the traditional notion of old buildings and historic sites" (Palmer, 2009, p. 7). Heritage now encompasses physical fabrics and social activities (Bryne, 2009, p. 229).

It is believed that the term "gained wide international acceptance and usage" in 1972 with the acceptance of the *Convention Concerning the Protection of the World Cultural and Natural Heritage* by the United Nations Educational, Scientific and Cultural Organisation (UNESCO). Although UNESCO does not explicitly define 'heritage' in this document, the word has progressively evolved and matured in its use (Ashworth, 1994, p. 15). The concept of heritage has also demonstrated flexibility in enabling 'younger' heritage to be accepted as part of its scope (Spearritt, 2012, p. 1). Although "the older a building is, the more likely to be listed", buildings over ten years old are also eligible to be listed as a Listed Building in the United Kingdom (UK) as long as they fulfill the criteria stated by the organisations involved (English Heritage, 2012, para. 2).

The openness to accept this new approach to heritage has led to "some important changes in its orientation" (Ashworth, 1994, p. 15). Because of the different era of living, "almost everything [in the past] can be perceived to be 'heritage'" (Harrison, 2013, p. 3). However, the wider the concept, the broader and longer the heritage list becomes and consequently the lengthier the designation process. Thus, some authors have observed that "old does not equal heritage" (Francis, 2011) and "not all the past is heritage" (Graham & Howard, 2008, p. 4). As stated by Harrison (2013), "heritage is primarily *not* about the *past,* but instead about our relationship with the *present* and *future*" (Harrison, 2013, p. 4). Hence, to ensure all heritage items are embraced and protected, a few organisations have taken the initiative to dissect heritage into groups or categories.

UNESCO in its *1972 Convention* continuously placed emphasis upon two categories of heritage: cultural heritage and natural heritage. While there was no specific definition of these two categories, under Article 1 and Article 2 of the *Convention*, these categories were further split into sub-categories. Cultural heritage was sub-categorized into three: a monument, groups of buildings, and sites. Natural heritage was divided into three sub-categories: natural features, geological and physiological formations, and natural sites. Because the main

purpose of the *Convention* is to assist signatory nations "to identify and delineate the different properties situated on its territory", each of these categories and sub-categories was defined (Table 3.1) (UNESCO, 1972, p. 3).

CULTURAL HERITAGE	NATURAL HERITAGE
i) monuments**: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;**	i) **natural features** consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view;
ii) groups of buildings**: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;**	ii) **geological and physiographical formations** and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
iii) sites**: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.**	iii) **natural sites** or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

Table 3.1: Categories of cultural and natural heritage defined by UNESCO in its *Convention*. **Source**: (Adapted from UNESCO, 1972, p. 2).

While most heritage practitioners respect and implement the heritage categories articulated by UNESCO in this *Convention* (Gaynor, 2013, p. 4), several scholars and governments have adapted the concepts according to their local situation. Aplin (2002), for example, in *Heritage: Identification, Conservation and Management* has divided 'heritage' into three categories:

i. **Natural heritage** – those parts or aspects of the natural or biophysical environment;

ii. **Cultural heritage** – reflects both productive or material activities, and non-material activities and values, including social, religious, artistic, traditional, and iconic values; and

iii. **Indigenous heritage** – for conserving the heritage of the Aboriginal community in a particular area (Aplin, 2002, p. 15).

For Aplin, "Indigenous heritage"[1] is considered essential wherein he believes that it should be included as a separate category (Aplin, 2002, p. xxiv).To align with the approach taken by UNESCO, and categories suggested by Aplin, the Australian State of the Environment (SoE) Committee has also proposed three types of heritage to the Australian Government. These categories are: natural heritage, Indigenous heritage, and historic heritage. Although not using the terminology of 'cultural heritage', the term 'historic heritage' possessed similarities with the sub-categories used under 'cultural heritage' as applied by UNESCO. In the SoE report (2011), "historic places" are defined as "heritage sites" comprising "rare remnants of early convict history, pastoral properties and small remote settlements, as well as large urban areas, engineering works, factories and defense facilities" (State of the Environment Committee, 2011, p. 703). The proposed implementation of these categories seeks to help national and state parties to "determine the future condition and integrity of Australia's heritage" (State of the Environment Committee, 2011, p. 788).

In New Zealand, "the creation of a dichotomy between different 'types' of heritage is exclusive in its own way" (Smith & Waterton, 2009, p. 292). Thus, the Auckland City Council has grouped heritage into three categories: natural resources, cultural resources, and scientific resources (Figure 3.1). To enable a "detailed investigation, accurate identification and regulatory protection", these broad categories are then divided into sub-categories to ensure that the scope of heritage, from their perspective, can be applied to all heritage resources of the large Auckland metropolitan region (Auckland Council, 2006).

[1] In Australia, Aboriginal communities have gained special attention from the Government. To ensure this cultural heritage is protected, all states and territories have enacted specific laws to protect Aboriginal heritage (Office of Environment and Heritage, 2012).
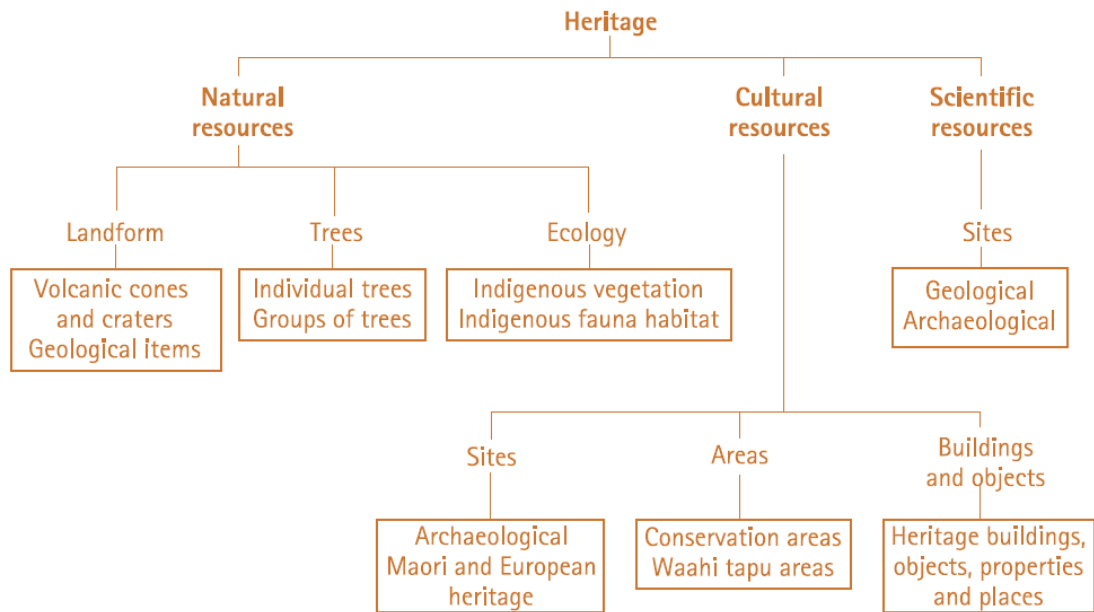
Figure 3.1: Heritage Resources as categories by the Auckland Council.
Source:(Auckland Council, 2006).

In England, categories of heritage are also grouped into three but under different names; tangible cultural property, intangible cultural property and natural heritage (Smith & Waterton, 2009, p. 289). These categories are defined by English Heritage, known as the Historic Buildings and Monuments Commissions (Department for Culture, 2013, para. 4). In Malaysia, the country has adopted the categories applied by UNESCO which comprises two categories; cultural heritage and natural heritage (Ministry of Communications and Multimedia Malaysia, 2010, para. 1).

Table 3.2 (below) graphically explains different categories of heritage around the world. Despite the UNESCO categories, because there is no consistent adoption of definitions of heritage, the same situation applies to the categorization of heritage (Dewi, 2009, p. 2). Whether heritage is grouped into two or three categories, it is a very subjective matter (Dewi, 2009, p. 2; Smith & Waterton, 2009, p. 289). What is more important is that these typologies of heritage have a common objective, which is to protect heritage from future risk adequately.

CATEGORIES OF HERITAGE

	Source	Cultural / Tangible			Natural			Other
UNESCO		**CULTURAL HERITAGE**			**NATURAL HERITAGE**			
		MONUMENTS	GROUPS OF BUILDINGS	SITES	NATURAL FEATURES	GEOLOGICAL & PHYSIOGRAPHICAL FORMATIONS	NATURAL SITES	
AUSTRALIA	(APLIN, 2002)	**CULTURAL HERITAGE**			**NATURAL HERITAGE**			**INDIGENOUS HERITAGE** For conserving the heritage of the Aboriginal community in a particular area.
AUSTRALIA	AUSTRALIAN STATE OF THE ENVIRONMENT (SOE)	**HISTORIC HERITAGE**			**NATURAL HERITAGE**			**INDIGENOUS HERITAGE**
NEW ZEALAND	AUCKLAND CITY COUNCIL	**CULTURAL RESOURCES**			**NATURAL RESOURCES**			**SCIENTIFIC RESOURCES** (SITES – Geological Archaeology)
		SITES	AREAS	BUILDINGS & OBJECTS	LANDFORM	TREES	ECOLOGY	
ENGLAND	ENGLISH HERITAGE TRUST	**TANGIBLE CULTURAL PROPERTY**			**NATURAL HERITAGE**			**INTANGIBLE CULTURAL HERITAGE**
		IMMOVABLE	MOVABLE					
MALAYSIA		**CULTURAL HERITAGE**			**NATURAL HERITAGE**			
		TANGIBLE	INTANGIBLE					

Table 3.2: Categories of heritage implemented by UNESCO and other countries around the world.
Source: Author, 2016

3.3   Cultural Heritage

Interestingly, amongst these types or categories of heritage, 'cultural heritage' is one of the most widely used terms resulting from the development of this term historically (Varenne, 2010, para. 5). The concept of 'culture' itself was believed to have emerged as early as 1871 by Edward Burnett Tylor in *Primitive Culture* (1871) (Jokilehto, 2005, p. 4; Sardar & Loon, 1997, p. 4). As an anthropologist, Tylor defined "culture" as a "complex whole which includes knowledge, belief, art, morals, law, custom, and any other capabilities and habits acquired by man as a member of society" (Tylor, 1920, p. 1). This term was then expanded by other cultural anthropologists, including the use of "cultural determinism" by Margaret Mead (1937), Max Webber (1904), and Raymond Williams (1981) (Varenne, 2010, para. 6-10). The definition itself is "less precise" and widely interpreted, the elements of 'culture' could be "almost everything" (Sardar & Loon, 1997, p. 5; Varenne, 2010, para. 8). By 1952, there were 164 definitions of 'culture' as cited by two U.S anthropologists: A.L Kroeber and C. Kluckhohn (Jokilehto, 2005, p. 4). Because of its extensive use, other heritage categories have received lesser attention from heritage practitioners (Smith & Waterton, 2009, p. 289).

The introduction of the *World Heritage Convention* in 1975 is one of the main reasons why 'cultural heritage' has received considerable international attention. Since 1975, the "concepts of cultural heritage have significantly expanded beyond the initial approach" (ICOMOS, 2005a, p. 9). In March 2016, there were 1031 properties listed on the World Heritage List managed by UNESCO of which 802 properties were deemed 'cultural heritage' properties (UNESCO, 2013, para. 11). Within UNESCO, the International Council on Monuments and Sites (ICOMOS) has responsibility for UNESCO's World Heritage activities. ICOMOS's main objective is to "encourage the adoption and implementation of international recommendations concerning monuments, groups of buildings and sites" (ICOMOS, 2005a, p. 3). ICOMOS has classified cultural heritage into three categories: monuments, groups of buildings and sites. For ICOMOS, the gap in the World Heritage List is due to the nature of the cultural heritage definitions which it considers "fragmented and diverse" (ICOMOS, 2005a, p. 3). In fact, the word "monument" itself covers "every object of remembrance" in "over 200 different classes" from the perspective of English Heritage (English Heritage, 2012, para. 3). Accordingly, during the World Heritage Committee 26th session in 2002, these broad categories have been revised and ICOMOS has "adopted a multi-faceted approach to the analysis of the World Heritage List" to ensure the credibility of the List (ICOMOS, 2005a, p. 5).

In conjunction with ICOMOS, the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM) is another professional body that is very concerned about cultural heritage. Recognised as "the only institution of its kind with a worldwide mandate to promote the conservation of all types of cultural heritage, "ICCROM serves as one of the technical advisory bodies of UNESCO (ICCROM, 2005, para. 3). Although without the specific definition of cultural heritage, this intergovernmental organisation contributes to cultural heritage conservation through 5 main areas of activity: training, information, research, cooperation and advocacy. Events that occurred in 1959 initiated the establishment of this Centre and role in providing an advisory panel on the conservation of cultural heritage. The first ICCROM mission was sent by UNESCO to investigate places associated with ancient Inca civilization at Cuzco" at the request of the Peruvian Government" (ICCROM, 1969, p. 14). After surviving an earthquake in 1950, the Inca site was designated as a World Heritage Site 33 years later.

The role played by international organisations in conserving cultural heritage does not stop here. In 1950, another international organisation, the Council of Europe, was established where one of its main objectives was "to promote awareness and encourage the development of Europe's cultural identity and diversity" (Council of Europe, 2012, para. 2). The Council has continuously urged other countries to implement suitable "preservation policies that favor quality of life for local populations and the general public's access to culture" (Thérond, 2009, p.9). Additionally, in 2005, a new convention was introduced to strengthen the role of the European Council. Under the Faro Convention on the Value of Cultural Heritage for Society (the Faro Convention), the emerging participation from all parties in society was emphasized. By placing this engagement into the cultural heritage sector, it sought to craft a robust and unique context between the individual and the heritage of place (Goddard, 2009, p. 142). Hence, it will help society to be more sensitive and appreciate the valuable heritage around them (Council of Europe, 2012, para. 1).

3.3.1   Valuing Cultural Heritage

Once 'heritage' is clearly understood, the process of valuing can commence (Thurley, 2005, p. 26). However, not all heritage items have to be conserved or are worthy of being conserved. Such decisions depend greatly upon the value of the heritage item. The *Oxford Advanced Learner's Dictionary* (2016) defines 'value' as "the regard that something is held to deserve; the importance, worth, or usefulness of something" (Oxford, 2016d, para. 1). Moreover, "values give some things significance over others and thereby and transform some

objects and places into 'heritage'" (Avrami, Mason, & Torre, 2000, p. 5). It is "a set of positive characteristics or qualities perceived in cultural objects or sites by certain individuals or groups" (Torre & Mason, 2002, p. 4). Once 'value' is acknowledged, objects or places can "become recognized as 'heritage'" (Avrami et al., 2000, p. 6).

However, giving 'value' to a heritage item is highly subjective. As stated by ICOMOS (2004), the qualities of values have become subjective as they are defined by society (ICOMOS, 2005a, pp. 6-8). "Those qualities regarded by a person, a group of the community are crucial and desirable" as it always represents the social and culture of the place (Carter & Bramley, 2002, p. 176). Hence, value articulation can differ depending upon the person who undertakes the evaluation (Avrami et al., 2000, p. 6; Gilmour, 2007, p. 3). Additionally, heritage values "are socially constructed and fluid" (Taylor, 2010, p. 1). Within the conflicts on finding the perfect definition of 'heritage value' (Tunbridge & Ashworth, 1996, p. 20), there are intrinsic values that need to be thoroughly understood and maintained by all parties involved (Avrami et al., 2000, p. 7). Therefore, it is important to review "'what,' 'why' and 'how' heritage is valued and by 'whom'" it is valued (Avrami et al., 2000, p. 7).

Today, there is increasing recognition and rich consideration of cultural heritage values by many scholars and these are substantially documented. Arising from the *Burra Charter*, cultural values are classified as "aesthetic, historic, scientific, social or spiritual" (Australia ICOMOS, 2013a, p. 4). Under the *Burra Charter* 'cultural significance' holds the same meaning as 'cultural heritage significance' and 'cultural heritage value' (Australia ICOMOS, 2013a, p. 4). Orbasli (2008) argues that there are different sets of criteria for identifying the cultural significance. For Orbasli, the values which most commonly relate to cultural heritage are "historic, architectural, aesthetic, rarity or archeological value" (Orbasli, 2008, p. 38). Values can also be derived from political or economic motivations (Aplin, 2002, p. 16; Gilmour, 2007, p. 3). Because heritage values are "varied, and they are often in conflict," Mason (2002) has grouped them into two; the socio-cultural values and economic values (Table 3.3). This offers a better approach to the planning and management of these heritage items. However, finding agreement on this typology of heritage value is still problematic and unresolved (Mason, 2002, p. 10).

Sociocultural Values	Economic Values
Historical	Use (market) value
Cultural / Symbolic	Nonuse (nonmarket) value
Social	Existence
Spiritual / Religious	Option
Aesthetic	Bequest

Table 3.3: Types of heritage values based on Mason (2002).
Source: (Mason, 2002, p. 10)

For UNESCO, value is defined in the *Operational Guidelines* under section 49: *Outstanding Universal Value (OUV).* Based on these guidelines*,* OUV is stated as "cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity" (UNESCO, 2015, p. 11). These criteria are stated under *Section II D: Criteria for the assessment of OUV.* Under *Section II D (77),* of which the first of 6 criteria from 10 items listed are applicable to cultural heritage and the last 4 are specific for natural heritage.

As mentioned earlier, heritage values are often viewed in different and conflicting ways (Gilmour, 2007, p. 3; Orbasli, 2008, p. 38). According to Ashworth (2007), this disagreement derives from perceptions towards the meaning of heritage amongst the scholars and heritage practitioners. For Ashworth, "it is the meaning that gives value, either cultural or financial, to heritage" (Ashworth, Graham, & Tunbridge, 2007, p. 3). As discussed by Lowenthal (2003), failure "to understand the meaning of heritage value will usually result in diminishing the value" (Lowenthal, 2003, p. 240). It is also agreed, by a working group under ICOMOS which has conducted studies on the issue of the OUV, that every aspect of heritage is unique and has its value, but that "the value is not easy to define especially in relation to cultural heritage" (ICOMOS, 2005a, p. 11). In fact, the value may have actually been stimulated by various organisations including the individual, institutions, communities and the policy makers (Avrami et al., 2000, pp. 6-8). Hence, to conserve the values that embody the heritage, it will require "deliberate consideration, action, and protection" (Kammeier, 2008, p. 3).

3.4 Cultural Heritage Conservation

Upon comprehending the definitions of heritage and analyzing the value(s) to be conserved, the next process will be to consider 'how' to protect this valued heritage. Instead of concentrating upon "what have we got," the process should focus upon "what do we want to do?" (Ashworth et al., 2007, p. 71). Based upon a Research Report published by the Getty Conservation Institute (2000), managing heritage is "truly a *multi*disciplinary endeavor and also *inter*disciplinary collaboration" (Avrami et al., 2000, p. 7). The task is about giving protection to heritage through a standard model on planning and management of heritage (Thurley, 2005, p. 26). Cultural heritage is one of the several categories that needs to be conserved.

Legally, cultural heritage is safeguarded through legislation and management mechanisms created by the legislation (Orbasli, 2008, p. 5). One of the earliest cultural heritage policies was established by the Society for the Protection of Ancient Buildings (SPAB) in the United Kingdom through its manifesto issued in 1877 (The Society for the Protection of Ancient Buildings (SPAB), 2009, para. 3). Although the main aim of this manifesto was the protection of heritage buildings, this approach is acknowledged as "the ideal manifesto of the restoration of ancient buildings" (The Getty Conservation Institute, 2009, para. 1).

Despite the SPAB policy in 1877, the European heritage conservation movement commenced earlier in the 1850s. According to Ashworth (1994), this movement started with "preservation" approaches concentrating on "artifacts and buildings from the past" (Ashworth, 1994, p. 15). These heritage properties were selected on "intrinsic criteria, such as age or beauty, [and] preserved by legally protective designations" (Ashworth, 1994, p. 15). This preservation approach progressively gained attention from international organisations towards protecting the heritages.

In 1945, the Constitution of UNESCO was signed and came into force in 1946 to:

> maintain, increase and diffuse knowledge by assuring the conservation and protection of the world's inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions (UNESCO, 1945, p.6).

To operationalise this Article, UNESCO established the International Centre for the Study of the Preservation and the Restoration of Cultural Property (ICCROM) in 1959. ICCROM seeks to "contribute to the worldwide conservation and restoration of cultural property by initiating,

developing, promoting and facilitating conditions for such conservation and restoration" (ICCROM, 2013, para. 3). Additionally, ICCROM provides knowledge, tools, and training at the international and governmental level to institutions and professionals involved with conserving culture. ICCROM is an Advisory Body to the World Heritage Committee.

In 1964, during the Second International Congress of Architects and Specialists of Historic Buildings in Venice, Italy, two important actions took place. The first achievement was the adoption of the *International Charter for the Conservation and Restoration of Monuments and Sites* also known as the *Venice Charter 1964*. The second action involved the establishment of the International Council on Monuments and Sites (ICOMOS). The *Venice Charter 1964*, adopted by ICOMOS, notifies its decisions and resolutions. ICOMOS's main mission accords with the *Charter* that seeks to "promote the conservation, protection, use and enhancement of monuments, building complexes and sites" (ICOMOS, 2013, para. 5). Besides ICCROM, ICOMOS is also an Advisory Body of the World Heritage Committee. In 1965, another heritage organisation was established within UNESCO. Named, the International Council of Museums – Committee for Conservation (ICOM-CC), its activities are principles to address the challenges and needs of the museums and museum professionals.

After more than a century since the SPAB was founded, heritage conservation terminology is being used in all English-speaking countries except the United States which still uses the "historic preservation" phrase. To preserve tangible or intangible cultural heritage, conservation usually includes all processes including preserving, restoring, reconstructing or adapting to ensure the retention of cultural significance (City of Vincent Heritage, 2010, para. 9). According to Kammeier (2008), it involves "actions or attempts at stopping or slowing down the course of continuous change in history, or at least, creating enclaves (the heritage sites) where the wheel of history seems to have been turned back" (Kammeier, 2008, p. 4).

However, both the concept and definition of heritage conservation remain vague. Even the *World Heritage Convention* does not specifically define 'conservation'. The *Convention* only refers to it as the "identification, protection, conservation, presentation and transmission to the future generations of the cultural and natural heritage" (UNESCO, 1996, p. 1). Throughout its *Operational Guidelines,* 'conservation' is used "interchangeably with preservation, safeguarding, and protection" (UNESCO, 1996, p. 1). However, the term is well-defined in the *Nara Document on Authenticity* (1994), where 'conservation' involves "all efforts designed to understand cultural heritage, know its history and meaning, ensure its material safeguard and, as required, its presentation, restoration, and enhancement" (Larson, 1995 in UNESCO,

1996, p. 4). The *Nara Document on Authenticity*, ICOM-CC also describes conservation as being "all measures and actions aimed at safeguarding tangible cultural heritage while ensuring its accessibility to present and future generations" (ICOM-CC, 2008b, para. 3). To ensure thorough protection of cultural heritage, ICOM-CC also implemented terms including "preventive conservation, remedial conservation and restoration" as well as "conservation" (ICOM-CC, 2008b) (Figure 3.2).
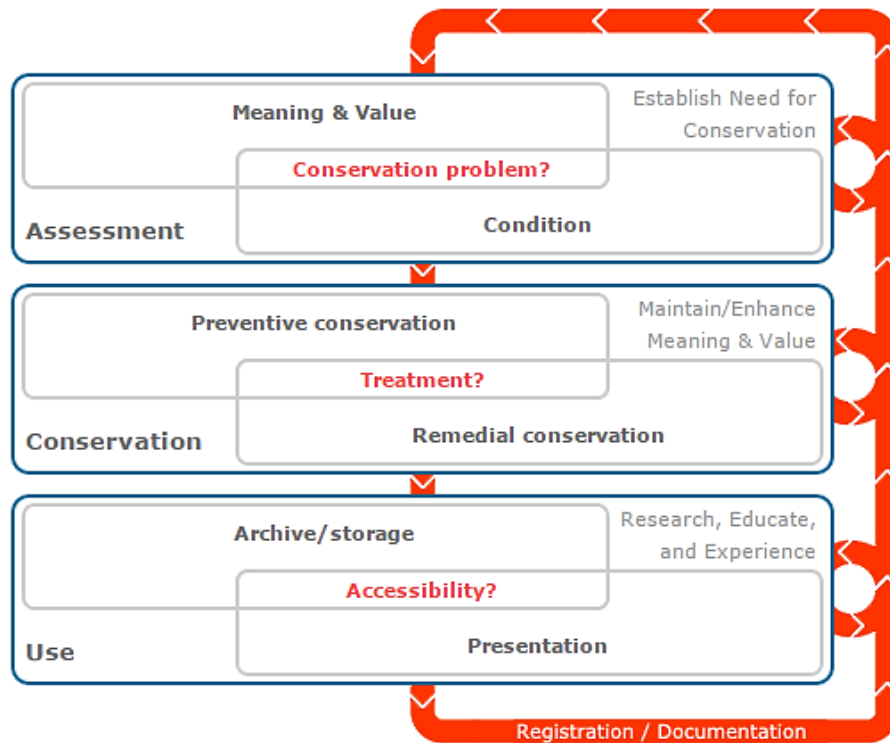
Figure 3.2: Conservation approaches practiced by ICOM-CC.
Source: (ICOM-CC, 2008a).

There is a policy imperative for signatory countries with designated heritage site to implement international standards for cultural heritage as embodied in UNESCO's Recommendations, Charters and Declarations (Prott, 1993, p. 8). Knowing the challenges faced by various signatory parties in establishing and maintaining cultural heritage, in November 2013 UNESCO and its Advisory Bodies (ICCROM, ICOMOS, and IUCN) published a *Manual on Managing Cultural World Heritage*. This *Manual* (2013) provides a framework of management systems for cultural heritage properties and their values around the world (UNESCO, ICCROM, ICOMOS, & IUCN, 2013, p. 25). To ensure thorough management of heritage, this *Manual* (2013) concentrated on three categories of cultural heritage as stated in *Article I*: monuments, groups of buildings, and sites. Universally, in heritage protection, these three

types of cultural heritage are constantly referred to by most heritage practitioners or organisations (Demir, 2012, p. 11; Jokilehto, 2006, p. 15).

3.4.1 Monuments Conservation

As mentioned earlier under 3.2, UNESCO in its *1972 Convention* defined monuments as "architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science" (UNESCO, 1972, p. 2). Even though the *Convention* was introduced in 1972, the conservation of heritage monuments started much earlier. In Rome, Italy, monument conservation started in the 16th century. Raphael Santi (Raffaello Sanzio), the artist who is considered to be "the Father of Modern State Protection of Monuments" in Rome (Jokilehto, 2006, p. 32), was given a title of "Prefect of Marbles and Stones" because of his efforts to document and protect monuments in Rome (Cleere, 2004, p. 2). Although this movement first commenced with 'Christian relics' (Jokilehto, 2006, p. 34; Orbasli, 2008, p. 16), because of Raphael's keen appreciation of the values of monuments, from the 16th century many buildings in Rome were no longer threatened with demolition (Cleere, 2004, p. 2). As stated by Pope Paul III in 1534, "anything to be conceived as Antiquity or Monuments" must be "conserved, kept free of vegetation, not taken from town, or covered by new constructions" (Jokilehto, 2006, p. 34). These orders elevated concern amongst administrators about ancient monuments and their protection (Jokilehto, 2006, p. 34).

In the UK, the first proclamation to protect churches and other historic buildings was prepared in 1560 by Queen Elizabeth I. Entitled the "Agaynst breakyng or defacing of Monuments," this proclamation, however, failed to protect this heritage (Jokilehto, 2006, p. 41). As a consequence, monument protection became a major concern when the "development boom threatened many of the ancient ruins of England" (Sax, 1990, p. 1543). Thus, to protect monuments, theoretical discourse about the restoration of monuments started to be implemented in UK and France in the 18th and 19thcenturies (Orbasli, 2008, p. 16). With the evolution of the concept of "reordering and reconstruction of monuments" evolving into the word "restoration" (Orbasli, 2008, p. 17). However, this approach to monuments was more about protecting the "original design concept" (Orbasli, 2008, p. 17). In 1882, legislation known as the *Ancient Monuments Protection Act 1882* was introduced in the UK parliament by Sir John Lubbock to preserve this heritage. However, this *Act* only addressed monuments and not historic buildings or structures. During this time, the activity of protecting monuments

or buildings embraced both private or patrimonial property but also monuments that have values to the community (Sax, 1990, p. 1545).

In 1931, the *Athens Charter for the Restoration of Historic Monuments* now known as the *Athens Charter*, was adopted at the First International Congress of Architects and Technicians of Historic Monuments. This *Charter* is considered the first international-level document outlining "modern conservation policy" (Orbasli, 2008, p. 21). This document also pioneered the identification and use of modern and new techniques and materials for application in the restoration process (Department of Interior Architecture, 2015). The ideas implemented in the *Athens Charter* were expanded upon in the *Venice Charter 1964*, "the process of restoration is a highly specialized operation" (ICOMOS, 1964, p. 2). Its aim is to "preserve and reveal the aesthetic and historic value of the monument and is based on respect for the original material and authentic documents" (ICOMOS, 1964, p. 2). Hence, any stylistic restoration is discouraged, so as to respect the original condition of the monument. The adoption of the *Venice Charter 1964* is considered a turning point in 20th century conservation practice. The framework articulated in the *Venice Charter 1964* has influenced conservation policy worldwide (Orbasli, 2008, p. 22).

Conservation practice of monuments and buildings continued to be discussed across the 20th century (Orbasli, 2008, p. 20). Conservation movements in Italy, UK and France influenced other countries including the United States. In the US, a not-for-profit organisation known as the World Monuments Fund (WMF) was founded in 1965 to sponsor programs for cultural heritage conservation worldwide. By March 2016, the WMF has funded 600 projects in 90 countries (World Monuments Fund, 2015, para. 5).

In the late 20th century, conservation of monuments and buildings focused on the larger scale; groups of buildings instead of a single monument or building. In England, the establishment of the National Trust in 1895 highlighted the importance of the conservation of groups of buildings. However, concern about multiple buildings or place assemblages started to gain attention in the 1950s and 1960s in the UK when developments involved new urban areas and new transportation systems (Orbasli, 2008, p. 25).The concern rotated around moments when these monuments and buildings were destroyed or the changes or impacts to the original layout or character of these areas.

3.4.2 Groups of Buildings Conservation

Concerns about monument conservation initiated concern for the conservation of groups of buildings and sites. This concern is also mirrored in the development for most legislation and theory for conservation (Orbasli, 2008, p. 25). In 1895, the National Trust for Places of Historic Interest or Natural Beauty, known as the National Trust, established in the UK, supplanted the establishment of the SPAB in 1877. Under the Trust, the role of saving and conserving heritage buildings was broadened to "areas of natural beauty, and groups of buildings of historic importance" (Orbasli, 2008, p. 19). In 1907, the UK *National Heritage Act* was implemented to "incorporate and confer powers upon the National Trust" (Parliamentary Scheme, 2005, p. 3), despite it being a non-governmental organisation. Under this *Act*, the Trust is to be involved in:

> promoting the permanent preservation for the benefit of the nation of lands and tenements (including buildings) of beauty or historic interest and as regards lands for the preservation (so far as practicable) of their natural aspect features and animal and plant life (Parliamentary Scheme, 2005, p. 4).

Since its establishment, this Trust has been a model for the formation of similar trusts worldwide (Orbasli, 2008, p. 19).

Recognising the importance of conserving this valuable heritage, the Council of Europe in 1976 adopted *Resolution (76) 28: Concerning the Adaptation of Laws and Regulations to the Requirements of Integrated Conservation of the Architectural Heritage*. This document defined 'groups of buildings' as "a group of urban or rural buildings" (Council of Europe, 1976, p. 2). Despite a very brief definition, this *Resolution* identified the criteria to be fulfilled before a place could be designated as architectural heritage. These criteria are identified as follows:

- they must be of interest by reason either of their social, historical, archaeological, scientific or artistic value, or of their typical or picturesque character;
- they must form a coherent whole or be remarkable for the way they fit into the landscape;
- they must be sufficiently closely grouped to allow the buildings, the structures connecting them and the site which they occupy to be delimited geographically (Council of Europe, 1976, p. 2).

This document crucially introduced an integrated conservation policy for Europe and a new conservation approach for regional and town planning policy (Council of Europe, 1976, p. 2).

In 1985, the Council of Europe, through the *Convention for the Protection of the Architectural Heritage of Europe* or *Granada Convention 1985*, expressed "groups of buildings." Under *Article 1: Definition of the architectural heritage,* "groups of buildings" are defined as "homogeneous groups of urban or rural buildings conspicuous for their historical, archaeological, artistic, scientific, social or technical interest which are sufficiently coherent to form topographically definable units"(Council of Europe, 1985, p. 2). Groups of buildings are therefore protected through a framework and conservation policies which are coordinated among European countries (Council of Europe, 1985, p. 6).

Although using terms such as "buildings … and land for preservation" in *National Heritage Act 1907*, or "their place in the landscape" by UNESCO 1972, the main purpose is still the same, in seeking to ensure the safeguarding of 'groups of buildings.' Hence, it is not only buildings that need to be conserved, but the whole site to enable comprehensive protection.

3.4.3   Sites Conservation

In terms of cultural heritage, culture and its context cannot be separated and will need to be conserved as a whole (Orbasli, 2008, p. 19). The *Athens Charter 1931* highlighted the importance of conserving the surrounding the ancient monuments or groups of monuments to ensure the character of the place is conserved (ICOMOS, 1931, p. 4). The principles of the *Athens Charter 1931* were expanded in the *Venice Charter 1964*. *Article 14: Historic Site* of the latter acknowledges that "sites of monuments must be the object of special care to safeguard their integrity" (ICOMOS, 1964, p. 4). Because of the principles and the framework articulated in this Charter, the *Venice Charter 1964* is accepted as "the most representative document of international principles in sites conservation" (China ICOMOS, 2002, p. 59).

The *Oxford Advanced Learner's Dictionary* (Oxford, 2016c, para.1), has interpreted 'site' as "a place or an area of ground where a building, town, or monument was, is or will be located." Amongst the ICOMOS International Scientific Committees, China ICOMOS was one of the earliest to take action to protect their heritage sites. In 2002, China ICOMOS issued a document entitled the *Principles for the Conservation of Heritage Sites in China*. There is no specific definition for the heritage site in these Principles (2002), except:

> archaeological sites and ruins, tombs, traditional architecture, cave temples, stone carvings, sculpture, inscriptions, style, and petroglyphs, as well as modern and contemporary places and commemorative buildings, and those historic precincts (villages or towns), together with their original heritage components, that are officially declared protected sites (China ICOMOS, 2002, p. 60).

Actions taken by China ICOMOS have been refined by ICOMOS through the ICOMOS *Charter for the Interpretation and Presentation of Cultural Heritage Sites* (2008). This *Charter* interprets cultural heritage sites as "a place, locality, natural landscape, settlement area, architectural complex, archaeological site, or standing structure that is recognised and often legally protected as a place of historical and cultural significance" (ICOMOS, 2008, p. 4). There are seven principles highlighted in this document that ensure a comprehensive safeguarding of the selected cultural heritage site.

Because heritage is localised and part of the past of a particular community (Hardy, 2008, p. 4), Japan has acknowledged cultural heritage differently. The concepts of conservation adapted from Western countries were gradually "transformed to suit Japan's natural and cultural conditions" (Jokilehto, 2006, p. 281). Although the efforts started with the temples and shrines, the concept has been widened to include 'historic sites,' 'places' and 'cultural properties'. In 1919, legislation entitled *The Law of Historic Sites, Places of Scenic Beauty and Natural Monuments* was gazette in Japan to protect Japanese natural and built heritage from the effects of economic development. Under this law, historic sites include "shell mounds, ancient tombs, sites of palaces, sites of forts or castles, monumental dwelling houses, and other sites that possess a high historic or scientific value in Japan" (Akagawa, 2015, p. 59).

In seeking to embrace an area and groups of buildings, Japan introduced the 'districts for groups of historic buildings' as one of their cultural heritage categories. This category was first recognised in their *Cultural Property Law 1950*, and amended the *Law for the Protection of Cultural Heritage Properties* (1970) to enable villages and streetscapes to be recognised as a new category as cultural properties (Denkenkyo, 2015, para. 3). Hence, a new system named as the *Preservation Districts for Groups of Historic Buildings* was introduced. The purpose of this document was to "preserve groups of buildings together with their surroundings which as a whole create historic values" (Denkenkyo, 2015, para. 4), and includes 8 categories of historic districts that include post towns, port towns, mine towns, amusement quarters, shrine towns, merchant towns, villages and samurai quarters (Akagawa, 2015, p. 56; Denkenkyo, 2015, para. 6-8).

From all actions taken by the various organisations discussed above, there is proof of a demonstrable importance in site conservation towards cultural heritage. These discussions clearly understand that heritage sites should be conserved together with heritage properties. Hence, this ensures that the future of this heritage is for conservation. As mentioned by

English Heritage (2015), there is no one answer regarding the conservation of heritage or historic sites, but "adequate information and adopting a consistent, rigorous process are crucial" to safeguarding this valuable heritage (Historic England, 2015, p. 44).

3.5   Urban Conservation

The attention given to site conservation has led to a bigger scope of conservation which is urban conservation. In fact, the attention given to urban conservation has become an international competition (Cohen, 1999, p. 10). The understanding of urban conservation is important as this space represents different characters and values. However, because of the confusion of the conservation terminology, 'urban conservation' is hardly defined (Bandarin & Oers, 2012, p. 10; Harris, 1984, p. 3).

ICOMOS started to implement an approach to 'urban conservation' in the *Athens Charter for the Restoration of Historic Monuments* (1931). Although most of the Charter's content concentrated on monuments, this Charter pioneered the introduction of concepts of urban heritage in urban planning (Appleyard & Jacobs, 1987, p. 1; Bandarin & Oers, 2012, p. 22). Thus, one of the Charter's resolutions stated that "historical sites are to be given strict custodial protection" (ICOMOS, 1931, p. 12). The importance of 'urban heritage' was carried through in the *Charter for the Conservation of Historic Towns and Urban Areas* or known as the *Washington Charter* (1987) that explained the 'historic town' and 'historic urban area' terminologies. The *Washington Charter* (1987) states that "the conservation of historic towns and other historic urban areas should be an integral part of coherent policies of economic and social development and urban and regional planning at every level" (ICOMOS, 1987, p. 1). The *Washington Charter* sets out recommendations on historic areas introduced by UNESCO in 1976 and also other international documents (ICOMOS, 1987, p. 1).

UNESCO, in its earlier documents, did not define 'urban conservation'. One of the earliest documents, closely linked to 'urban conservation', is the *Recommendation Concerning the Safeguarding of Beauty and Character of Landscapes and Sites* (1962). This *Recommendation* highlights 'urban landscape' to ensure "the safeguarding of certain urban landscapes and sites which are, in general, the most threatened" (UNESCO, 1963, p. 142). This *Recommendation* provides a formative vehicle to protect urban landscapes from rapid development (The Getty Conservation Institute 2014, para. 1). In 1976, UNESCO released the *Recommendation Concerning the Safeguarding and Contemporary Role of Historic*

Areas or *Warsaw-Nairobi Recommendation*, which highlights the "historic and architectural (including vernacular) areas" (UNESCO, 1976, p. 21). This term applies to urban or rural areas.

Debate amongst international conservators about the conservation of urban heritage has led UNESCO to a new phase. This debate accepted that urban conservation was an important part of heritage policies (UNESCO, 2011a, p. 1). Considering the *Warsaw-Nairobi Recommendation*, in May 2005, the *Vienna Memorandum* was held to discuss "the impact of contemporary development on the overall urban landscape of heritage significance" because the historic urban landscape terms now go beyond the "historic centres, ensembles or surroundings" (UNESCO, 2005, pp. 2-3). The *Vienna Memorandum* urged for new approaches and methodologies for urban conservation. Hence, these approaches and methodologies as introduced in this memorandum have been adopted in a new declaration known as the *Declaration on the Conservation of Historic Urban Landscapes* (2005). The *Declaration on the Conservation of Historic Urban Landscapes* (2005), defined 'historic urban landscapes' as "the urban settlement understood as a historic layering of cultural and natural values, extending beyond the notion of 'historic center' or 'ensemble' to include the broader urban context and its geographical setting" (UNESCO, 2011a, p. 3).

In 2011, after a few amendments, this *Declaration* was adopted by UNESCO, entitled the *Recommendation on the Historic Urban Landscape*. This *Recommendation* incorporated the term 'urban conservation' as:

> Urban conservation is not limited to the preservation of single buildings. It views architecture as but one element of the overall urban setting, making it a complex and multifaceted discipline. By definition, then, urban conservation lies at the very heart of urban planning (UNESCO, 2011a, p. 5).

In addition to this definition of 'urban conservation,' it mirrors the definition of 'historic urban area' contained in the ICOMOS *Washington Charter* (1987).

Non-governmental organisations are also involved in urban conservation. Amongst them is the Asia and West Pacific Network for Urban Conservation (AWPNUC) that comprises representatives from South Asia, Southeast Asia, Far East Asia, Australia and the Pacific. The AWPNUC's mission is to "exchange cultural information and technical expertise in the area of urban conservation" (AWPNUC, 1997). One of the active non-profit organisations linked to AWPNUC is the Nara Machizukuri Center Incorporated (NMCI). Established in

Japan in 1979, officially linked with AWPNUC in 1991, the NMCI has similar mission "to support urban conservation activities in Asia" (Nara Machizukuri Center Inc., 2013, p. i).

In Japan, a growing awareness of the conservation movement has involved an "evolutional great learning process" and progressed with "objects, then in space and finally in place" (Nitschke, 1998, p. 160). The urban conservation movement began in the 1960s and early 1970s, and the first law for a historic area was introduced in 1966. Entitled the *Law for the Preservation of Historic Landscape in Ancient Capitals,* it "allows special zones for preservation of landscape areas for cities with historical status" (Edgington, 1994, p. 187). Amongst the listed areas protected under this law are Kyoto, Nara, and Kamakura. In 1968, a *Historic Preservation Machizukuri Ordinances* was passed, that gives extra protection to listed urban or ancient areas. This urban conservation movement also involved the formation of local townscape conservation groups consisting different local societies (Issarathumnoon, 2004, p. 3). One of the earliest conservation groups was the Japanese Association for Townscape Conservation, which was established in 1974. Through the efforts of the local authority and support from the society, the Association helps to sustain and revive the historic center of Japan (Issarathumnoon, 2004, p. 16).

In the US, the promotion of historic urban conservation commenced with the National Trust for Historic Preservation in the mid-1970s (Kalman, 2014, p. 98). This Trust conducted various conferences on promoting the benefits of preserving the old buildings in the urban areas; the first historic urban area was profiled at the Trust Conference in 1972 was the Seattle Pioneer Square Historic District. This District was the first urban space protected by an ordinance and design guidelines in the United States and sought to preserve its distinctive historic and architectural character. The *Rules* applicable to any improvements include "open space and areaways throughout the District" (Pioneer Square Preservation Board, 2003, p. 1). In addition to the National Trust, ICOMOS US also played important roles in conserving urban heritage. ICOMOS US adopted a *Preservation Charter for the Historic Towns and Areas of the U.S* (1992) based on the ICOMOS *Washington Charter 1987* that was designed to tackle the needs and issues faced by local communities.

In Australia, because of concern about Australia's unique townscapes, the National Trust formed an Urban Conservation Committee in 1976. In 1984, during the second seminar of

an Urban Conservation Committee held in Wagga Wagga, NSW, Australia, Harris[2] proposed the term 'urban conservation', to accord with the *Burra Charter* definition for conservation as:

the sensitive use and adaptation of an urban area or part of an urban area so as to maximize its desirable historic, aesthetic, or social attributes and to enhance the value of the area, both for its present users and for the future (Harris, 1984, p. 3).

For the Burra Charter, there is no specified term for 'urban conservation'. However, 'urban' is included in one of the categories of 'place.'

3.6   Conclusion

The scope of heritage conservation is becoming wider and more complex in addressing the needs of the modern era. In defining heritage, scholars also need to consider the legacy of future generations and what they must inherit. As stated by Lowenthal (1981), the "past and present should be commingled rather than always separated. Every trace we inherit should testify not only to the spirit of the past but to our present perspectives" (Lowenthal, 1981, p. 117). Heritage is a part of human and social history (Agustiananda, 2010, p. 6). Therefore, "conservation of cultural heritage in all its forms and historical periods is rooted in the values attributed to the heritage" (UNESCO, 1994, p. 2).

Literature demonstrates that efforts taken by international organisations including UNESCO, ICOMOS, ICCROM and other agencies have given space for heritage to expand. Commencing with a single ancient monument, it has grown into places, towns, and cities. Considerations derived from international documents, either from Charters or Recommendations, are sufficient and provide "great insights into value of heritage, and suggest appealing approaches" (Kulikauskas, 2007, p. 62). However, the rapid changes in the world will present the biggest challenges to conservation activities. Even with good international legally enforceable documents, there is still an issue with the applicability of quality heritage conservation approaches. Clarifying a consistent international definition of heritage conservation remains the biggest concern amongst scholars.

The concepts of heritage conservation discussed in this chapter are continued in Chapter 04: Theories of Heritage Curtilages, where a focused discussion will follow suit, particularly on heritage curtilage and planning as well as the management of the implementation of this concept based on legal interpretation. Chapter 04 will also review some of the international

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[2] Stephen Harris was the Chairman of the Urban Conservation Committee.

doctrines mentioned in this chapter, to evaluate the application and approaches to the concept of heritage curtilages being implemented by the organisations.

4.1 Introduction

The previous chapter reviewed the development of cultural heritage terminologies from a single building to an urban area. This discussion is important as it traces the evolution of these terms and approaches from international to local acceptance, understanding and implementation. Despite the varied definitions, the main objectives of the parties involved − despite different geographical and cultural factors − remain identical, that is to safeguard the preservation of the heritage.

This chapter continues this analysis of cultural heritage but focuses specifically upon the concept of 'heritage curtilage'. The review starts with the evolution of the term from legal interpretations in selected countries. The next section discusses the application of this term by international organisations including UNESCO and ICOMOS. The discussion reviews the conservation aspects of curtilages, deliberately focusing upon Australia because it offers a very robust theoretical and practical discourse on this concept encapsulated in the Manual of Heritage Curtilages (Heritage Office, 1996) and other planning legislation as the primary references.

4.2 Interpretation of Curtilage

The origin of the word 'curtilage' is believed to have originated with the Anglo-Norman French or Old French. The word was increasingly applied during the 14th century. Originally, curtilage was known as *courtillage, cortillage,* or *courtelage* with the synonym *cortil yard* or small court (Dictionary.com, 2016, para.3-4; Oxford, 2016a, para. 1). An etymology dictionary also states that curtilage derives from "little court, walled garden or yard" (Harper, 2014, para.1). The term curtilage, during this early period, was also referred to as "the land and outbuildings immediately adjacent to a castle that was in turn surrounded by a high stone wall" (Garner, 2014, p. 311).

In early literature, after the 18th century, the word was mentioned in various books published in the United States (US). These books included *The Life of Abraham Lincoln: From His Birth to His Inauguration as President* (Lamon, 1872) and *In the Boyhood of Lincoln* (Butterworth, 1892). In *The Life of Abraham Lincoln*, the curtilage is expressed in the following statement whereby "Lincoln laid off his curtilage on a gentle hillock having a slope on every side" (Lamon, 1872, p. 21). Further, in the book *In the Boyhood of Lincoln*, curtilage is also referred to in the following statement; "… we portaged a stream at midnight, just as the moon was going down. We made our curtilage here, and here we lived happily" (Butterworth, 1892, p. 107). From these documents, Lamon (1872) and Butterworth (1892) described 'curtilage' as being part of the environment or surroundings to portray the contextual situation during that era.

In England, the term also appeared in a book discussing housing and urban development. One of the earliest is the *Dwelling House* (Poore, 1897) which highlighted the issues faced in the planning of dwelling houses in London. These early documents did not define curtilage. Poore (1897) only linked 'curtilage' to issues of hygiene and health. For Poore, the 'grounds', or 'curtilage', was important as it was integral to improving public health particularly for ventilation and sanitation systems (Poore, 1897, p. 120). The approach practiced under the United Kingdom's *Metropolitan Building Act 1844*[1] was criticized by Poore because it allowed development on curtilages which increased the risk of disease and fire (Poore, 1897, p. 121).

Consistent with this history, curtilage is today defined as "an area of land attached to a house and forming one enclosure with it" (Oxford, 2016a, para. 3). In heritage conservation, 'curtilage' is defined as the "surroundings associated with historic heritage" (McClean, 2007, p. 16). Aplin (2002) described it as "the immediate area around a historic building [which] may contribute to its heritage value in a very important way" or "an envelope around the main item" (Aplin, 2002, p. 122). However, the word 'area', 'land' or 'ground' is subjective and difficult to define. Additionally, the term is not applied by UNESCO or ICOMOS. Hence, identifying the exact boundary of a curtilage is challenging and controversial (Aplin, 2002, p. 122; McClean, 2007, p. 17). Because of terminology issues, spatially defining the heritage management of the 'area' or 'place' is therefore very difficult.

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[1] An Act for regulating the construction and the use of buildings in the London Metropolis and its neighborhood (Parliament of the United Kingdom, 1844).

Curtilage and its boundaries are not limited to the fence line or the plot because the curtilage context itself may be bigger. In addition, drawing on historical examples and definitions discussed earlier, 'curtilage' is always cited together with the notion of 'surroundings'. The outstanding heritage value of a curtilage is crucial especially if it is an integral part of heritage monuments, buildings or sites. In fact, this area of land, or curtilage, should be conserved together with other heritage items. From a legal perspective, defining the term is critical because it involves various procedures and implications which have been extended from time to time to ensure a comprehensive law could be implemented (Garner, 2014, p. 311).

4.3   Legal Interpretation of Curtilage in the United States of America

In the United States of America (USA), the term was cited in 1886 in the *Boyd v. United States* case. In this case, curtilage was defined as "the area to which extends the intimate activity associated with the 'sanctity of a man's home, and the privacies of life'" (Carmen & Hemmens, 2015, p. 273). However, the term started to gain legal attention in 1917 in the English cases of *Bare v. Commonwealth [94 S. E. 168.]* case. In this case, the High Court articulated "curtilage" as "… the cluster of buildings constituting the habitation or dwelling place, whether enclosed with an inner fence or not" (Humphreys & Huff, 2014, p. 477). The same Court also expanded the term by stating that:

> the curtilage of a dwelling house is a space necessary and convenient, habitually used for family purposes and the carrying on of domestic employment; the yard, garden or field which is near to and used in connection with the dwelling (Bender, 1985, p. 741).

This definition has historically embodied the common law concept of curtilage in the USA. The determination of what constitutes curtilage here was necessary for the purposes of discussing the Fourth Amendment to the USA Constitution, which prohibits unreasonable searches and seizure of a person and his or her home or property (Lehman & Phelps, 2006) (Figure 4.1). Thus, curtilage in the USA is today a word that determines what to protect as part of the house or dwelling (Bender, 1985, p. 732).
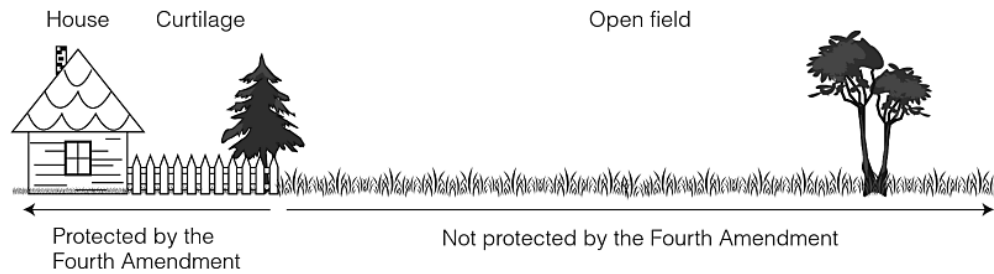
Figure 4.1: The relationship between house, curtilage and open field by the Fourth Amendment.
Source: (Carmen & Hemmens, 2015, p. 274)

Common law can differ in different jurisdictions and the term can vary from time-to-time in the legal context. In 1984, in the *Oliver v. United States [466 U.S. 170]* case, the term was once again discussed because of a legal argument claiming that the Fourth Amendment to the USA Constitution failed to make a clear distinction about a "home's curtilage." In this case, the term was redefined; "the curtilage is the area to which extends the intimate activity associated with the sanctity of a man's home and the privacies of life" (Humphreys & Huff, 2014, p. 477).

The *United States v. Dunn* case (1987) is one of the main cases that focuses upon defining the legal concept of a curtilage (Sauls, 1990, p. 26). During this case, the U.S. Supreme Court highlighted four factors that needed to be considered to determine the extent of a home's curtilage. These four factors are:

1. The distance from the home to the place claimed to be curtilage;
2. Whether the area claimed to be curtilage is included within an enclosure surrounding the home;
3. The nature of use to which the area is put; and
4. The steps taken by the resident to protect the area against observation by people passing by (Sauls, 1990, p. 27).

Based upon these four factors, the Court clearly did not limit the home's curtilage to a fence or wall even the "nearest fence surrounding a fenced house does not necessarily define the extent of curtilage" (Grimes, 1995, para.19).

The area of the curtilage is legally defined based upon situation and case. Curtilage may comprise a variety of places such as residential yards, fenced areas, apartment houses, barns and other outbuildings, and garages (Carmen & Hemmens, 2015, p. 273; Bender, 1985, p. 733). In the USA common law today, "determining the boundaries of curtilage is still considerably more problematic than fixing the limits of a house or building" (Sauls,

1990, p. 27). The application of the appropriate definition of curtilage in the USA also remains the discretion of the courts (Humphreys & Huff, 2014, p. 478; Bender, 1985, p. 738).

With regard to heritage conservation, even though the USA is one of the earliest countries to debate and define 'curtilage' the term has not been implemented in any heritage planning law in the USA. One of the earliest conservation Act's in the USA is the *Antiquities Act 1906*. This *Act* was established in 1906 to protect "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments" (United States Congress, 1906, p. 1). This *Act* authorizes the President of the USA to declare any objects as a national monument.

This *Act* alluded to the 'curtilage' of the object by stating that "[the President] may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected" (United States Congress, 1906, p. 1). The unclear definition of "smallest area" has enabled the President's discretion in identifying the size of "area" for the "proper care and management of the objects" (Loris, 2015, para.6; United States Congress, 1906, p. 1). Several critics have asserted that "many monuments have been quite small, but several Presidents have established large monuments" (Vincent & Alexander, 2010, p. 4). The issue is convoluted because the US Congress can also modify these designated monuments by changing their boundaries (Vincent & Alexander, 2010, p. 2). Hence, there is an argument from various parties to repeal the *Antiquities Act of 1906* in particular the President's authority in identifying the proper size for a designated monument.

In 1996, a new Act was introduced in the USA to supplement the provisions of the *Antiquities Act of 1906*. This Act, the *National Historic Preservation Act of 1996*, has been amended several times, and the latest version was released in 2006. Even though it supports the *Antiquities Act*, there is no particular clause to distinguish 'area'. However, this latter *Act* defines "historic property" and "historic conservation district". "Historic Property" is included as one item within a "historic conservation district" together with "b) buildings having similar or related architectural characteristic, c) cultural cohesiveness or d) any combination of the foregoing" (United States Congress, 2006, p. 33). This *Act* does define the scope as to what to include in a 'historic conservation district'. In terms of the size of the district, it states that "in cases of National Historic Landmarks districts for which no

boundaries have established, boundaries must first be published in the Federal Register" (United States Congress, 2006, p. 3).

These terms are defined in the *Code of Federal Regulations (CFR) Title 36: Parks, Forests, and Public Property*. Under *Title 36 – Chapter 1 Part 60: National Register of Historic Places (§60.3: Definitions),* "district" is defined as:

> a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history (United States, 2001, p. 291).

On the other hand, "site" is defined as:

> the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure (United States, 2001, p. 292).

These terms are closely related to the term 'curtilage' as both definitions show the relationship between an area and heritage items. In fact, "definable area" and "location" hint at the 'curtilage' boundary of a heritage property. Although the term 'curtilage' is not applied in any heritage legislation in the USA, the inclusion of 'area' in the oldest heritage law in the USA gives flexible scope to conservation efforts in the USA. Even with different sizes of boundaries, these heritage items need to be protected as they provide information and inspiration to the USA (Harmon, McManamon, & Pitcaithley, 2006, p. 8).

4.4   Legal Interpretation of Curtilage in the United Kingdom

In England, the term curtilage was initially used in the context of burglaries or nocturnal housebreaking cases (Blackstone, 1836, p. 222; Humphreys & Huff, 2014, p. 475). It is mentioned in the *Larceny Act 1827* under *Section 13 of 7 & 8 Geo. 4. c. 29(f)[2],* which states that "breaking and entering "any building," and stealing therein "any chattel, money, or valuable security, such building being within the curtilage of a dwelling house, and occupied therewith, but not being part thereof according to the provisions" (Boothby, 1842, p. 214). However, there is no further explanation about a "building within the curtilage" mentioned in

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[2] "*Section 13 of 7 & 8 Geo. 4. c. 29(f)*" in the Parliament of the UK means the 29th *Act* passed during the session that started in the 7th until the 8th year of the reign of the George IV.

this clause and causes difficulty for the judiciary to decide whether the case is within the statute or not (Boothby, 1842, p. 218).

The definitional discussion on curtilage in England evolved from case law in the 19th century. One of the definitions referred to by judges "within the curtilage" was from the *Termes de la ley* or Termes of the Law (Blackstone, 1836, p. 226). Although the definition had been established two hundred years earlier, the judges still accepted the content and adapted it to criminal cases deliberated upon during those times. Based on the *Termes de la ley* (1636), curtilage is "a garden, yard, field or piece of void ground lying near, and belonging to the messuage" (Rastell & Rastell, 1636, p. 100). The judiciary has expended it by saying "such garden, and curtilage must be connected with the messuage by one uninterrupted fence or enclosure of some kind, and perhaps such fence may more properly be termed the curtilage" (Blackstone, 1836, p. 226).

Referring to the date of the enforcement, the term curtilage had been applied earlier in England instead of the United Kingdom (UK) or Australia. Therefore, curtilage has been considered in a few cases in former American Colonies then under British law, and their post-independence successors in governance. One of the earliest cases in the USA did refer to the concept of curtilage as applied in England. In *Bare v. Commonwealth* (1917), the Supreme Court of Virginia explained that "in England the curtilage seems to have included only the buildings within the inner fence or yard, because there, in early times, for defense, the custom was to enclose such a place with a substantial wall" (Humphreys & Huff, 2014, p. 477). It was again highlighted by the Hamilton Court during the *State v. Hamilton* (1995) that in England, "a person's house with its cluster was usually enclosed by a wall or fence, and this enclosed area referred to as the curtilage" (Grimes, 1995, para.13). Both Courts considered the definitions practiced in England noting their different meaning in the United States.[3]

The main differences between the USA and England in definitions are the wall or fence that encloses the curtilage. In England, the curtilage is usually bounded by a wall and fence, but in the USA these elements are not the predominant boundary for the curtilage. However, both the regulations in both countries describe the relationship between the dwelling house and the nearest area and structures as being part of the curtilage.

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[3] "The common law of England, insofar as it is not repugnant to the principles of the Bill of Rights and Constitution of this Commonwealth, shall continue in full force within the same, and be the rule of decision, except as altered by the General Assembly" (Humphreys & Huff, 2014, p. 477).

Regarding heritage planning law in England, the first legislation on historic sites, the *Ancient Monuments Protection Act 1882*, is silent on the definition of curtilage. In 1900, the *Ancient Monuments Protection Act* was also silent on the phrase 'curtilage', but heritage protection in England has included a broader area, beyond the monuments alone, within its ambit (English Heritage, 2013, para. 11). However, there is still no "compulsive measures to protect the physical remains of the nation's history" even though the *Act* was superseded by a new Act, the *Ancient Monuments Protection Act 1910* (English Heritage, 2013, para. 13).

In Scotland, among of the earliest planning law that mentions 'curtilage' is in the *Town and Country Planning (Scotland) Act 1947.* However, there is no special clause that defines curtilage except by mentioning that curtilage is needed in the preparation of development plans (The Scottish Government, 1947, pp. 122-123). This *Act* has been repealed and replaced by new Acts, and in 1992, the *Town and Country Planning (General Permitted Development (Scotland)* or *Order 1992* has introduced curtilage as a concept. Under *Schedule 1: Classes of Permitted Development*, development within the curtilage is stated under one special part named as *Part 1: Development within the curtilage of a Dwellinghouse*. Under this *Schedule*, the classes act as guidelines for any "enlargement, improvement or alteration of a dwellinghouse" (The Scottish Government, 2010b, p. 5).

However, a proposal was made by the Scottish Government in 2010 to change the rules in *Order 1992* regarding planning permission. One of the main concerns was to identify a curtilage boundary. After various amendments, in 2011, the *Town and Country Planning (General Permitted Development (Scotland) Amended Order 2011 Householder Permitted Development Rights* provided further guidelines as to development within a curtilage. While this document did not propose a definition of curtilage it did apply the principal whereby curtilage is "land which is used for the comfortable enjoyment of a building and which serves the purpose of that building in some necessary or reasonably useful way. It need not be marked off or enclosed in any way" (The Scottish Government, 2010b, p. 5). With subsequent amendments, curtilage was divided into two areas: the front and rear curtilages (Figure 4.2).
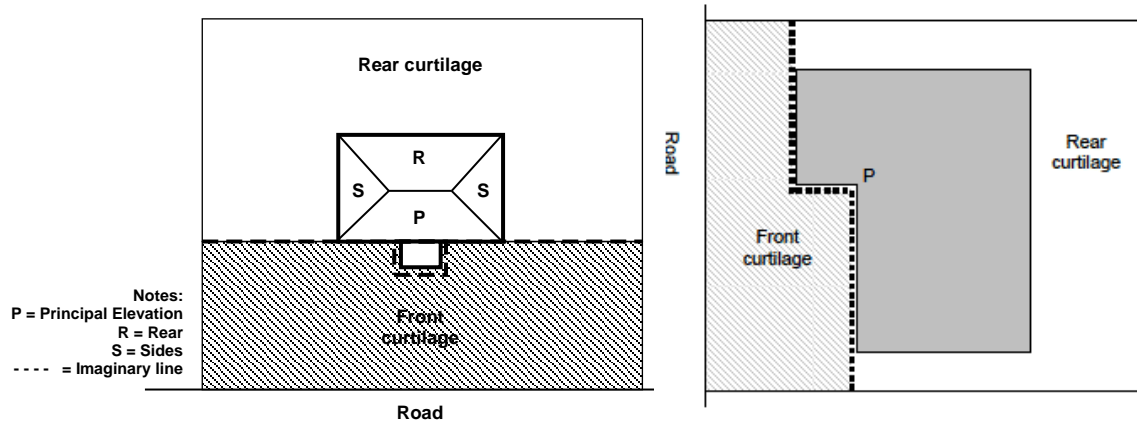
Figure 4.2: Curtilage is defined based on the front and rear curtilage. (a) Illustration of the front and rear curtilage for a standard dwelling house, (b) Illustration for a stepped dwelling house.
Source: Adapted from (The Scottish Government, 2010a, p. 39).

Under this document, front curtilage is defined as the "curtilage of the original dwellinghouse in front of the principal elevation", whereas rear curtilage as the "part of the curtilage of the original dwellinghouse which is not the front curtilage" (The Scottish Government, 2010a, p. 25). In Scotland the term is still vague and lacks definition, but this document is considered comprehensive in explaining the curtilage for a dwellinghouse development (Scottish Government Social Research, 2008, p. 139). However, this curtilage concept is not applicable for heritage listed buildings as these are controlled by different legislation in Scotland (The Scottish Government, 2010a, p. 41).

For a listed heritage building, Historic England (2016) defined curtilage as "an area of land around a listed building within which other buildings pre-dating July 1948 potentially be considered listed" (Historic England, 2016, para. 1). Based on the *Planning (Listed Buildings and Conservation Areas) Act 1990*, "any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948" need to be conserved in the context of the "listed building" (Parliament of the United Kingdom, 1990, p. 2). However, there is no section or clause that defines curtilage within this Act. The *Principles of Selection for Listing Buildings 2010*, as applied by the Secretary of State on selecting a listed building, also does not describe curtilage. Moreover, different jurisdictions in the UK apply different definitions of curtilage in their planning laws such as "land attached to a house that forms one distinct area of enclosure with it" (East Herts Council, 2012, p. 2), "the area within the enjoyment of the building" (Wiltshire Council, 2013, p. 1) or "the land within which the building is set and which belongs (or once belonged) to it, and is (or was) used with it" (Cornwall Council, 2015, p. 1). With all these different definitions and approaches, the process of identifying a

curtilage for a listed building is extremely difficult (Historic England, 2016, para. 2; Mynors, 2006, p. 8).

In 1983, deliberations during the *Attorney-General v. Calderdale BC [1983]* case dealt explicitly with establishing a succinct definition of curtilage. This case that involved a listed building and its curtilage, has become one of the precedent cases in the legal sector which provided a comprehensive definition of 'curtilage'. In this case, the court's judgment concluded that there were three important factors to be considered:

    i)   "the physical layout of the listed building and the structure;

    ii)   their ownership past and present; and

    iii)   their use or function past and present specifically whether the building was ancillary (i.e., subordinate to and dependent on) the purposes of the listed building at the date of listing" (Historic England, 2016, para. 5; Mynors, 2006, p. 8).

In Ireland, Dún Laoghaire-Rathdown County Council has identified different indicators in recognising historic curtilage. In the *Architectural Heritage Protection Guidelines for Planning Authorities*, the Council has included a separate chapter on curtilage; *Chapter 13: Curtilage and attendant grounds*. In this document are three considerations that should be acknowledged by the planning authority in identifying curtilage:

    i)   "Is, or was, there a functional connection between the structures?

    ii)   Was there a historical relationship between the main structure and the structure(s) within the curtilage which may no longer be obvious? In many cases, the planning authority will need to consult historic maps and other documents to ascertain this; and

    iii)   Are the structures in the same ownership? Were they previously in the same ownership, for example, at the time of construction of one or other of the structures?" (Dún Laoghaire-Rathdown County Council, 2014, p. 191).

Interestingly, this document also took into consideration attendant grounds or the "land outside the curtilage" in providing intrinsic values, functions, settings or appreciation to the curtilage (Dún Laoghaire-Rathdown County Council, 2014, p. 192). Through this document, the Council hoped that the planning authority could protect the curtilage rather than trying to "stretch the definition of curtilage beyond its true meaning" (Dún Laoghaire-Rathdown County Council, 2014, p. 192). Therefore, although the definition of curtilage is still vague and sometimes difficult to determine, the efforts taken by various local authorities in Ireland

seem to consciously seek efforts to conserve the principal building and its curtilage (Anthony, 1988, p. 15; Mynors, 2006, p. 13).

4.5   Legal Interpretation of Curtilage in Australia

In Australia, the term curtilage was used in 1955 for *Royal Sydney Golf Club v. Federal Commissioner of Taxation [1955 HCA 13]*. In this case, a judge of the Full Bench of the High Court of Australia defined curtilage as:

> Any building, whether it is a habitation or has some other use, may stand within a larger area of land [than the footprint of the building] which sub-serves the purposes of the building. The land surrounds the building because it actually or supposedly contributes to the enjoyment of the building or the fulfillment of its purposes…[In deciding on a curtilage] one would do one's best to fix on an area of land which is seen to comprise all that is really devoted to the better use of enjoyment of the house as a dwelling… (Heritage Office, 1996, p. 25; High Court of Australia, 1955, p. 626).

Curtilage was therefore influential in determining the issue of the "unimproved value of the taxable portion of certain land owned by the club" (High Court of Australia, 1955, p. 611). The confusion as to vacant and non-vacant land is linked to liability prompting a definition of the curtilage. From a legal determination, curtilage and the building structures were considered as non-vacant land (High Court of Australia, 1955, p. 627). In addition, the judgment of the Court in the case of *Royal Sydney Golf Club v. Federal Commissioner of Taxation* also supported the *Country of Cumberland Planning Scheme Ordinance I*, under the *Local Government (Amendment) Act 1951 (Act No. 18, 1951)*. Under the *Act,* curtilage of a dwelling house is "in conjunction with neighbouring land on which no buildings may be erected, other than buildings ordinarily incidental to the enjoyment of a dwelling house" (Government of New South Wales, 1951, p. 116).

In 1996, *Grasso & Anor v. Stanthorpe Shire Council* debated the correct definition of curtilage. The court considered the use of "the dwelling house or its curtilage for the purpose of an income producing business" through "market garden" (Fitzgerald, Pincus, & Williams, 1996, p. 12). The New South Wales (NSW) Planning and Environment Court has been criticized for not clearly defining curtilage in this case. The reference used by this

Court applied a definitions in the *Oxford English Dictionary*[4] that was rejected by the counsel as "the judge erred in adopting that definition for Australian conditions" (Fitzgerald et al., 1996, p. 12). The counsel for the appellants has questioned on "what land actually or supposedly contributes to the enjoyment of the building for the fulfillment of its purposes?" (Fitzgerald et al., 1996). For the judges, "the relevant evidence may well include the nature of the use of the building, and any visual or physical separation of the building and the land immediately and otherwise surrounding it" (Fitzgerald et al., 1996, p. 13). Hence, the answer should always be reliant upon the specific facts of the case. Based on these legal precedents, curtilage is not only about the area that surrounds the building, but it also includes the enjoyment, purposes and the visual and physical aspects of the building itself.

Most importantly, these law precedents have informed a new conservation approach in heritage. In 1996, the NSW Heritage Office has produced new guidelines entitled *Heritage Curtilages.* Under these guidelines, "heritage curtilage" is defined as:

> The area of land (including land covered by water) surrounding an item or area of heritage significance which is essential for retaining and interpreting its heritage significance. It can apply to either:
>
> - Land which is integral to the heritage significance of items of the built heritage; or
> - A precinct which includes buildings, works, relics, trees or places and their setting" (Heritage Office, 1996, p. 3).

The *Heritage Curtilages* guidelines need to be implemented in conjunction with the *NSW Heritage Manual* (1996). Through these guidelines, it has brought new insights as to protecting valuable cultural heritage. The guidelines provide four general principles, articulated as questions, to identify and manage heritage curtilages:

- has the significance of the original relationship of the heritage item to its site and locality been conserved?
- has an adequate setting for the heritage item been provided, enabling its heritage significance to be maintained?
- have adequate visual catchments or corridors been provided to the heritage item from major viewing points and from the item to outside elements with which it has important visual or functional relationships?

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[4] In this case, 'curtilage' is defined as "a small court, yard, or piece of ground attached to a dwelling house, and forming one enclosure with it" (Fitzgerald et al., 1996, p. 12).

▪ are buffer areas required to screen the heritage item from visually unsympathetic development or to provide protection from vibration, traffic noise, pollution or vandalism? (Heritage Office, 1996, p. 10).

In addition, the *Heritage Curtilages* guidelines also emphasized other items that needed to be taken into consideration including:

i) Historical allotments – display a heritage item in its relationship to its original allotment;

ii) Design, style and taste – the design of a heritage item and its grounds can reveal the architectural ideas, style and taste of its historical period;

iii) Functional uses and interrelationships – the interaction of a heritage item with its surroundings through activities, functions and visual links that enable its heritage significance to be fully appreciated;

iv) Visual links – visual link between heritage properties and a harbor, river, transport mode, topographic feature, area of work or recreational area need to be controlled to ensure any new development respects these visual corridors;

v) Scale – care is needed to ensure there is a satisfying proportional relationship between the heritage item and the area of land proposed as a curtilage;

vi) Significant Features – include bridges, outbuildings, gazebos, ornamental pools, planting features, moon gates, tennis courts, walls, paths and driveways, fences, jetties or wharves;

vii) Vegetation – trees or scrubs may be the sole remnants of the original garden, the avenue entry drives, and perimeter or feature planting. They may have historical, aesthetic and scientific value for such reasons and be significant in their own way; and

viii) Archeological Features - many properties, particularly remainders of original estates, contain archaeological elements such as old foundations, wells, pits, paths and drains (Adapted from Heritage Office, 1996, pp. 12-20).

Based on this list of heritage elements, the curtilage of selected heritage items could be larger than the original setting (Figure 4.3).
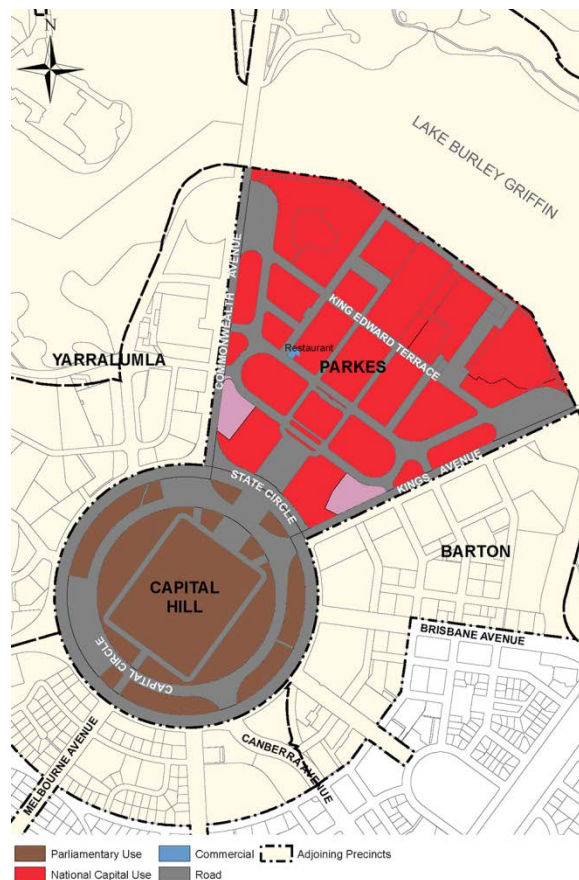
Figure 4.3: In the Draft National Capital Plan, the curtilage of the Capital Hill is expanded from the 'National Capital Use' to 'Mixed Use' (Commercial Accommodation, Community Use, National Association Office, National Capital Use, Office, Parliamentary Use and Place of Assembly). **Source**: (National Capital Authority, 2015, p. 26).

The guidelines provide a good start towards the protection of an area within the curtilage or the surrounding area (Aplin, 2002, p. 122). Therefore, in NSW, any process of demolishing, removing or altering any heritage building is subject to Council permission having regard to these guidelines. In a Development Application (or planning permit), proponents need to include an assessment of the curtilage of the site arising from the development. Through the application, heritage advisors will give full or conditional permission or rejected the proposal (Heritage Office, 2000b, p. 10). Under clause 14(2), the *Parramatta Local Environmental Plan 1996 (Heritage and Conservation)* highlights that any development which affects "the heritage significance, curtilage, and setting of the heritage item or the heritage significance of the heritage conservation area" will not be granted any consent (Parramatta City Council, 2003, p. 10). For example, in *Soliman v. Parramatta City Council* (2009), an application to "refurbish the existing heritage cottages" was granted because the "proposed development on the heritage significance, curtilage and setting of the heritage

item and conservation area; and views to and from, are not impacted" (Land and Environment Court of New South Wales, 2009, p. 14).

4.6   International Legislation on Heritage Curtilage

While the legal concept of heritage curtilage applies in the USA, UK and Australia, the concept also applies to several international bodies. Even with different names, their actions are consciously seeking to protect the context and the contextual significance of the heritage (Aplin, 2002, p. 122; The Getty Conservation Institute, 2002, p. 18). For management purposes, all heritage items must be "understood in relation to their contexts" to ensure a holistic conservation approach (The Getty Conservation Institute, 2002, p. 18). Therefore, defining the context either through a form of boundary, setting or area is important in identifying and maintaining the significance value of the heritage item (UNESCO, ICCROM, ICOMOS, & IUCN, 2013, p. 13).

4.6.1   UNESCO

In the *Manual of Managing Cultural World Heritage* (2013), UNESCO and its advisory bodies (ICCROM, ICOMOS and IUCN) has agreed that in the last half-century, heritage properties such as individual monuments and building were often regarded as "standalone, with no particular relationship to their surrounding landscape" (UNESCO et al., 2013, p. 12). Today, more recognition is given to the surroundings to be recognised as part of the heritage. Although UNESCO does not address 'curtilage' in any of its documents, it clearly articulates the importance of defining and monitoring the property boundaries and the settings (UNESCO et al., 2013, p. 12).

UNESCO documents do not define 'setting' but have adopted a definition from the *ICOMOS Xi'an Declaration* (UNESCO, 2011e, p. 55). There are two relevant Criteria for Selection of World Heritage Sites which support the understanding of site setting being:

Criterion (iv): to be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history;

Criterion (v): to be an outstanding example of a traditional human settlement, land-use, or sea-use which is representative of culture (or cultures), or human interaction

with the environment especially when it has become vulnerable under the impact of irreversible change" (World Heritage Committee, 2015, p. 24).

However, for the conditions of authenticity, properties have to be nominated under Criteria (i)[5] to (vi) (World Heritage Committee, 2015, p. 17). The conjunctions within these criteria are to ensure "the property is of adequate size to safeguard the complete representation of the features and processes which convey the property's significance (World Heritage Committee, 2015, p. 26)."

One of the attributes mentioned under *II. E (82) Integrity and/or authenticity* of the *Operational Guidelines for the Implementation of the World Heritage Convention* is the "location and setting" (World Heritage Committee, 2015, p. 17). Moreover, properties under criteria (i) and (iv) should also maintain their "physical fabric of the property and/or significant features" in a good condition (World Heritage Committee, 2015, p. 18). The protection and management of cultural heritage location and setting is very important for World Heritage Sites because this entity is continuously changing (Orbasli, 2008, p. 33). However, without a proper planning policy and lack of understanding of what is setting, maintaining this attribute itself is challenging. Therefore, "for a proper protection of the property, an adequate buffer zone should be provided" (World Heritage Committee, 2015, p. 20). The key principles that relate to setting in this document are discussed under *Buffer Zone*.

Prior to 2015, UNESCO implemented a buffer zone to its World Heritage Site to protect the setting since the *Operational Guidelines* in 1977. After a series of amendments, in 2015, the latest definition of 'buffer zone' was introduced. The revision involved a more comprehensive definition that was incorporated into the *Operational Guidelines 2015,* resulting from the International Expert Meeting on World Heritage and Buffer Zones in 2008. Hence, buffer zone is defined as:

> an area surrounding the nominated property which has complementary legal and/or customary restrictions placed on its use and development to give an added layer of protection to the property. This should include the immediate setting of the nominated property, important views and other areas or attributes that are

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[5] "Criterion (i): to represent a masterpiece of human creative genius; Criterion (ii): to exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design; Criterion (iii): to bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared; and Criterion (vi): to be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance (World Heritage Committee, 2015, p. 24)."

functionally important as a support to the property and its protection (World Heritage Committee, 2015, p. 21).

Based on this definition of buffer zone and its relation to setting, the perceived impact upon what happens in the surroundings of heritage places and their significance could be mediated (UNESCO et al., 2013, p. 12). In other words, a buffer zone represents a "zone, that in itself is not of outstanding universal value, but that may influence a WHS" (World Heritage Committee, 2009, p. 12).

In addition to the *Operational Guidelines*, terms such as zone, site and area were introduced by UNESCO in one of its earliest Recommendations. This document, the *Recommendation Concerning the Safeguarding of the Beauty and Character of Landscapes and Sites 1962*, states in *Part III: Protective Measures*, that one of the methods of safeguarding landscapes and sites is by "III: 12(c) Scheduling of extensive landscapes "by zones"" (UNESCO, 1963, p. 140). In the schedule, the "aesthetic character is of prime importance" (UNESCO, 1963, p. 140). In addition, the same document also highlights the importance of 'site' and 'area' that should be protected together. In Section 20:

> Areas which provide a fine view, and areas and buildings surrounding an outstanding monument should also be scheduled. Each of these scheduled sites, areas and buildings should be the subject of a special administrative decision… (UNESCO, 1963, p. 141).

The concept of area highlighted under *Section 20* is closely related to curtilage because the relationship between area and building would also require particular attention for it to be deemed as curtilage. The recognition gained from UNESCO shows that heritage is always surrounded either in a form of 'setting', 'buffer zone' or 'area'. Moreover, UNESCO also acknowledges that a heritage property is always dependent upon its 'setting', 'buffer zone', 'site' and vice versa (UNESCO et al., 2013, p. 13). Hence, it is crucial to minimize any redevelopment or destruction of the heritage property in the future. The contribution made by these definitions needs to considered in any designation of a heritage property, either at a national or international level (English Heritage, 2008, p. 39). Therefore, to ensure systematic protection of a heritage property, "buffer zone boundaries and conditions must be defined in legal terms and not just in the World Heritage nomination dossier" (Solar G. in World Heritage Committee, 2009, p. 29).

4.6.2 ICOMOS

In addition to UNESCO, ICOMOS does not have any specific definition for 'curtilage'. Their concern about heritage setting commence with the *International Charter for the Conservation and Restoration of Monuments and Sites (Venice Charter)* (1964) and the *Nara Document on Authenticity* (1994). In the *Venice Charter*, the concept of setting is derived when the monument is seen not only as a single property but comes with a urban or rural setting (ICOMOS, 1964, p. 1). Through *Articles 6 and 7* of the *Venice Charter*, it clearly states that monuments should be conserved together with the setting because they are deemed a part of that monument's history (ICOMOS, 1964, p. 1). Thus, any restoration work has to respect the original setting and its surrounding (ICOMOS, 1964, p. 3).

Inspired by the *Venice Charter* (1964), the *Nara Document on Authenticity* (1994) involved "expanding the scope of cultural heritage concerns" by emphasizing the importance of safeguarding of the "cultural context" including "location and setting" (ICOMOS, 1994, p. 2). As mentioned earlier, 'location and setting' is also applied by UNESCO in the nomination process towards World Heritage Sites. Their assessment involves a collaborations between UNESCO and ICOMOS on testing the importance of this concept as being part of the authenticity of the site (ICOMOS, 1994, p. 1). This cooperation mutually upgrades the idea to a higher level gaining global respect and understanding of the concept (ICOMOS, 1994, pp. 2-3).

In addition to the introduction of 'setting', there is no further explanation on what 'setting' is. However, in 2005, a new declaration was adopted purposely to clarify the concept of setting as being an attribute of authenticity (ICOMOS, 2005b, p. 1). The *Xi'an Declaration on the Conservation of the Setting of Heritage Structure, Sites, and Areas*, or the *Xi'an Declaration* defined that the "setting of a heritage structure, site or area" involved "the immediate and extended environment that is a part of, or contributes to, its significance and distinctive character" (ICOMOS, 2005b, p. 2). Moreover, the setting should also include:

> interaction with the natural environment; past or present social or spiritual practices, customs, traditional knowledge, use or activities and other forms of intangible cultural heritage aspects that created and form the space as well as the current and dynamic cultural, social and economic context (ICOMOS, 2005b, p. 2).

This definition of setting demonstrates the importance of setting in safeguarding a heritage structure, site or area to maintain its physical, visual, spiritual and cultural context (ICOMOS, 2005b, p. 2). Hence, the *Declaration* stressed the importance of understanding the definition of setting to ensure that the process of "defining and appreciating the heritage significance of any structure, site or area" is thoroughly undertaken (ICOMOS, 2005b, p. 2). An understanding of setting included the history, evolution, character, values, and analysis of views and vistas that surround and involve the heritage property (ICOMOS, 2005b, pp. 2-3). Concern about visual impact is one of the key points in this *Declaration*.

ICOMOS does not possess any specific declaration as to 'buffer zone'. However, ICOMOS was one of the participants of the International Expert Meeting on World Heritage and Buffer Zones in Davos, Switzerland in 2008. Through this meeting, ICOMOS contributed its ideas about a buffer zone to inform amendments to UNESCO's previous *Operational Guidelines*. One of the biggest concerns raised during the meeting was about the threat from high-rise buildings causing a visual threat to the site (World Heritage Committee, 2009, p. 29). As articulated by ICOMOS, World Heritage Site protection cannot solely rely on a "buffer zone" because "setting is related to the visual integrity" and "can be wider larger than buffer zone" (World Heritage Committee, 2009, p. 31). Therefore, for ICOMOS Committee, one could argue that the concept of "buffer zone" and "setting" should be linked together to enable comprehensive protection of a World Heritage Site (World Heritage Committee, 2009, pp. 31-32).

4.6.3 Australia ICOMOS

The Australian National Committee of ICOMOS, or Australia ICOMOS, also does not use the term 'curtilage' in its documents. However, to inform and guide conservation practice in Australia, it authored *The Burra Charter: The Australia ICOMOS Charter for the Places of Cultural Significance*, or known as the '*Burra Charter'*. This document, adopted in 1979, and revised in 2013, purposely sought to address heritage management issue in the Australian context (Australia ICOMOS, 2013a, p. 3).

In the '*Burra Charter'*, Australia ICOMOS defined "place" as "a geographically defined area. It may include elements, objects, spaces, and views. Place may have tangible and intangible dimensions" (Australia ICOMOS, 2013a, p. 4). In the explanatory notes, the definition is expanded to a place that "…can be large or small" (Australia ICOMOS, 2013a,

p. 4). It can be "a tree" or can also include "an urban area or town" (Australia ICOMOS, 2013a, p. 4).

For "setting", it is defined as "the immediate and extended environment of a place that is part of or contributes to its cultural significance and distinctive character" (Australia ICOMOS, 2013a, p. 5). "Setting" is not limited to "structures, spaces, land, water and sky", but may also include "the visual setting including views to and from the place, and along a cultural route; and other sensory aspects of the setting such as smells and sounds" (Australia ICOMOS, 2013a, p. 5). *Article 8* also mentions that "conservation requires the retention of an appropriate setting [which] includes retention of the visual and sensory setting…" (Australia ICOMOS, 2013a, p. 7). This comprehensive definition and associated guidelines ensure that setting is well conserved together with its cultural significance in Australia (Hawkesbury City Council, 2002, p. 18).

The relationship between 'place' and 'setting' is very important as it carries heritage value. Based on Australia ICOMOS's *Practice Notes*[6] (2013), "for any place the significance will be greater where the evidence of the association or event survives at the place, or where the setting is substantially intact" (Australia ICOMOS, 2013b, p. 3). Therefore conserving both elements is crucial to enhancing and protecting the heritage significance of a place (Walker, 1996, p. 3).

Recognised as "the standard for best practice in the conservation of heritage places in Australia" (Walker, 1996, p. 2), the *Burra Charter* also adopted other terms in enabling comprehensive guidance to heritage practitioners. While ICOMOS adopted "cultural context", the *Burra Charter* adopted "fabric" as one of the terms in its document. "Cultural context" in ICOMOS's definition includes "location and setting", whereas "fabric" is defined as "all the physical material of the *place"* (Australia ICOMOS, 2013a, p. 4). To suit the Australian context, the definition was expanded to include "contents", "objects", "spaces and views [as] part of the significance of the place" (Australia ICOMOS, 2013a, p. 4).

This document is also similar to UNESCO's *Operational Guidelines* (2015), as it also adopts "location" under *Article 9.* However, UNESCO does not provide a definition of "location". The *Burra Charter* on the other hand interprets "location" as:

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[6] *Practice Note* is established by the Australia ICOMOS as guidance to assess cultural significance and "elaborates the principles contained in the *Australia ICOMOS Burra Charter*, 2013. It replaces the *Guidelines to the Burra Charter: Cultural Significance (1988)* (Australia ICOMOS, 2013b, p. 1)".

The physical location of a place is part of its cultural significance. A building, work or other element of a place should remain in its historical location. Relocation is generally unacceptable unless this is the sole practical means of ensuring its survival (Australia ICOMOS, 2013a, p. 7).

Even though the *Burra Charter*, does not apply 'curtilage' in its text, definitions are provided for "place", "setting", "fabric" and "location" relational to "curtilage" when mentioning *space* and *visual* items. In the previous *Burra Charter* (1988), the scope of impact included any "environmental intrusions which adversely affect appreciation or enjoyment of the place should be excluded*"* (Australia ICOMOS, 1988, p. 2). Therefore, an understanding of all these terms assists in conserving the significance of "place", its "fabric", its "setting" and its content (Walker, 1996, p. 3).

4.7   Conservation of Heritage Curtilage in Australia

In Australia, during the 1970s, heritage 'curtilage' was not applied by the heritage consultants or conservationists. Heritage studies undertaken by consultants in 1982 for the Blue Mountains region first prompted the idea of "curtilage" (Heritage Office, 1996, p. 25). However, the concept was related to "setting" only and expressed as the "setting (curtilage)" (Heritage Office, 1996, p. 25).

For the National Trust of NSW, a concern about protecting the "items of lesser heritage significance on land surrounding major heritage buildings" led to the application of curtilage from 1982 (Heritage Office, 1996, p. 25). In 1989, a curtilage study by Don Godden & Associates initiated a more comprehensive application of curtilage in NSW. This study has been acknowledged for the main source of the publication *Heritage Curtilage* in 1996. Since 1996, 'curtilage' has been applied by NSW local authorities and heritage practitioners in defining a heritage curtilage (Kerr, 2004, p. 40).

Kerr (2004), in *Conservation Plan*, also explained curtilage. In this document, curtilage was defined as "a piece of land attached to a building" (Kerr, 2004, p. 40). However, according to Kerr, "boundary" or "setting" was more appropriate to apply rather than "curtilage" (Heritage Office, 1996, p. 28; Maitland City Council, 2011, p. 5). "Boundary" is an "uncomplicated and well understood term", whereas "setting" comprises a bigger scope including the "visual catchment" (Kerr, 2004, p. 40). However, because curtilage is already

defined by most NSW local authorities, the term and its scope are still applicable and should be continued (Kerr, 2004, p. 40).

4.7.1   Types of Heritage Curtilage

Based upon the definition of heritage curtilage from the NSW Heritage Office, the practice of conserving heritage curtilage may vary according to the historical value and character of the selected curtilage area. This is to ensure that a heritage item with outstanding value will be well protected and conserved. Moreover, the selected heritage curtilage may also need different types of protective management, and this usually depends upon the way they are identified.

For conservation purposes, the NSW Heritage Office describes 4 types of heritage curtilages that should be used in conjunction with the *NSW Heritage Manual* (Heritage Office) for the assessment of the heritage significance of items, including their curtilages. The *Conservation Areas* (1996) provides additional guidance for the evaluation and management of heritage conservation areas. The Heritage Planning Notes in the *NSW Heritage Manual* (1996) should be used as a reference when land identified as heritage curtilage is being proposed for listing and protection through a local environmental plan (LEP) (Heritage Office, 1996, p. 2).

All curtilages must have a geographical limit for the purpose of heritage management and protection from disappearance or amendment without the Authority's permission. There are 4 types of heritage curtilage that have been included in the NSW Heritage Office guidelines for conservation purposes. These types are:

  i)   Type 1: Lot Boundary Heritage Curtilage
  ii) Type 2: Reduced Curtilage
  iii) Type 3: Expanded Curtilage
  iv) Type 4: Composite Curtilage

Each type of curtilage has different requirements and considerations guiding the definition of boundary. Hence, the *Heritage Curtilages* (1996) guidelines have provided a diagram and details for each type of curtilage for a reference (Figure 4.4).

Type 1 (Lot Boundary) Curtilage
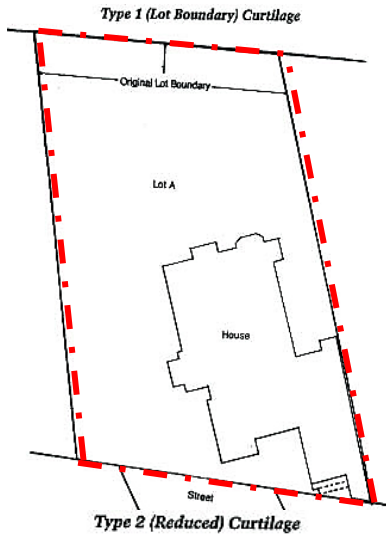
i. Type 1: Lot Boundary Heritage Curtilage

- where the property's legal boundary and the significant land coincide;
- comprises the boundary of the property containing the heritage items including any associated buildings, gardens and features that contribute to the heritage significance of the property.
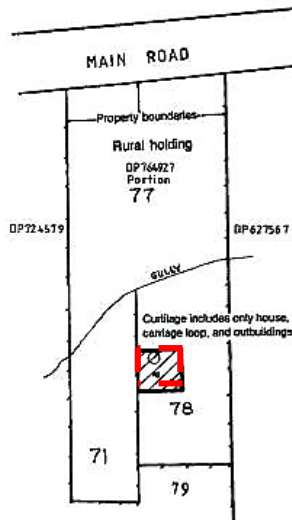
ii. Type 2: Reduced Curtilage

- where the significant land is smaller than the legal boundary;
- significance of an item may not relate to total lot, but to a lesser area.

Type 3 (Expanded) Curtilage
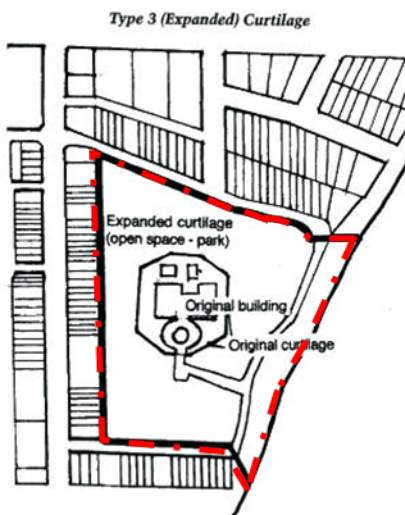
iii. Type 3: Expanded Curtilage

- where the significant land is greater than the legal boundary;
- required to protect the landscape setting or visual catchment of a heritage item.
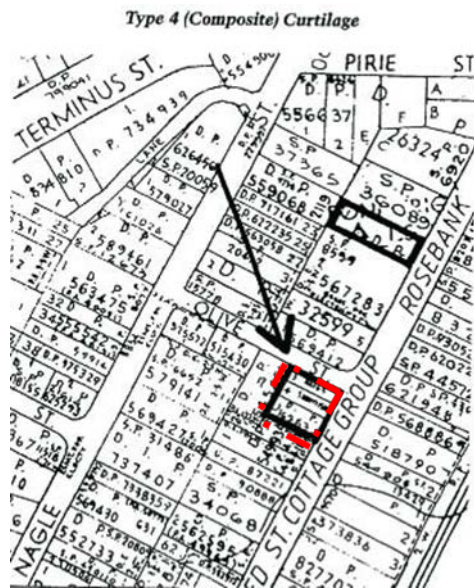
iv. Type 4: Composite Curtilage

- where a composite curtilage embraces a whole precinct or village;
- applies to heritage conservation areas: historic district, village, suburban precinct;
- encompass heritage items which have a distinctive homogenous character

Figure 4.4: Types of Heritage Curtilages based on the NSW Heritage Office guidelines.
Source: (Adapted from Heritage Office, 1996, pp. 5-8).

Amongst these 4 types of heritage curtilages, Type 1: Lot Boundary Heritage Curtilage is "the most common type of heritage curtilage" (Heritage Office, 1996, p. 5). This is because the size of the curtilage is defined by the size of the lot. The property may also contain other significant features that contribute to the heritage significance of the property. For this type of curtilage, any development in front of the building line is not permitted as it will affect the original design, style and taste of its historical period (Hawkesbury City Council, 2002, p. 15; Heritage Office, 1996, p. 12).

However, "land title boundaries and heritage curtilages do not necessarily coincide" (Hawkesbury City Council, 2002, p. 15). These can be grouped into 3 other types of heritage curtilage. For Type 2: Reduced Heritage Curtilage, where the size of the original curtilage is greater than the current property boundary. However, the new heritage curtilage must be sufficient enough to "maintain the heritage significance of the item" (Heritage Office, 1996, p. 6). For Type 3: Expanded curtilage, the heritage curtilage is bigger than the property boundary.

Based on the *Heritage Curtilages* guidelines, there are 3 factors which need to be considered to define curtilage. These factors are:

    i)   views to and from the heritage item;

    ii)   the possible need for a buffer area between the curtilage and the adjoining land; and

iii) the visual and historical relationship between the item and its environs (Heritage Office, 1996, p. 7).

Type 3 heritage curtilage will allow a significant item to be "viewed, interpreted and appreciated" by the public (Heritage Office, 1996, p. 7). For Type 3 heritage curtilage, visual catchment is vital. Hence, to protect the visual catchment, any new development near and within a Type 3 heritage curtilage that could "obstruct the significant views and vistas" from public open space is not allowed (Hawkesbury City Council, 2002, p. 16). This type of curtilage is usually applied on a landmark with outstanding value. One example is the expansive curtilage of the Sydney Opera House. The Sydney Opera House was granted World Heritage Site status in 2007 under criterion (i) which is "to represent a masterpiece of human creative genius" (World Heritage Committee, 2015, p. 17). To ensure extensive protection of this landmark, the nomination document includes the "Sydney Opera House World Heritage Listing curtilage and buffer zone" (Heritage Office, 2007, p. 7).

Besides factors highlighted in Type 3 heritage curtilage, the *Guidelines* (1996) also highlighted a few points to aid the identification of a Composite Heritage Curtilage. Among the items are "boundaries of the original settlement", "edged define by old maps", significance items of the area, "quality of the major public spaces" and landscape setting (Heritage Office, 1996, p. 12). This type of curtilage is applied to heritage conservation areas.

This *Guideline* (1996) can be used either by authorities or heritage practitioners as a standard for identifying and conserving the local curtilage with an outstanding historical or significant value by using a consistent procedure. For local curtilages, the limits and sizes vary based on the area. It depends on the "functional requirements of the heritage item and the need for the item for a certain amount of space around it to fulfill that function" (Hawkesbury City Council, 2002, p. 16). These considerations have to be taken into account before finalizing the curtilage boundary. Therefore, these 4 types of curtilage are not mutually exclusive (Heritage Office, 1996, p. 1).

Although the *Guidelines* (1996) are helpful in giving details on what and how to identify the curtilage, the real process is difficult. Even heritage experts can struggle in identifying on how much is enough (Heritage Office, 2000a, p. 11). From the 4 types of heritage curtilages, Type 2 and Type 3 are considered the most contentious (Barbaral, 2005, p. 3; Heritage Office, 2000a, p. 11). For Lot Boundary and Composite Curtilage, the processes of

defining curtilage is easier as it is enclosed by the legal boundaries (Barbaral, 2005, p. 5). Therefore, thorough heritage studies are needed to ensure that proper curtilage is defined and indicated (Heritage Office, 1996, p. 12).

4.7.2   The Importance of Heritage Curtilage Conservation

As discussed previously, heritage curtilage is not only about space, place or setting, but it also relates closely to the heritage building, and the visual catchment. Based on the various definitions of curtilage, it scan be argued that curtilage has its own connection with the building, and these two elements are largely connected and intact. In fact, curtilage can be "the geographical area that provides the physical context for an item and which contributes to its heritage significance" (Office of Environment and Heritage, 2008, p. 3).

That is why, in Australia, curtilage assessment is a requirement for every CMP to ensure that a curtilage is also well conserved, in addition to the heritage building itself. Heritage curtilage will usually be an important part of the CMP and also the Heritage Management Plan (HMP). This is because the assessment of the heritage curtilage needs a very detail historical study about the whole place, and will not just be limited to the heritage building itself. The HMP for The Rocks, Sydney, Australia, for example includes its heritage curtilage boundary. This heritage curtilage boundary encompasses the significance of The Rocks and is the potential boundary for The Rocks as a conservation area (Godden Mackay Logan Pty Ltd, 2002, p. 13).

In addition to being a part of the historical value of a heritage building, heritage curtilage can also be a part of the identity of that place. To maintain the identity of a heritage area, the *Burra Charter* refers to the importance of conserving this area because each item has its own heritage significance. Thus, one needs to ensure that this heritage item will not vanish in the future. Hence, assessment of heritage curtilage for heritage building can be a beneficial start to conserving and maintaining an area. Community involvement with the local authority in preparing a proper guideline in planning future development can help to conserve a place.

4.8   Conclusion

As discussed by Kerr (2004), the word curtilage is complicated; either there is no precise definition of curtilage or it is a distinctive and ambiguous one (Kerr, 2004, p. 40). Understanding the various terms practiced by different countries and international organisations is very important in ensuring it can be practiced based upon local needs. Based on the principles set out by the *NSW Heritage Manual*, it can be concluded that the main elements required in defining a heritage curtilage are the relationship of the heritage item(s) to its site, setting, visual catchment(s) or corridor(s), and buffer area(s) to the heritage item(s). Table 4.1 summarises all the terms applied by countries and heritage organisation in referring to the concept of heritage curtilage.

Table 4.1 demonstrates that even with different terminologies, the approach of conserving is almost the same in protecting a heritage property from encroaching developments. The compilation of these terms is very crucial in informing the discussion in Chapter 05: Heritage Curtilage Conservation in Malaysia. The literature viewed in this chapter will be explained based upon the Malaysian legislation and approaches. Because curtilage as a term and concept is not formally implemented in Malaysia, it shows how relevant the term is in the Malaysian context.

Countries / International Bodies	Curtilage in Legal Legislations	Heritage Curtilage in Heritage Legislations					
		Definition	Principles of Heritage Curtilage[7]				Others
			Relationship of the heritage items to its site	Setting	Visual Catchments / Corridors	Buffer areas	
USA	✓		Site[8]				• Smallest area[9] • Historic property / Historic conservation district[10] • District[11]
UK	✓	✓[12,13]					Front curtilage / rear curtilage[10]
AUS	✓	✓	✓	✓	✓	✓	
UNESCO				✓[14]		✓[15]	Location[13]
ICOMOS				✓[16]			
AUS ICOMOS			✓				• Place • Fabric • Location

Table 4.1: The application of the concept of curtilage among countries and international organisations.
Source: Author, 2016.

[7] Based on the principles applied in the *Heritage Curtilages Guidelines,* NSW.
[8] The *Code of Federal Regulations (CFR) Title 36: Parks, Forests, and Public Property.*
[9] The *Antiquities Act 1906.*
[10] The *National Historic Preservation Act of 1996.*
[11] The *Code of Federal Regulations (CFR) Title 36: Parks, Forests, and Public Property.*
[12] The *Town and Country Planning (General Permitted Development (Scotland) Amended Order 2011 Householder Permitted Development Rights.*
[13] Definitions from different districts in UK (East Herts Council, Wiltshire Council, Cornwall Council, and Dún Laoghaire-Rathdown County Council).
[14] UNESCO adopted the definition from the *ICOMOS Xi'an Declaration.*
[15] *Operational Guidelines 2015.*
[16] *ICOMOS Xi'an Declaration.*

5.1 Introduction

The previous chapter provided a comprehensive literature review and discussion on the concept of heritage curtilage from the point of view of international legislation. This chapter reviews the implementation of the heritage curtilage concept in Malaysia. Accordingly, the chapter is structured as follows:

    i. Malaysian legislation on heritage building and heritage space based on the National level, state and federal territory including the Acts, enactments, and guidelines;

    ii. Malaysian issues about heritage space conservation; and

    iii. The importance of heritage space conservation in Malaysia.

This chapter concludes with an introduction to Chapter 06: Research Design that builds the theoretical framework for the main case study in determining the importance of heritage curtilage towards the conservation of heritage buildings.

5.2 Malaysia's Legislation on Conservation of Heritage Buildings and Sites

Heritage is an important asset to a country because it is part of its local culture and identity. Therefore, rules and laws are established and implemented to protect this valuable asset (Ashworth, Graham, & Tunbridge, 2007, p. 3). Provisions in written law are considered one of the most effective instruments in providing protection to heritage either through conservation or preservation (Hussin, 2011, p. ii). However, the implementation of conservation *Acts* and guidelines are still in their formative stages in Malaysia. While the United States (US) government enacted their first heritage act in 1906, Malaysian Parliament only passed its first Act which related to the protection of heritage property in 1976 (Hussin, Salleh, & Ariffin, 2011, p. 12; Yusoff, Dollah, & Kechot, 2013, p. 65).

In 1976, there were three Malaysian *Acts* gazetted and related to heritage conservation and preservation. These *Acts* are:

    i.   *Antiquities Act 1976 (Act 168)*,

    ii.   *Local Government Act 1976 (Act 171)*, and

    iii.   *Town and Country Planning Act 1976 (Act 172)*.

In 2005, another heritage-related *Act* was introduced. This *Act*, known as the *National Heritage Act 2005 (Act 645)*, is complementary to the existing *Acts* and it was passed with the objectives to strengthen and restructure the previous Acts (Yusoff et al., 2013, p. 70). To ensure all these gazetted *Acts* can be implemented and retain their validity, the Parliament of Malaysia, the government, and the associated authorities engaged in efforts to continuously upgrade these *Acts,* with the preparation of new amendments and the repeal of earlier *Acts*.

5.2.1 *Antiquities Act 1976 (Act 168)*

The *Antiquities Act 1976*, known as *Act 168*, was gazetted in Malaysia on 1 March 1976. This was the only *Act* which refers to conservation works in Malaysia, but it was repealed by the *National Heritage Act 2005 (Act 645)* in 2005. *Act 168* was established with the goal to provide protection to Malaysian 'heritage'. The purpose of this *Act* was to:

> provide for the control and preservation of, and research into ancient and historical monuments, archaeological sites and remains, antiquities and historical objects and to regulate dealings in and export of antiquities and historical objects and for matters connected therewith (Parliament of Malaysia, 2003, p. 1).

This *Act* does not use the term 'heritage' in its clauses. One of the main focuses of this *Act* is to conserve an "ancient monument"[1] that is more than 100-years old (Parliament of Malaysia, 2003, p. 2). Hence, jurisdiction is given to the Department of Museums Malaysia (DPMM) to gazette any ancient monument that possesses significant value to the country as being National Heritage.

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[1] "Ancient monument" means any monument in West (Peninsular) Malaysia which is or is reasonably believed to be at least 100-years old or which is declared in accordance with section 15 to be an "ancient monument" (Parliament of Malaysia, 2003, p. 2).

Although not articulating the concept of 'heritage', *Act 645,* however, provides interpretation to "historical site" and "monument". According to *Act 168*, a "historical site" is defined as "a site which has been declared in accordance with the provisions of section 15 to be a historical site" (Parliament of Malaysia, 2003, p. 3).

On the other hand, a "monument" is interpreted as:

> any temple, church, building, monument, port, earthwork, standing stone, *keramat*, cave or other structure, erection or excavation, and any tomb, tumulus or other place of interment or any other immovable property of a like nature or any part or remains of the same, the preservation of which is a matter of public interest, by reason of the religious, historic, traditional or archaeological interest attaching thereto, and includes the site of any monument and such portion of land adjoining such site as may be required for fencing or covering in or otherwise preserving any monument and the means of access thereto (Parliament of Malaysia, 2003, p. 3).

Unlike what is practiced by UNESCO, a "monument" is interpreted under *Act 168* as comprising buildings, structures and sites. As these elements are all categorized under one group, the management of "ancient monuments" is quite challenging for local authorities (Yusoff et al., 2013, p. 5).

Under *Section 15: Declaration and schedule of ancient monuments and historical sites*, the power to interpret "limits" of the land for an "ancient monument" and "historical site" are vested in the relevant Minister[2] (Parliament of Malaysia, 2003, p. 13). It demonstrates that in Malaysia, the phrase 'conservation' is not only limited to monuments but also to sites, as well as neighbouring lands. Thus, during the scheduled processes, "ancient monuments" and "historical sites" need to be "gazetted together with the limits" (Parliament of Malaysia, 2003, p. 13). Interestingly, this schedule can be "add[ed] to or amend[ed]" from time to time (Parliament of Malaysia, 2003, p. 13). However, despite these definitions, there is no further explanation about what constitutes 'adjoining land' in the provisions of this Act.

 "Ancient monument" and "historical site" are well protected under this *Act* because of a special section in Part IV: Ancient Monuments and Historical Sites. Under 16(*a*), once these monuments or historical sites have been listed as National Heritage wherein no person can "dig, excavate, build, plant trees, quarry, irrigate, burn lime or do similar work or deposit earth"

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[2] "Minister charged with responsibility for museums" (Parliament of Malaysia, 2003, p. 3).

including within its neighbourhood (Parliament of Malaysia, 2003, p. 14). Further, the Director General can also "purchase or lease the site by private treaty" to protect an ancient monument or a historical site (Parliament of Malaysia, 2003, p. 15). From this section, it demonstrates that there is a concern about protecting listed National Heritage contextually and not being limited by boundaries.

Based on the *Act*, there are a few criteria that need to be taken into account before any building is designated as a heritage building. Through these standards, a building or monument can grouped into 3 different grades; Grade I, Grade II* and Grade II(b) (Refer Table 5.1).

	Grade I	Grade II*	Grade II(b)
Criteria	Exceptional interest	Very special interest	Special Interest
	Unique architectural style		
	Rare or threatened architectural style or construction technology		
	High authenticity of architectural style and design, building materials and construction technology	High authenticity of architectural style and design, building materials and construction technology	Relatively high authenticity of architectural style and design, building materials and construction technology
	High architectural significance of architectural style and design (very outstanding and interesting)	High architectural significance of architectural style and design (very outstanding and interesting)	Relatively high architectural significance of architectural style and design (outstanding and interesting)

Table 5.1: Criteria for selection for heritage building status implemented by the National Museum under the *Antiquities Act 1976 (Act 168)*.
Source: Adapted from (Nor, 2006, p. 11).

These criteria, as implemented by the National Museum, are similar to what has been applied in England, which is:

    i)   the Grade I buildings are of exceptional interest;

    ii)   the Grade II* buildings are particularly important buildings of more than special interest; and

    iii)   the Grade II buildings are of special interest, warranting every effort to preserve them (Secretary of State for Culture, 2010, p. 4).

As distinct from what has been practiced by *Act 168*, England only implements 2 statutory criteria when assessing the potential heritage building. These 2 criteria are architectural interest and historic interest. However, to ensure a comprehensive selection of a heritage building, there are 5 general principles listed; "age and rarity, aesthetic merits, selectivity, national interest and state of repair"(Secretary of State for Culture, 2010, pp. 5-6). These selected buildings are then gazetted under the *Planning Act (Listed Buildings and Conservation Areas) 1990.*

Since the establishment of *Act 168* in Malaysia, some 80 heritage buildings have been gazetted. From this list, 26 buildings are located in the Federal Territory of Kuala Lumpur (Unit Rekabentuk Bandar dan Warisan, 1996, p. 6). This list was interrogated by the non-governmental organisation the Badan Warisan Malaysia (BWM) in 2007, and BWM concluded that 20% of the citation information was inaccurate due to "incorrect or out of date data" and there was difficulty in identifying these buildings (Cooper & Mansor, 2007, p. 6). From their research, only 24 heritage buildings still existed in Kuala Lumpur (Cooper & Mansor, 2007, p. 9) (Refer Table 5.2).

No.	Name of Building	Location	Current Usage Based on URBW	Current Usage Revised by BWM
1.	Sultan Abdul Samad	Jalan Raja	Supreme Court	High Court and Supreme Court
2.	Main Post Office	Jalan Raja	Federal Court	Court of Appeal
3.	High Court	Jalan Raja	High Court	Session and Magistrates Court
4.	Standard Chartered	Jalan Raja	Historical Museum	National History Museum
5.	City Hall	Jalan Raja	Session Court	Session and Magistrates Court
6.	National Printing Building	Jalan Raja	Kuala Lumpur Memorial	Vacant
7.	Former Public Works Department	Jalan Raja	Info Craft	Session and Magistrates Court
8.	Info Craft	Jalan Sultan Hishamuddin	Craft Centre	Judiciary Gallery and High Court (Appeal & Special Powers)
9.	KTMB Office	Jalan Sultan Hishamuddin	KTMB Office	KTMB Headquarters
10.	KTMB Station	Jalan Sultan Hishamuddin	Train Station	Railway Stop and Bus Terminus
11.	Anti-Corruption Body	Jalan Sulaiman	Empty	Vacant
12.	National Art Gallery	Jalan Sultan Hishamuddin	Art Gallery	Vacant
13.	Information Centre	Jalan Tun Perak	Information Department	- has been listed twice with different names
14.	Jamek Mosque	Jalan Tun Perak	Mosque	Mosque
15.	Chow Kit Building	Jalan Belanda	Industrial Court	Industrial Court
16.	Sulaiman Building	Jalan Sultan Sulaiman	Federal Territory Islamic Affairs	Federal Syariah Court
17.	Institute of Medical Research	Jalan Pahang	Institute of Medical Research Office	Institute of Medical Research Office
18.	St. John Secondary School	Jalan Bukit Nenas	School	School
19.	Residency Building	Jalan Dato' Onn	Tunku Abdul Rahman Memorial	Tunku Abdul Rahman Memorial
20.	National Palace	Jalan Istana	Palace	Palace
21.	P. Ramlee Memorial	Taman Furlong	Memorial	Memorial
22.	Guest Palace	Kebun Bunga	Hotel	Hotel
23.	Old Police Station	Jalan Bandar	Police Station	- has been demolished
24.	Merdeka Stadium	Jalan Hang Tuah	Stadium	Stadium
25.	National Stadium	Jalan Hang Tuah	Empty	Stadium
26.	Art Theatre	Jalan Bandar		Taman Budaya Kuala Lumpur

Table 5.2: List of Buildings Gazetted by the National Museum under the *Antiquities Act 1976 (Act 168)*.
Source: Adapted from (Cooper & Mansor, 2007, p. 9; Unit Rekabentuk Bandar dan Warisan, 1996, p. 6).

Being the first *Act* that addressed 'heritage', there has been considerable pressure upon its scope, validity and currency. There is no interpretation or explanation of 'building', 'heritage' or 'conservation'. There is also a temporal constraint within the *Act* that "ancient monuments" have to be more than 100-year old and have to be "classified as antiquity" before a place can be protected. Therefore, for a heritage building that is less than 100-years old, it cannot be listed as National Heritage even though it may possess outstanding architectural or historical value (Idid, 1995, p. 17). Additionally, the *Act* only mentions "conservation" as being part of

the protection and maintenance of an ancient monument and or historical site. There is no explanation as to what "conservation" is and how to conduct "conservation works". Thus, 'protection' is only limited to "ancient monuments" and "historical sites" and not to the spaces between these places. In December 2005, this *Act* was repealed by the *National Heritage Act 2005 (Act 645)*, with no changes to the listed National Heritage buildings.

5.2.2 *Local Government Act 1976 (Act 171)*

The *Local Government Act 1976 (Act 171)* was originally part of the *Sanitary Boards Enactment, CAP 137 of the Laws of Federated Malay States, 1935 (FMS Cap 137)* which was the only planning law implemented by all states in Malaya (Malaysia) (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003a, p. 1017). The main reason for introducing this *Act* was to "settle the problems regarding the separation of areas of the local government in Peninsular Malaysia" (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003a, p. 1017).

The *Local Government Act 1976* or *Act 171* was implemented and took effect in Peninsular Malaysia in March 1976. Divided into 16 parts, the *Act* takes into account all aspects of a local authority's responsibilities including public places, streams, markets and burial places. Detailed explanations given under each section discuss the ability of the authorities to enforce such legislation in their states.

Regarding heritage conservation aspects, there is no clause or definition of "heritage", "conservation" or "historical site". However, there is a special section that provides power to a local authority for the maintenance of buildings or historical sites. This includes the power to acquire land, with or without buildings, for the same purposes. Such powers are stated under *Part XII: Further Powers of Local Authority*, section 101(c)(iv). Provisions whereby:

> to maintain or contribute to the maintenance of historical buildings or sites and acquire any land, with or without buildings, for the purpose of or in connection with the establishment of such public parks, gardens, esplanades, recreation grounds, playing fields, children's playgrounds, open spaces, holiday sites, swimming pools, stadia, aquaria, gymnasia and community centres or for the purpose of or in connection with the maintenance of historical buildings or sites (Parliament of Malaysia, 2006d, p. 63).

Under this provision, one can conclude that areas (public parks, gardens, etc.) that surround historical buildings can indirectly serve as buffer zones or boundaries to a building or site. As

long as it is enforced thoroughly, these historical buildings can therefore be protected and mediated from nearby development. Once implemented, this provision can successfully serve to define and enable the curtilage to a historical building or site. In addition, under section 101(1)(*f*), a local authority is also entitled to "make and receive grants of money" to "establish, erect and maintain public monuments and memorials" (Parliament of Malaysia, 2006d, p. 64). Therefore, it is the discretionary responsibility of a local authority to articulate the conditions of monument's conservation and boundaries of concern.

Further, under *Part XIII: Existing By-laws,* as stated under section 102(*f*), a local authority has the right to amend and revoke this decision from time-to-time and also to include any historical building or site. The scope of this clause enables the opportunity for a local authority to enhance their control over the future of historic buildings and sites under their management or jurisdiction. Hence, no party can inhibit such actions because the law clearly expresses the additional power that permits a local authority to implement the provisions as long as the action is valid under the *Act* (Idid, 1995, p. 2; Yusoff et al., 2013, p. 65).

In addition to these clauses, there are also clauses in this *Act* that could be implemented for heritage properties; for example, a precedent involving heritage buildings in the World Heritage Listed city of George Town in Penang. The Penang Municipal Council (MPPP) through a survey undertaken in 2009 identified "a total of 212 dilapidated buildings in George Town" with 42 located in the heritage zone and another 60 in the buffer zone (Patahiyah in Filmer, 2009, para. 6). Therefore, the MPPP sought to enforce the law based upon *Part IX: Food, Markets, Sanitation and Nuisances*. Under *Section 74*, that gave it the right to fine or imprison "any owner, occupier or tenant of any house, building or land, whether tenantable or otherwise, who suffers the same or any part thereof to be in a filthy and unwholesome state or overgrown with rank or noisome vegetation" (Parliament of Malaysia, 2006d, p. 52).

In addition, *Section 82: Notice Requiring Abatement of Nuisance*, gives power to local authorities to "serve a notice on the person" and "requiring him to abate the same within the time specified in the notice and to execute such works and do such things as are necessary for that purpose" (Parliament of Malaysia, 2006d, p. 57). Those who do not come forward or comply with these instructions will be asked to come forward to attend an inquiry session" (Patahiyah in Filmer, 2009).

In summary, the overall content in this *Act* is similar to that which is contained in the *Town and Country Planning Act 1976 (Act 172)* (discussed later in 5.2.3). However, the main

difference is that in *Act 171,* the right to enforce the law is only limited to a local authority, whereas under *Act 172* its control is vested in the state (Hussin et al., 2011, p. 14; Idid, 1995, p. 1). Even though there are no special provisions included in this *Act* about 'curtilage' or 'conservation', there is still legislative scope offered in controlling the future of historic buildings and sites because of several sections that specifically mention these elements. By vesting power and responsibility to a local authority, the issue of conservation may be improved gradually.

5.2.3   *Town and Country Planning Act 1976 (Act 172)*

Before the *Town and Country Planning Act 1976 (Act 172*) was introduced in March 1976, there were several other legislations that had been enacted to "control and direct the urban development" in Malaysia (known as Malaya previously). Such legislation included the *Town Planning Enactment 1923* and the *Town Planning Enactment 1927*, and more recently the *Town Board Enactment Cap 137* commonly known as *Cap 137* (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003a, p. 1029).

Under the first two enactments, the main concern for authorities was about a "zoning plan" as proposed by Charles Reade when he was appointed as Malaysia's first Town Planning Advisor. For Reade, land-use zoning was the best solution to guide urban development in Malaya (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003a, pp. 1011 - 1029). Reade highlighted the importance of having an appropriate legislature "to manage the growth of towns in an orderly manner" (Shamsudin, 2006, p. 22). Reade's effort had greatly facilitated development in Kuala Lumpur (Shamsudin, 2006, p. 22). Under these enactments proposed by Reade, a Planning Committee was established to manage and solve problems regarding "the redistribution of lots in Kuala Lumpur and other towns in Federated Malay States" (The Department of Town and Country Planning Peninsular Malaysia, 2006).

In 1929, after Reade retired from the Committee, a new enactment was introduced, known as the *Sanitary Boards Enactment 1929,* which included most of the contents of *Enactment 1927* under one part; Part IX. Following a few minor amendments, this enactment was then retitled as the *Town Board Enactment 1947 FMS Cap 137* (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003a, pp. 1014 - 1015). Since 1947, the "*Cap 137* was the only law implemented by all states in Malaysia for the purpose of planning except for Kuala Lumpur which has 'drop' some part of the enactment" (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003a, p. 1017).

In 1976, two new *Acts* were introduced by the Federal Government of Malaysia to "improve the debility of this system under the old management plan which stated in *Cap 137*" (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003a, p. 1017). These two Acts comprise the *Federal Government Act* (Act 171) and the *Town and Country Planning Act* (Act 172). Under *Act 172*, the planning law offered more comprehensiveness and flexibility for implementation in each state in Malaysia rather than continuing the "piecemeal development" that had occurred before it was included as a new state authority, and was not only limited to local authorities (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003a, p. 1018). Since 1976, this *Act* has been implemented in all states in Peninsular Malaysia, except the Federal Territory of Kuala Lumpur which has the *Federal Territory (Planning) Act 1982* (Act 267).

Commencing under Part 1 Preliminary (Interpretation), some terms that pertain to 'heritage' or 'space' include "open space" and "special area".

The term "open space" only relates to "any land whether enclosed or not which is laid out or reserved for laying out wholly or partly as a public garden, park, sports and recreation ground, pleasure ground, walk or as a public place" (Parliament of Malaysia, 2006f, p. 12). Based on this explanation, 'space' can also include spaces around heritage buildings as it is also used for walking areas and public purposes. However, without direct use of 'heritage' in this interpretation, it is difficult for it to be implemented to heritage building curtilages as it refers to all (nondescript) buildings in Malaysia. Notwithstanding this, it offers a term that may be referred directly for 'heritage conservation' under "special areas" which have been "designated under *section 16B: Special Area Plan*" (Parliament of Malaysia, 2006f, p. 13).

In addition to section 16B, there is another section of the same part (*Part III: Development Plans*) that refers to 'heritage'. This section, titled Section 12: Preparation of Draft Local Plans, states that the "draft local plan shall consist of a map and a written statement" about the "preservation and enhancement of character and appearance of buildings in the area of the local plan" (12(3)(*a)(viii*), and that such may be prepared by the local planning authority (Parliament of Malaysia, 2006f, p. 30). The opportunity of this clause enables the protection of environments and their surroundings and is also concerned about protecting the heritage of certain areas, especially those areas with distinctive heritage buildings. Moreover, it also helps to improve the building's condition, historic sites and the monuments as part of conservation and tourism activities (Yusoff et al., 2013, p. 66).

Surprisingly, in *Part IV: Planning Control*, the term curtilage is mentioned under Section 19(2)*(f)*: Prohibition of Development Without Planning Permission. It states that any development without planning permission is illegal including "the use of any land or building within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such" unless exempted by an applicant's development proposal report already approved by the local authority (Parliament of Malaysia, 2006f, p. 37). In general, the provisions of section 19 are related to the conservation of architectural heritage specifically from the aspect of the prohibition of the development without planning permission (Hussin et al., 2011, p. 18). Even though curtilage in this section only applies to a 'dwellinghouse', it is possible that it could be applied to heritage building in future amendments.

In addition to 'curtilage' for a 'dwellinghouse', there are also several additional sections under the same part (Part IV) that could be applied to 'heritage building' or 'heritage sites'. As stated under subsection 21A(1)*(f)* and subsection 21B(1)*(b)*, any development proposal report for planning permission should take into account these details:

> where the development is in respect of a building with special architecture or historical interest, particulars to identify the building including its use and condition, and its special character, appearance, make and feature and measures for its protection, preservation and enhancement (Parliament of Malaysia, 2006f, p. 41).

The concept of 'respect' of buildings is important when dealing with new development to ensure that the new appearance blends with the existing buildings and their surroundings. 'Respect' implies 'amenity' as embraced under Australian and United Kingdom town planning legislation. Within this section, the applicant is obligated to be more sensitive towards heritage buildings and maintain the special character of the site.

In addition to these sections, 'heritage' is mentioned in *Part IX: Miscellaneous Provisions*, under Section 58: Power to make rules. Under this section the state authority has the power "to carry out the purposes of this Act" including "the protection of ancient monuments and lands and buildings of historic or architectural interest" as also stated under subsection 58(2)*(f)* of this Act (Parliament of Malaysia, 2006f, p. 86). Under this clause, the state authority has full power to formulate new rules on the conservation of heritage as part of its roles. However, even though possessing this power, it still is hampered by the "debility in handling the conservation issues" in Malaysia especially large scale projects involving urban planning issues as there is no "space conservation" mentioned in this Act (Idid, 1995, p. 18).

Without 'space' or 'place conservation' conservation works are difficult to guide and achieve as this is "the main part in urban conservation" (Idid, 1995, p. 18).

During the first meeting on the National Physical Plan in 2003, a proposal was launched to amend this *Act*. One of the aims was to "include the preservation of heritage building and heritage site" in *Act 172* and for it to be retitled as "Heritage Preservation". Unfortunately, this proposal has still not been adopted even in the latest amendment of this *Act* in 2007. It seems that the subject of "Heritage Preservation" is perceived as not being as legislatively 'critical' as are other issues included in the amendment (A1313). Several heritage advocates perceive that it is an imperative to include this topic in Malaysian law to ensure that "the cultural heritage still could be preserved without affecting the development of the country" (Ketua Pengarah Jabatan Perancang Bandar dan Desa, 2003, para. 6-7).

5.2.4 *National Heritage Act 2005 (Act 645)*

Parliamentary concerns about heritage conservation in Malaysia heightened on 1st of March 2005 with the passing of a new *Act* "based on the UNESCO Convention on the protection of cultural and also natural heritage, and intangible heritage [Convention Concerning the Protection of the World Cultural and Natural Heritage 1972]"(Ariffin, 2010, p. 4). This *Act*, named as the *National Heritage Act 2005* or *Act 645*, resulted in the repeal of the *Antiquities Act 1976 (Act 168)* and the *Treasure Trove Act 1957 (Act 542)*. However, the *Local Government Act (Act 171)* and the *Town and Country Planning Act (Act 172)* that related to heritage aspects are still effective.

Though this new Act named the *"National Heritage" Act 2005* is limited to listed National Heritage, it includes protection towards the valuable "natural heritage, tangible and intangible cultural heritage, underwater cultural heritage, treasure trove and for related matters" (Parliament of Malaysia, 2006a, p. 95). While defining the scope of what types of heritage may be protected, the numbers of authorities involved in implementing this law are also increased. The responsibility, which was once given only to a State Authority, is now shared under joint legislation with the Federal Territory. This was articulated in *Part I: Preliminary*, § 2(2), where the Minister represents all Federal Territories in Malaysia (Kuala Lumpur, Labuan and Putrajaya) (Parliament of Malaysia, 2006a, p. 101). In addition, this Act vested equal power for "both governments and its citizens an obligation to conserve and preserve, develop and protect the National Heritage" in Malaysia as defined by the Parliamentary Session in

2005 (Ministry of Information Communication and Culture, 2009a). Under this legislation, conservation activities towards heritage items can now be applied to all part of Malaysia.

To enable a better implementation of the *National Heritage Act 2005*, either for authorities or individuals, this *Act* was divided into 17 parts and 126 sections to ensure that it is comprehended by all parties especially those dealing with heritage issues. For the first time "heritage" was interpreted in this *Act* and based on this term, there is now a comprehensive relationship between other terms used in this *Act* including "heritage site", "heritage objects", "underwater cultural heritage" and "National Heritage" (Refer Figure 5.1).

Heritage imports the generic meaning of "National Heritage, sites, objects and underwater cultural heritage" irrespective of whether these have been listed on the National Heritage Register or not (Parliament of Malaysia, 2006a, p. 100). Once listed, it is then designated as a "heritage item". However, before such "heritage" is accepted into the Register, the "heritage site" needs to be declared first under *Section 24: Designation of Heritage Site* or for the "heritage object" to be reported under *Section 49: Declaration as Heritage Object* by Commissioner or *Section 51: Approval or Refusal of Application for Registration*(Parliament of Malaysia, 2006a, pp. 123-125).

Once a "heritage site" and or "heritage objects" have been accepted under the Register, they will again be evaluated under *Section 67: Declaration of National Heritage*, before they can be listed as 'National Heritage'. Even though there are no specific terms for 'heritage building' and 'heritage curtilage' in this *Act*, there are several definitions that may be sufficient to relate to both of these terms especially under "cultural heritage". Under this *Act*, "cultural heritage" has been defined as:

> tangible or intangible form of cultural property, structure or artefact and may include a heritage matter, object, item, artefact, formation structure, performance, dance, song, music that is pertinent to the historical or contemporary way of life of Malaysians, on or in land or underwater cultural heritage of tangible form but excluding natural heritage …(Parliament of Malaysia, 2006a, p. 100).
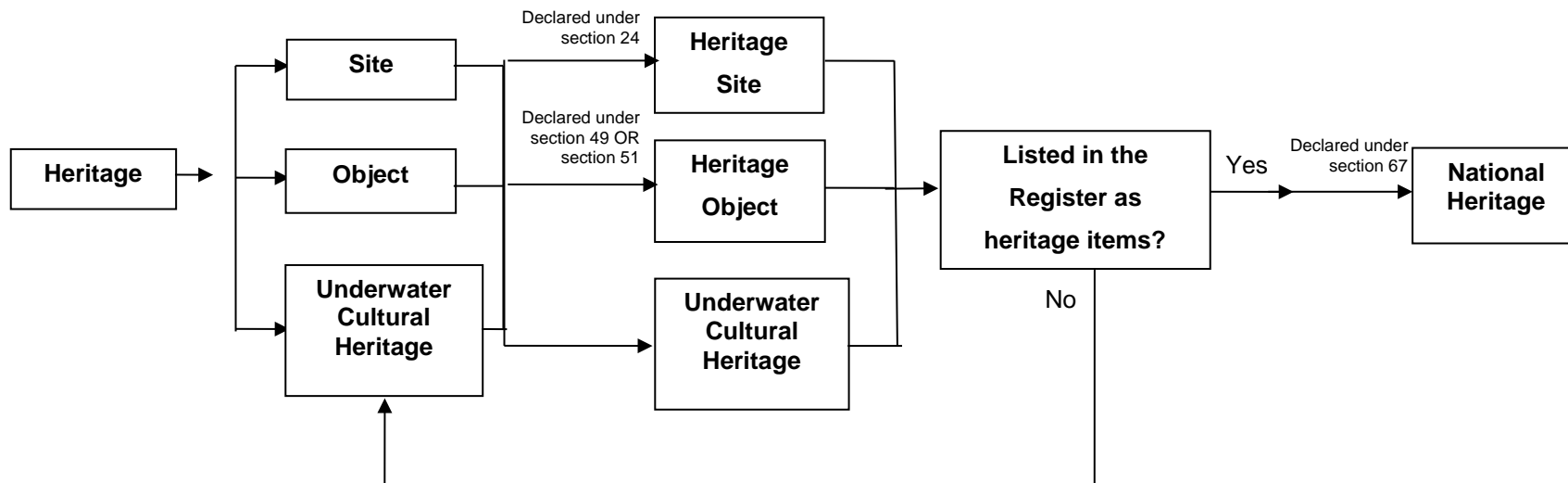
Figure 5.1: The relationship between "heritage" and others terms. This relationship and the understanding of each term is helpful in understanding the whole concept of "heritage" in Malaysia.
Source: Adopted from (Parliament of Malaysia, 2006a).

Given that the drafting of this Act is based on the *UNESCO Convention* (Ariffin, 2010, p. 4), the definition of "cultural heritage" can also be found in the *Convention Concerning the Protection of the World Cultural and Natural Heritage 1972* (UNESCO, 1996, p. 10). With only slight differences interpretations, UNESCO directly grouped "monuments", "groups of buildings" and "sites" under the "cultural heritage" (Figure 5.2). Further, the interpretation of these heritage items, as stated in the *National Heritage Act 2005 (Act 645)*, are the same as what is stated under UNESCO's conventions (Parliament of Malaysia, 2006a, p. 101; UNESCO, 2000, p. 136).
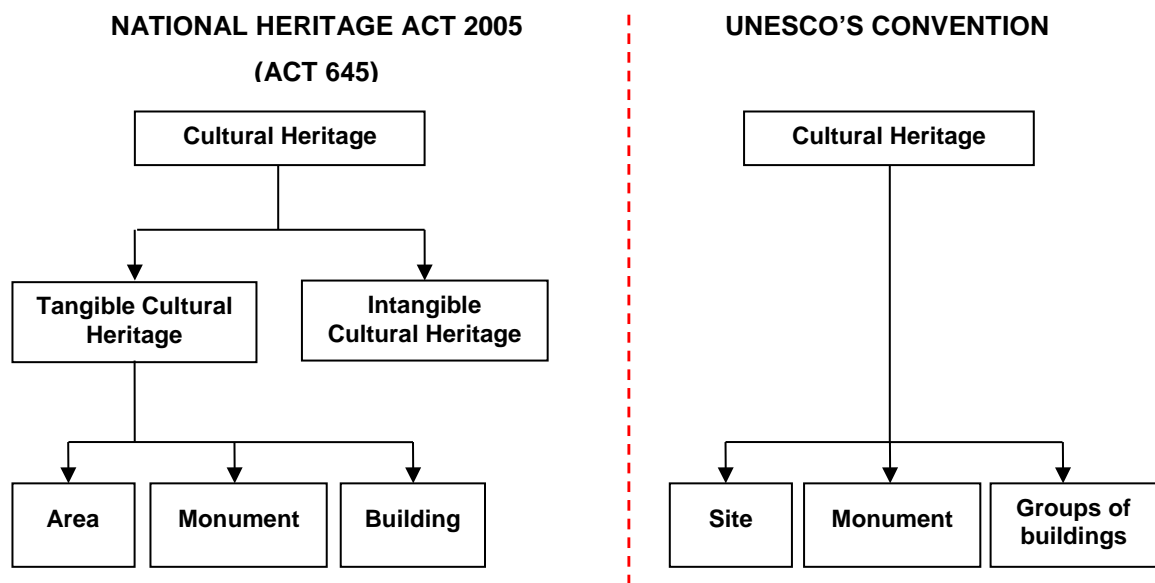
Figure 5.2: The main differences between "cultural heritage" under the *National Heritage Act 2005 (Act 645)* and UNESCO's Convention.
Source: Adopted from (Parliament of Malaysia, 2006a; UNESCO, 2000).

Besides having the same interpretation as that provided by UNESCO's *Convention*, this definition is also very similar to Type 4 Heritage Curtilage: Composite Heritage Curtilage to that which is practiced by the New South Wales (NSW) Heritage Office (Heritage Office, 1996, p. 8). Under the NSW Heritage Office, a Type 4 curtilage's boundary can be derived from the "distinctive homogenous character" of "a historic district, village or suburban precinct" (Heritage Office, 1996, p. 8). In the Malaysian context, this could also be applied to the "building" as interpreted in this *Act* as "homogeneity" also takes into account selected listed National Heritage (Parliament of Malaysia, 2006a, p. 95). However, since the enactment of *Act 645* in 2005, all the buildings listed as National Heritage are only included as separate buildings, and none have been designated as "groups of building" (refer Figure 5.3 and Figure 5.4).

The "area" is also important to be conserved and should not be separated from a building as it creates a 'heritage curtilage'. Under *Act 645*, "area" has been interpreted as:

> works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view (Parliament of Malaysia, 2006a, p. 96).

As discussed before, this interpretation is the same as what has being stated under UNESCO's *Convention Concerning the Protection of the World Cultural and Natural Heritage 1972*, but it is now named "site." Under the Act, "site" has been defined as:

> any area, place, zone, natural heritage, monument or building attached to land, archaeological reserve and any land with building, garden, tree or archaeological reserve (Parliament of Malaysia, 2006a, p. 100).

From these two definitions, "site" can be interpreted as comprising a big scale space as well as a conventional interpretation of the way the terms "area", "place" and "zone" are expressed in the *Act*'s definitions. The important conclusion is that the relationship between "land" and other built elements such as "monument", "building", "garden" and even natural element, are embraced in the *Act*. As "zone" is one of the main components in "site", "site" can also include rural areas which may be rich in natural elements, and "urban landscape" which may contain outstanding human-made elements, as long as "site" possesses "cultural heritage significance" including "aesthetic, archaeological, architectural, historical, scientific, social, spiritual, linguistic or technological value" (Parliament of Malaysia, 2006a, pp. 100-101).

Having the terms of "site" and "building" under one *Act* is crucial as these are the main elements that create 'heritage curtilage'. Even though these terms have been expressed as "site" and "zone", since this *Act* was implemented in 2005, there has been no "heritage site" or "heritage zone" designated as National Heritage (refer Figure 5.3 and Figure 5.4). "Heritage site" was previously used in the *Antiquities Act 1976 (Act 168)* despite expressing it as "historical site" rather than "heritage site."
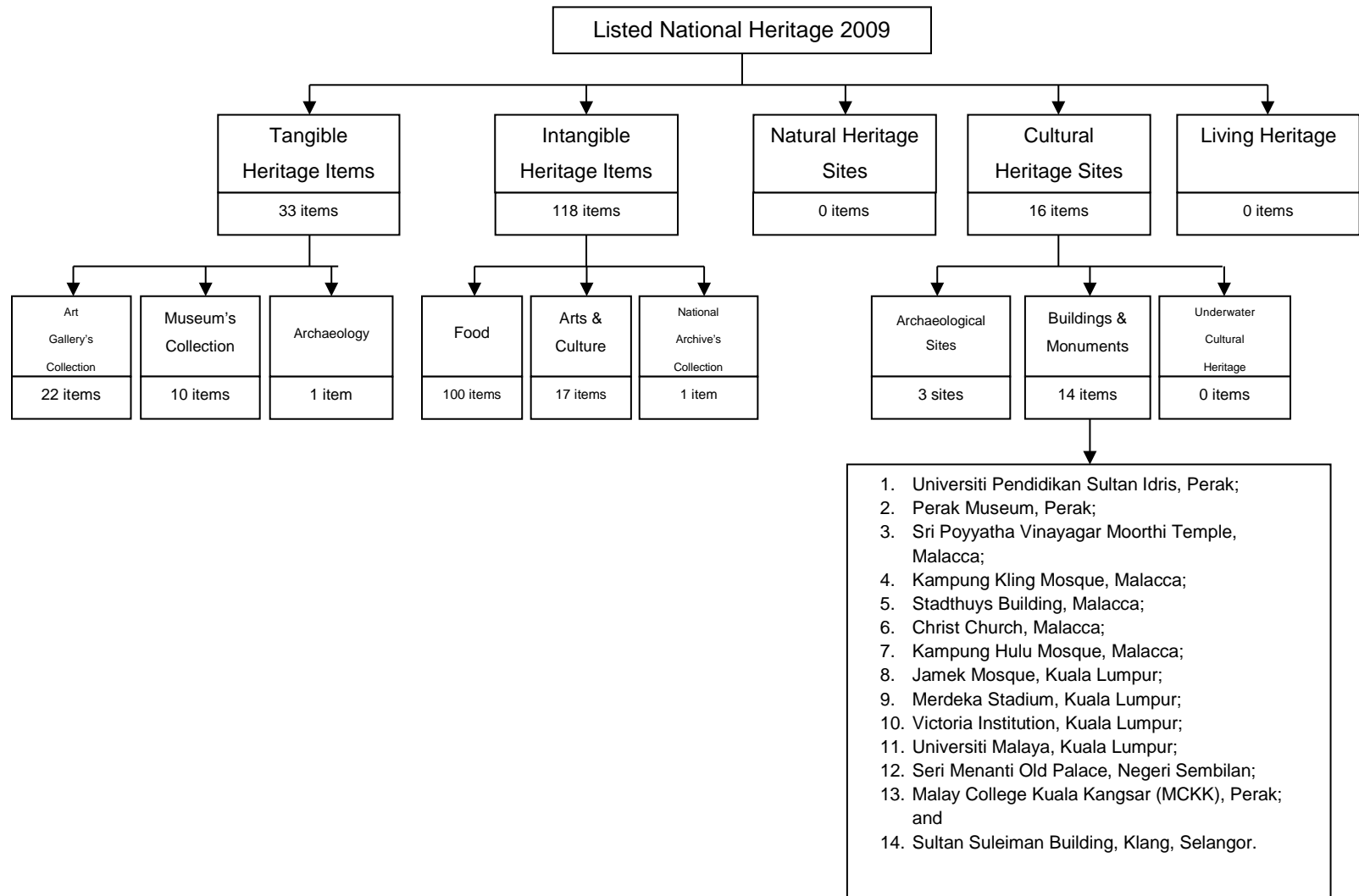
Figure 5.3: Listed National Heritage in 2009.
Source: Adopted from (Jabatan Warisan Negara, 2009)

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 │ Heritage │  │ Heritage │    │
 │  Items   │  │  Items   │    │
 ├──────────┤  ├──────────┤    │
 │ 67 items │  │241 items │    │
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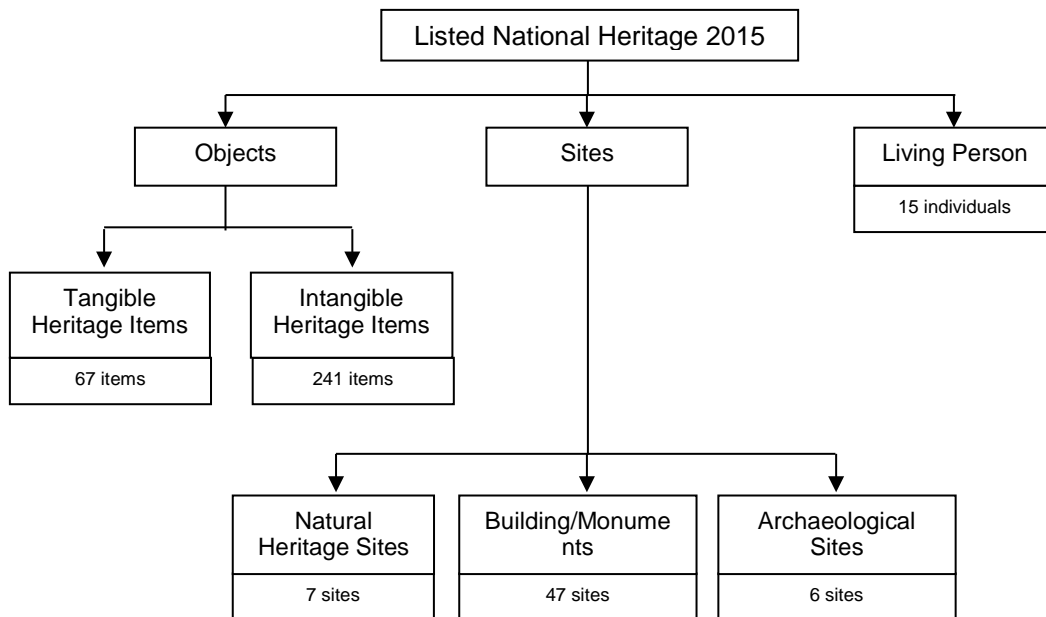
Figure 5.4: Listed National Heritage in 2015.
Source: Adopted from (Jabatan Warisan Negara, 2015).

Knowing the importance of protecting this valuable "heritage site," there is a special part of the *National Heritage Act 2005* that includes all sections and clauses of it. Named *as Part VII: Heritage Site*, this section has been divided into 5 main chapters:

  i.   *Chapter 1: Designation of Heritage Site (Section 24-32)*;

  ii. *Chapter 2: Interim Protection Order (Section 33-35)*;

  iii. *Chapter 3: Dealings Involving Heritage Site (Section 36-37)*;

  iv. *Chapter 4: Conservation, and Preservation of Heritage Site (Section 38-44)*; and

  v.   *Chapter 5: Conservation Area and Conservation Management Plan (Section 45-46)* (Parliament of Malaysia, 2006a, pp. 4-5).

These 5 chapters are the core of the *Act* as it comprises all sections related to the heritage sites. Under *Section 24: Designation of Heritage Site*, the Commissioner has the power to assign any site as a heritage site as long as this selected site has heritage significance either in terms of natural or cultural heritage. In addition, for the protection and enhancement of the designated heritage site, the Commissioner may assign any adjacent and nearby site to be part of the heritage. This action is applicable although the adjacent site does not have any "natural heritage or cultural heritage significance" (Parliament of Malaysia, 2006a, p. 111). The provision is clearly stated under *Section 25: Adjacent and nearby site.* Once the heritage site has been designated, the Commissioner will "notify the local planning authority" to propose a "policy, strategy or plan of action" to protect this heritage site (Parliament of Malaysia, 2006a, p. 113). For

Peninsular Malaysia, all development plans proposed should be prepared based on the *Town and Country Planning Act 1976* (Parliament of Malaysia, 2006a, p. 113).

Designating an adjacent site is not the only way to protect this heritage site. There is another term used and mentioned under *Chapter 4: Conservation and Preservation of Heritage Site*; the "neighbouring land." "Neighbouring land" is one of the criteria that needs to be taken into account "to secure the safety of the heritage site" (Parliament of Malaysia, 2006a, p. 119). Hence, under *Section 40: Application for Planning Permission for Heritage Site*, § 40(3) the "neighbouring land" has been interpreted as:

(a) any land adjoins within a distance of two hundred metres from the boundary of the land to which an application under this section relates";
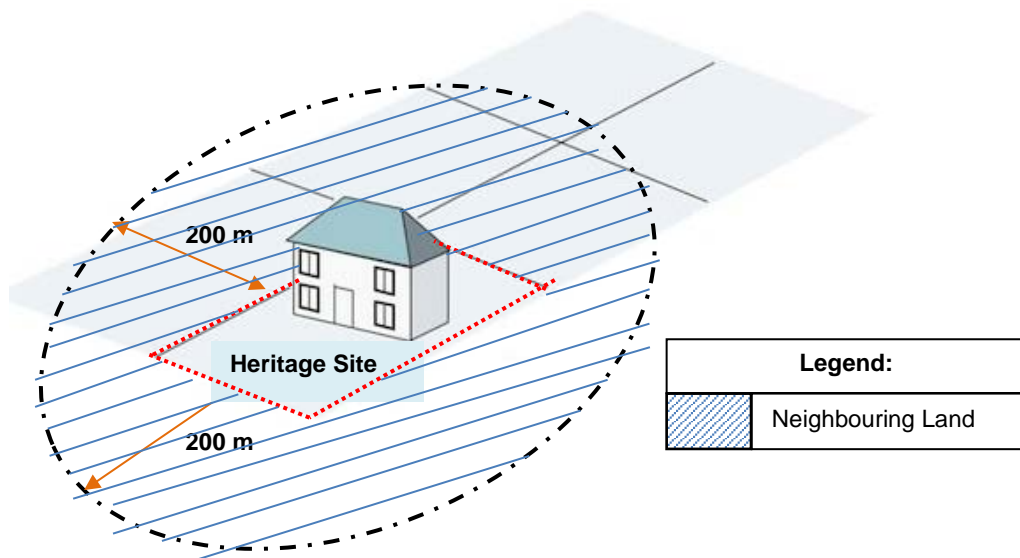
Figure 5.5: Illustration derived from the interpretation of Section 40(3)(a).

(b) any land separated from the land to which an application made under this section relates by any road, lane, drain or reserved land, the width of which does not exceed twenty metres and which would be adjoining the land to which the application relates had they not been separated by such road, lane, drain or reserved land; or
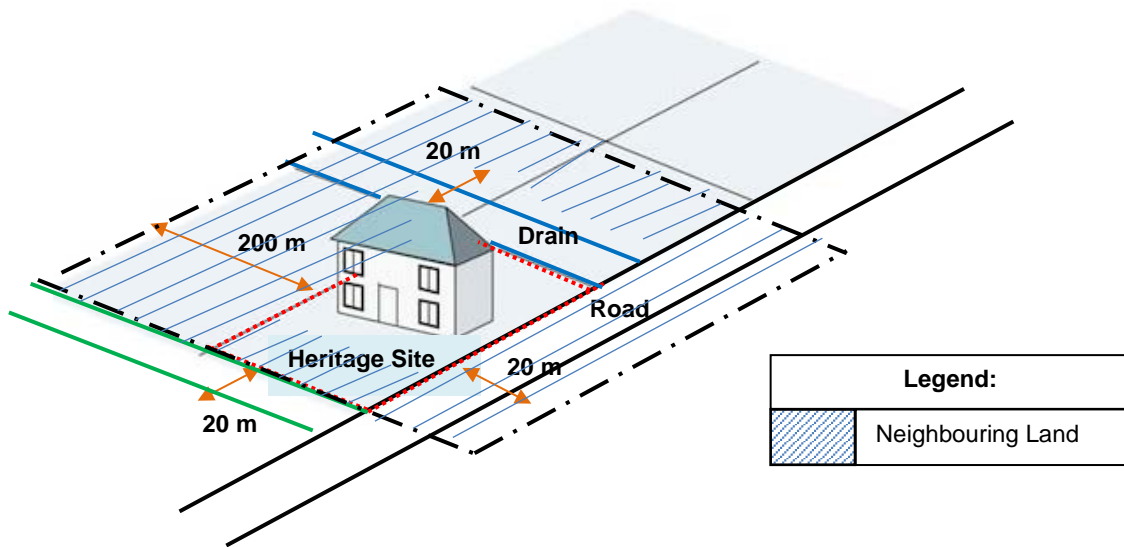
Figure 5.6: Illustration derived from the interpretation of Section 40(3)(b).

(c) any land located within a distance of two hundred metres from the boundary of the land towhich an applicationunder this section relates (Parliament of Malaysia, 2006a, p. 119)".
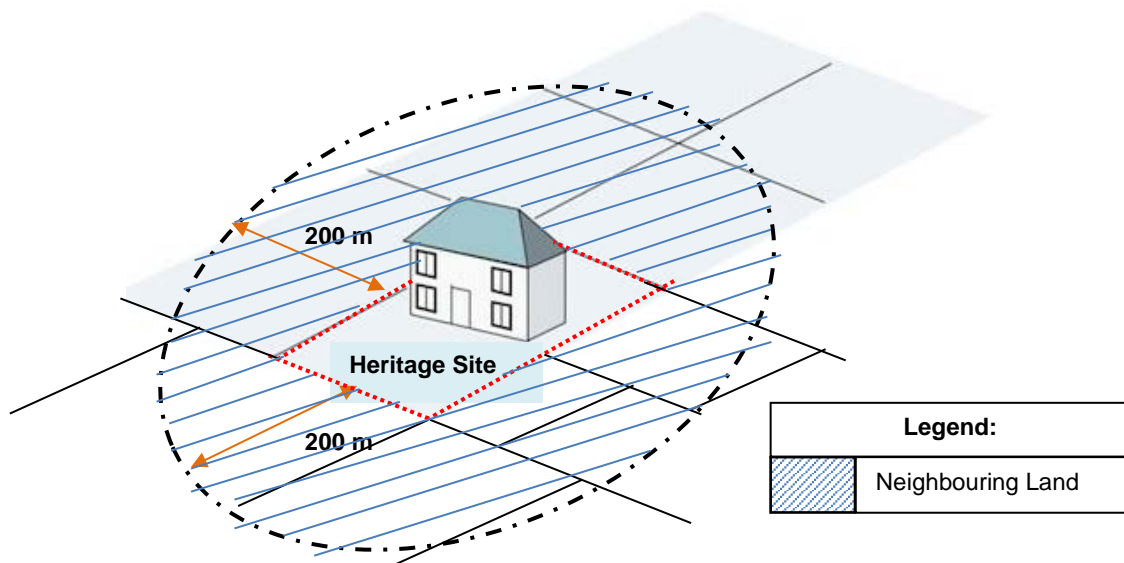
Figure 5.7: Illustration derived from the interpretation of Section 40(3)(c).
Source: Adapted from (Parliament of Malaysia, 2006a, p. 119)

5.3 Enactments, Conservation Plans, and Guidelines of Heritage Building and Site at State Level (Penang and Melaka)

Penang and Melaka were each listed as a World Heritage Site in 2008. These historic cities of the Straits of Malacca represent "a unique architectural and cultural townscape without parallel anywhere in East and Southeast Asia" (UNESCO, 2008b, para. 1). Thus, there is a need for the cities to establish their enactments, conservation plans and guidelines to address their local heritage. Referring to UNESCO's requirements, these cities also identified buffer zones to ensure adequate protection was given to historic sites. As stated by UNESCO, conservation guidelines, and principles implemented at the local level are crucial to retaining the authenticity of the sites (UNESCO, 2008b, para. 3-5). Hence, law enforcement at the state level is compulsory to safeguard these World Heritage Sites from future threat.

5.3.1 Heritage Building and Site Conservation in Penang

The urban conservation concept for the city of George Town started as early as 1970's. The concept was applied under the *Interim Zoning Plan* in 1973. The *Plan* had identified an area in the Inner City of George Town as an urban conservation zone(Municipal Council of Penang (MPPP), 2007, p. 1). Under the first conservation *Act*, the *Antiquities Act 1976* (*Act 168*), 8monuments in Penang were recognised under List of Monuments and Historic Sites. However, from the list, only 6 are located in the city of George Town. Two are listed as National Heritage and another 4 items under Grade I Heritage Buildings (Nor, 2006, p. 12). In 2007, during the nomination of the World Heritage Site (WHS), the City Council of Penang Island identified 1,715 heritage buildings in the Core Area and another 1.928 buildings in the Buffer Zone (State Government of Penang, 2008, p. 46).

In 2008, George Town, Penang was officially designated as WHS together with the Historic City of Melaka and named as the 'Melaka and George Town, Historic Cities of the Straits of Malacca' in the designation. To ensure a thorough protection of the heritage monuments and areas, Penang's City Council established several legal documents. These documents include the *Guidelines for Conservation Areas and Heritage Buildings (2007), Heritage Management Plan: Historic City of George Town (2008)* and *State of Penang Heritage Enactment 2011.* In addition to these documents, the *Acts* discussed earlier in 5.2 were also adopted by the City Council as part of their own legislation and administrative procedures.

a. Guidelines for Conservation Areas and Heritage Buildings (2007)

The *Guidelines for Conservation Areas and Heritage Buildings* was introduced in 2005 to develop the "historic centre of the city of George Town as a truly Living Heritage City" (Municipal Council of Penang (MPPP), 2007, p. 1). The conservation principle of these *Guidelines* is to have a "maximum retention and minimum intervention" (Municipal Council of Penang (MPPP), 2007, p. 2). These *Guidelines* comprise 7 parts, which are:

      i.   Part I: Introduction;

      ii.   Part II: Heritage Buildings;

      iii.   Part III: Conservation Areas;

      iv.   Part IV: Heritage Buildings Control;

      v.   Part V: Conservation Areas Control;

      vi.   Part VI: Advertisement Control; and

      vii.   Part VII: The Up keep & Repair of Heritage Buildings.

Referring to heritage building and curtilage, there are few criteria applicable to identify and list heritage buildings, structures and monuments. These criteria are mentioned under 2.1 General Criteria (iv) Townscape Value and 2.1(v) Group Value. Criterion (iv) Townscape Value is interpreted as "building's setting and its contribution to the local scene – where it forms an element in a group, park or their townscape or landscape or where it shares particular architectural forms or details with other buildings nearby" (Municipal Council of Penang (MPPP), 2007, p. 4). Criterion (v) Group Value is defined as "an ensemble of buildings denoting a particular architectural style of a certain era" (Municipal Council of Penang (MPPP), 2007, p. 4). From these interpretations, it demonstrates acknowledgment of building and its "setting" and "local scene". Moreover, with "a group and cluster of similar building" the heritage significance of the area becomes more prominent (Heritage Office, 1996, p. 8). This approach is similar to defining a composite heritage curtilage.

Under *Part III: Conservation Areas*, conservation areas are defined as "any areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance" (Municipal Council of Penang (MPPP), 2007, p. 5). This document also provided a list of criteria for assessing and designating an area as a conservation area. These criteria are:

      i.   the topography – for example thoroughfare and property boundaries and its historical development;

      ii.   the archaeological significance and potential;

iii.   the setting of buildings;

iv.   the prevalent building materials;

v.   the character and hierarchy of spaces;

vi.   the quality and relationship of buildings in the area;

vii.   the façade of buildings;

viii.   an appropriate scaling and detailing of contemporary building;

ix.   street furniture and hard and soft surfaces;

x.   vistas along streets and between buildings;

xi.   the extent to which traffic intrudes and limits pedestrian use of spaces between buildings; and

xii.   the presence of religious buildings, structures and monuments (Municipal Council of Penang (MPPP), 2007, p. 5).

Based on these criteria, the State Planning Committee had designated two zones in the city of George Town. These zones are:

i.   Core Area - an area covering 99.35 hectares; and

ii.   Buffer Zone - an area covering 89.29 hectares.

Through these criteria, any development proposal, even those outside the conservation area that could affect "its setting or views into or out of the area" and "effect the character and appearance of the conservation area" can be rejected by the Committee (Municipal Council of Penang (MPPP), 2007, p. 6). The same criteria may be implemented in identifying a curtilage as these approaches are more extensive and most importantly it considered the elements in the site context. Therefore, all development proposals need to submit elevation drawings to show that new development in its setting. This requirement is to ensure that new development is harmonize with its neighbours in the conservation area (Municipal Council of Penang (MPPP), 2007, pp. 6-7). Most importantly, the height of the new building does not affect the "street characteristics, aesthetic vistas or street views of important landmarks" (Municipal Council of Penang (MPPP), 2007, p. 15).

Under *Part V: Conservation Areas Control*, the primary focus of this section is the policies to protect the character or appearance of the conservation areas. Hence, for conservation areas of Penang Island, planning permission is required "for all types of development to protect features that are key elements of conservation areas" (Municipal Council of Penang (MPPP), 2007, p. 10). The action taken differs to that which had been implemented under section 19(2) *Town and Country Planning Act*

1976 (Act 172), which clearly stated that "no planning permission shall be necessary" for particular types of development which are classified as permitted development (Municipal Council of Penang (MPPP), 2007, p. 10; Parliament of Malaysia, 2006f, p. 36).

b. Heritage Management Plan: Historic City of George Town (2008)

The *Heritage Management Plan: Historic City of George Town (2008)* was submitted in 2008 to the World Heritage Committee as part of the nomination requirement. The document comprises 7parts which are:

  i.   Part 1: Introduction;
  ii.   Part 2: Executive Summary;
  iii.   Part 3: Description of the Site;
  iv.   Part 4: Statement of Significance;
  v.   Part 5: Management Issues and Challenges;
  vi.   Part 6: Policy Aims and Management Objectives; and
  vii.   Part 7: Action Plan, Implementation and Monitoring.

The Plan represents a "framework document for long-term decision-making by those agencies, organisations and individuals responsible for the management of the Site" (State Government of Penang, 2008, pp. 2-3). The main vision is "to ensure and encourage sustainable heritage development and to provide a protection and development framework in order to maintain the authenticity and integrity of the Site, as exemplified by its Outstanding Universal Values" (State Government of Penang, 2008, p. 4). Among statutory framework of laws adopted for the preparation of the document are the *National Heritage Act 2005 (Act 645), Town and Country Planning Act 1976 (Act 172), Local Government Act 1976 (Act 171)* and *Guidelines for Conservation Areas and Heritage Buildings (2007)* (State Government of Penang, 2008, p. 41).

Under *Part 5: Management Issues and Challenges*, there are 3 issues mentioned that relate to heritage 'curtilage' conservation. Under *5.2: Intrusive Features/Factors that Threaten Significance* is highlighted that most new development projects that have been granted planning permission before 2007, are not in consonance of the *Guidelines for Conservation Areas and Heritage Buildings (2007)* (State Government of Penang, 2008, p. 56). Hence, the enforcement of the *Guidelines* is crucially needed

"for all buildings in the Core Area and Buffer Zone to ensure that the setting or views into or out the area are well protected" (State Government of Penang, 2008, p. 57).

The second issue is "setting". Under *5.9: The Civic Precinct,* the report expressed the concerns on the Fort Cornwallis historical setting. Views to the Fort are now blocked by public amenities that were built in front of the Fort. Further, the designs of these amenities are unsympathetic to their surroundings. Therefore, "the Fort itself, although restored, has lost its historical setting" (State Government of Penang, 2008, p. 57). The Plan recommended the restoration of the historic setting, especially around the Fort Cornwallis area (State Government of Penang, 2008, p. 57).

The third issue is highlighted under *5.15 Boundaries and Settings of the World Heritage Site.* Under this issue, the Plan recommended for comprehensive monitoring methods on "the key elements governing the overall setting and characteristics of the Core Area and Buffer Zone" (State Government of Penang, 2008, p. 57). These elements should be well maintained through enforcement of proper guidelines and legislation. Implementation of laws is important in the designated area because it comprises a large area.

Referring to the issues to secure the future of the WHS, a new framework for the management of the Site was established. The framework sought to take into account "the buildings and land within it, and its communities and economic activities" (State Government of Penang, 2008, p. 82). This management framework sought to provide:

> the setting for the Historic City of George Town to be an exemplary demonstration of sustainable development and heritage-led regeneration which will forge an identity for the Site as a thriving, historic city of international significance with a distinctive cultural life (State Government of Penang, 2008, p. 82).

Another recommendation made by the Plan was to have a Special Area Plan (SAP) for the site comparable to that for the Historic City of Melaka. This is to ensure comprehensive protection of the site. As mentioned by Stovel (2002), "a well-managed historic city will ensure contemporary planning efforts which reflect traditional patterns and layout - based on efforts to understand and to meaningfully reemploy existing urban forms, buildings vestiges and patterns" (State Government of Penang, 2008, p. 101; Stovel, 2002, p. 112).

c. State of Penang Heritage Enactment 2011

The *State of Penang Heritage Enactment 2011* sought "to provide for the management, preservation and conservation of cultural heritage and natural heritage of the state of Penang, and for matters connected therewith" (State of Penang, 2011, p. 1). It comprises 8 parts, which are:

    i.   *Part I: Preliminary;*

    ii.   *Part II: Penang Heritage Council;*

    iii.   *Part III: State Heritage Commissioner;*

    iv.   *Part IV: Cultural Heritage and Natural Heritage;*

    v.   *Part V: State Heritage;*

    vi.   *Part VI: Management, Preservation and Conservation of State Heritage;*

    vii.   *Part VII: Enforcement; and*

    viii. *Miscellaneous.*

This Enactment referred to the *National Heritage Act 2005 (Act 645)* as its main reference. Hence, almost all terms defined in this Enactment are the same as those which were implemented under *Act 645*. These include definitions for "building", "area", "monument", "restoration", "reconstruction", "preservation", "rehabilitation", "conservation", and "tangible cultural heritage" (State of Penang, 2011, pp. 1-9). However, there are a few amendments made to the terms listed in the Enactment that have been undertaken to suit the situation in Penang. These terms are "heritage site", "conservation management plan" and "cultural heritage" (State of Penang, 2011, pp. 1-9) (Refer to Table 5.3).

	State of Penang Heritage Enactment 2011	National Heritage Act 2005 (Act 645)
Heritage Site	**Any tangible cultural heritage or natural heritage site which has been declared as a heritage site**	A site designated as a heritage site
Conservation Management Plan	Section 37(1)(a):promoting the conservation or reconstruction of a heritage site;	Section 46 (1)(a): promoting the conservation, **preservation, rehabilitation, restoration** or reconstruction of a heritage site;
	Section 37(1)(b): ensuring the proper management of a heritage site, including the use and development of all buildings, **monuments and areas** in the heritage site and the preservation of the environment;	Section 46 (1)(b): ensuring the proper management of a heritage site including the use and development of all **buildings and lands** in the heritage site and the preservation of the environment **including measures for the improvement of the physical living environment, communications, socio-economic well-being, the management of traffic and the promotion of economic growth**.
Cultural Heritage	Includes tangible or intangible form of cultural property, structure or artefact and may include a heritage matter, object, item, artefact, formation structure, performance, dance, song, music **which has aesthetic, archaeological, architectural, cultural, historical, scientific, social, spiritual, linguistic or technology value** pertinent to the historical or contemporary way of life of **the community of Penang,** on or in but excluding natural heritage.	Includes tangible or intangible form of cultural property, structure or artefact and may include a heritage matter, object, item, artefact, formation structure, performance, dance, song, music that is pertinent to the historical or contemporary way of life of Malaysians, on or in land **or underwater cultural heritage of tangible form** but excluding natural heritage.

Table 5.3: The minor amendment made by the State of Penang in the terms applied in the Enactment referring to the *National Heritage Act 2005*.
Source: Adopted from (Parliament of Malaysia, 2006a, p. 120;
State of Penang, 2011, pp. 25-25).

In addition to these terms, there are a few sections adopted from *Act 645*. For example, Section 19(1) for "adjacent and nearby site", Section 35(3) for "neighbouring land" and Section 52 for "Offences in respect of heritage site"(State of Penang, 2011, pp. 15-33). All provisions stated under these sections were adopted under *Act 645*. There are slight changes made on Section 37: *Conservation Management Plan* to suit Penang's situation (Refer Table 5.3). However, the main approaches are still the same being to conserve heritage items. The major differences are the regulations. For the State of Penang, "the State Authority may make regulations as may be expedient or necessary for carrying out the purposes of this Enactment" (State of Penang, 2011, p. 33). Hence, under Section 58(2), the State Authority may prescribe "criteria", "heritage conservation management plan", "guidelines and procedures for the preservation and

conservation of State Heritage" (State of Penang, 2011, p. 33). With actions taken by the State of Penang, the future of the WHS may be well-conserved. This is because the approaches taken are consistent with those which were implemented under the *National Heritage Act 2005*.

5.3.2   Heritage Building and Site Conservation in Melaka

As in George Town, Melaka is also rich with buildings, monuments and historical remains from the colonial era. Under the previous conservation *Act*, namely the *Antiquities Act 1976* (*Act 168*), 28 items in Melaka have been recognised under the List of Monuments and Historic Sites. From the list, 10 items were selected as the National Heritage and 18 items as Heritage under Grade I and Grade II* (Nor, 2006, p. 16). Although the recognition of heritage values through buildings, monuments and sites has been granted through *Act 168*, Melaka only started to implement its first heritage enactment in 1988. This *Enactment* is known as the *Preservation and Conservation of Cultural Heritage Enactment 1988*. The document was introduced by the Legislature of the State of Melaka a few months before it was designated as the 'Historic City of Melaka' on 15th April 1989. During the ceremony, the old town of Melaka was also gazetted as a Grade I Conservation Zone in the Structure Plan of Melaka Historic City Council (Mustafa et al., 2015, p. 91). Given this acknowledgement as the first Historic City in Malaysia (Melaka Historic City Council, 2000), the practicality of this new *Enactment* towards heritage conservation is crucial for Melaka.

In 2008, Melaka was granted World Heritage Site status together with George Town, Penang. Since then, a few other documents have been established to ensure thorough management of the heritage site. Among the documents is the *Draft of Special Area Plan: Conservation Area Management Plan of Melaka Historical City* (2007), and the *Conservation Management Plan of Melaka Historical City* (2008). Through the implementation of existing Acts; the *Local Government Act 1976 (Act 171)*, *Town and Country Planning Act 1976 (Act 172)* and *National Heritage Act 2005 (Act 645)* and support from State's enactment and management plan, the future of heritage areas and properties in Melaka will be well protected.

a)   Preservation and Conservation of Cultural Heritage Enactment 1988

Malacca Enactment No.6 of 1988, or the *Preservation and Conservation of Cultural Heritage Enactment 1988*, was first applied by Melaka's local authorities on 5th October 1988. Since this introduction in 1988, this *Enactment* has been amended three times;

in 1993 and the latest in 2008. This *Enactment* comprises twenty-one sections, and these sections were still retained in amended *Enactments*. This *Enactment* is considered to be a comprehensive document covering various aspects of the conservation process (Idid, 1995, p. 19).

Section 2(1): Definition details all terminologies applied in the *Enactment*. Among the terms that relate to heritage buildings and 'curtilage' conservation are "adaptation", "conservation", "cultural heritage", "historical site", "maintenance", "preservation", "reconstruction", and "restoration" (State of Malacca, 1988, pp. 75-77). From the terms mentioned, only one adopted "the same meaning assigned thereto under the *Antiquities Act 1976*"which is the "historical site" (State of Malacca, 1988, p. 75). The enactment shows its 'advance' in heritage conservation aspects in adopting new terms not applied in *Act 168* (Refer Table 5.4). There are terms that are not defined under the *National Heritage Act 2005* (Act 645). However, most of the terms used are almost similar in *Act 645*.There has been no amendment made to these listed terms either in 1993 or 2008.

Preservation and Conservation of Cultural Heritage Enactment 1988		Antiquities Act 1976 (Act 168)(Repealed in 2005)	National Heritage Act 2005 (Act 645)
Adaptation	The process of modifying a cultural heritage or a conservation area to suit a proposed compatible use.	X	X
Conservation	The process of looking after a cultural heritage or a conservation area so as to retain its significance, and includes maintenance, **preservation**, **restoration**, **reconstruction**, **adaptation** or a combination of two or more of these.	X	Includes **preservation**, **restoration**, **reconstruction**, rehabilitation, and **adaptation** or any combination.
Cultural Heritage	Includes antiquity, historical object, historical site, site, fabric, building, **structure**, ethnographic matter, works of art, manuscript, coins, currency notes, medals, badges, scientific crest, flag, armour, vehicle, ship and trees which has a significant and special architectural, aesthetic, historical, cultural, scientific, economic and any other interest or value.	X	Includes tangible or intangible form of cultural property, **structure** or artefact and may include a heritage matter, object, item, artefact, formation structure, performance, dance, song, and music that is pertinent to the historical or contemporary way of life of Malaysians, on or in land or underwater cultural heritage of tangible form but excludingnatural heritage.
Historical Site	Has the same meaning assigned thereto under the *Antiquities Act 1976.*	Means a site which has been declared in accordance with the provisions of section 15 to be a historical site.	** Act 645 applied "heritage site" term on the definition of the Act.*

Maintenance	The continuous protection and care of a cultural heritage or a conservation area as distinguished from repair which involves restoration or construction.	X	X
Preservation	Is the process of maintaining a cultural heritage or a conservation area as nearly as possible to an earlier known state or form by the introduction of new or old materials thereto.	X	Aiming to halt further deterioration, decay or a state of dilapidation and providing structural safety and well-being but does not contemplate significant rebuilding and includes— (a) techniques of arresting or slowing the process of deterioration, decay or state of dilapidation of an item or structure; (b) improvement of structural conditions to make a structure safe, habitable, or otherwise useful; and (c) normal maintenance and minor repairs that do not change or adversely affect the fabric or historic appearance of a structure;
Reconstruction	The process of returning a cultural heritage or a conservation area as nearly as possible to an earlier known state or form by the introduction of new or old materials thereto.	X	The process of accurately reproducing by new construction, the form and detail of a vanished structure, or part of it, as it appeared at some period in time and includes full or partial reconstruction.
Restoration	The process of returning the existing cultural heritage or a conservation area to an earlier known state or form by removing accretion or by re-assembling the existing repairs without the introduction of new materials.	X	The process of accurately recovering the form and details of a structure or part of a structure and its setting, as it appeared at some period in time, by removing the latter work and replacing themissing original work, and includes— (a) full restoration which involves both exterior and interior; (b) partial restoration which involves the exterior, interior, or any partial combination and is adopted when only parts of a structure are important in illustrating cultural values at its level of historic significance, or contribute to the values for which the area was designated; and (c) adaptive restoration which involves all or a portion of the exterior restoration with the interior adapted to a modern functional use.

Table 5.4: Terminologies applied by Melaka's enactment and Malaysia's Conservation Acts, the *Antiquities Act 1976 (Act 168)* and *National Heritage Act 2005 (Act 645).*Terms highlighted in yellow are closely related to 'curtilage.'
Source: Adapted from (Parliament of Malaysia, 2003, pp. 2-3; 2006a, pp. 96-100; State of Malacca, 1988, pp. 75-77).

In terms of 'heritage building' and 'heritage space' conservation, almost all terminologies listed in Table 5.4 emphasize "conservation area" or "historical site" in their definitions (State of Malacca, 1988, p. 76) (Refer to Table 5.4). Such is elaborated in Section (4)(1), where the State Authority may gazette:

> any cultural heritage, the character or appearance of which it is desirable to preserve or conserve and enhance to be subject to preservation or conservation and may designate the area within which such heritage is located as conservation area (State of Malacca, 1988, p. 78).

Further, under subsection 12(2), any building or cultural heritage item which has not been declared as "subject to preservation or conservation but is located in a conservation area" would also need to be taken into consideration. This action is "to maintain the harmonious character or appearance of the conservation area" (State of Malacca, 1988, p. 82). These subsections mentioned are closely related to the conservation of heritage curtilage as it takes into account elements surrounding the heritage items instead of only the gazetted elements.

In 2008, this *Enactment* was amended to be known as the *Preservation and Conservation of Cultural Heritage Enactment (Amendment) 2008*. Similar to the amendment made in 1993, the *Amendment* provided more on the rights and powers to the "Preservation and Conservation Committee whose responsibility is to advise the State Authority on matters of policy, administration and management of cultural heritage and conservation area" (State of Malacca, 1988, p. 82). The revision inserted "the Yang di-Pertua Negeri of the State of Malacca" as the "Adviser of the Preservation and Conservation Committee" (State of Malacca, 2003, p. 3). Hence, the members of Committee now included the "Commissioner of Heritage, Department of the National Heritage or his representative" and "the Mayor of Malacca Historic City Council or his representative" (State of Malacca, 2003, p. 3). However "a representative of the Director-General of Museums Malaysia" has been delegated from the list as Members of the Committee (State of Malacca, 1988, p. 77; 2003, p. 4). The actions made by the State Government are in conjunction with the establishment of the new *Act*, the *National Heritage Act 2005 (Act 168)* and a Declaration of Melaka as the World Heritage City.

b. Draft of Special Area Plan: Conservation Area Management Plan of Melaka Historical City (2007)

The *Draft of Special Area Plan: Conservation Area Management Plan of Melaka Historical City* (2007) was introduced by the Melaka Historic City Council in 2008, a few months after the city was recognised as a World Heritage Site. The *Draft of Special Area Plan* (SAP) was prepared based upon the provisions stated under subsection 16B (1), 16(B)(2) and 16(B)(3) under the *Town and Country Planning Act 1976 (Act172)*.The *SAP* covers 237.48 hectares of the World Heritage Site of Melaka, which includes the Core Zone (39.82 hectares), Buffer Zone (174.67 hectares) and Heritage Area (22.99 hectares).

The main mission of this Draft "provides an effective management plan to control, and sustainably maintain and conserve the heritage buildings and areas with historical relics by the UNESCO's criteria" (Melaka Historic City Council, 2007b, p. 4). It seeks to guide the parties involved in carrying out conservation works in the historic area of Melaka. As a comprehensive document, the *Draft* comprises 10 development guidelines as its mechanism control. These guidelines are the:

     i.   *Guidelines for Conservation and Enhancement of World Heritage City Identity;*

     ii.   *Guidelines for Infill Development,*

     iii.   *Guidelines for Economy and Guidelines for Economy (Building Used);*

     iv.   *Guidelines for Signage Application (Building and Direction) for the Core Zone and Buffer Zone;*

     v.   *Guidelines for Exterior Lighting of Heritage Buildings;*

     vi.   *Guidelines for Landscape and Street Furniture;*

     vii. *Guidelines for Informal Activities;*

     viii. *Guidelines for Fire Prevention for Terrace Houses / Shophouses in the Conservation Area;*

     ix.   *Specific Guidelines*; and

     x.   *Visual Impact* (Melaka Historic City Council, 2007a, pp. 1-35; 2007b, p. 6).

From the list, only 4 guidelines acknowledged elements related to curtilage. These guidelines are *Guidelines for Conservation and Enhancement of World Heritage City Identity, Guidelines for Economy,*and *Guidelines for Economy (Building Used)*,

Specific Guidelines and *Visual Impact*. The other guidelines concentrate upon beautification efforts in enhancing the image of the conservation area.

Under *Guidelines for Conservation and Enhancement of World Heritage City Identity*, the elements that contribute to curtilage are highlighted in *Part 5.1: Guidelines of Conservation and Enhancement of Identity*. The importance of conserving the visual links and visual corridor is highlightedat "Stadhuys Square" where visual links between the space and *Sungai Melaka* (Melaka River) should not be blocked with any structures (Figure 5.8). Hence, "any structures that block the view of the conservation area which has no origin function or connection with the history of the area should be relocated" (Melaka Historic City Council, 2007a, p. 4).Besides visual elements, the othersections of the guidelines focus upon the building façades, and interior and exterior parts of a building.

Figure 5.8: Illustration derived from the interpretation of the *Part 5.1: Guidelines of Conservation and Enhancement of Identity*.
Source: Map from (Google Earth, 2016).

Under *Guidelines for Economy*, the main zone would be conserved with traditional industry activities comprising goldsmiths, blacksmiths, handicrafts and bead-making (Melaka Historic City Council, 2007a, p. 9). Further, traditional hawker activities that have been conducted informally in the Buffer Zone would be relocated to the Core Zone to enhance the image of the conservation area (Melaka Historic City Council, 2007a, p. 9). These approaches, mentioned on the guidelines, are similar to what has been practiced by the NSW Heritage Office. According to the NSW Heritage Office (1996), "the interaction of a heritage item with its surroundings through activities, functions … that enables its heritage significance to be fully appreciated" is one of the

criteria to be considered in identifying a curtilage (Heritage Office, 1996, p. 12). Moreover, the use of buildings in the Core Zone is controlled under the *Guidelines for Economy (Building Used)*. Based on the guidelines, existing activities should be maintained and new activities are not allowed unless approved by the Conservation Committee (Melaka Historic City Council, 2007a, p. 11). Within these provisions, it is possible to conserve the authenticity of a site and define a heritage curtilage for the area.

The *Specific Guidelines* was purposely established for the conservation of the heritage area or heritage *kampung.* The only part is mentioned in the 'surrounding area' in *Part 5.9.1: Kampung Morten*. This part highlights the importance of controlling nearby development to ensure that the area is well conserved and not trapped between new developments. The remaining parts of the guidelines are focused upon restoration processes and tourism activities in enhancing the areas.

Visual Impact is the last guideline stated under the *Development Guidelines.* As mentioned earlier, visual links is one of the elements that need to be considered in establishing a curtilage. Under the *Visual Impact*, all new developments which are more than three-storey in height only are allowed outside of the Buffer Zone with a distance of 250 metres from the Buffer Zone's boundary (Melaka Historic City Council, 2007a, p. 35). This is to ensure that visual respect to heritage buildings or sites are not blocked by high structures. A detailed visual impact study was prepared by the Melaka Historic City Council in order to ensure that the lines of sight in the area were well conserved (Melaka Historic City Council, 2007a, p. 35).

c. The Conservation Management Plan for the Historic City of Melaka (2008)

The Conservation Management Plan for the Historic City of Melaka was approved and endorsed by the full Council Meeting of the Melaka Historical City Council on the 30th January 2008. The CMP was prepared and submitted to the UNESCO as part of the requirements of the nomination of the heritage site. This document comprises four major parts which are:

    i.   Part One: Introduction, Area Definition and Heritage Buildings;
    ii.   Part Two: Managing Changes Issues;
    iii.   Part Three: Programmes for Actions; and
    iv.   Part Four: Economic and Management Aspect.

Unlike documents discussed earlier, this document is more comprehensive in terms of its understanding of heritage buildings and that relationship to heritage spaces. For example, as clearly stated under Part One: 3.0: Heritage Buildings, the St. Paul's Hill Civic Zone is defined through numbers of heritage buildings, monuments and its urban square. These elements include the A'Famosa, Bastion House, shophouses, fountain, clock tower, Town Square[3], streets and bridge. For the Historic Residential and Commercial Zone, it comprises a residential area, community quarters, streets, and tombs (Melaka Historic City Council, 2008, pp. 15-16).

One of the changes highlighted in the CMP is "boundary". The main concern was that development pressures could take place in the buffer zones. These activities "might harm conservation area quality in terms of its original setting, functions, movements and visual appropriateness" (Melaka Historic City Council, 2008, p. 32). Hence, a more practical approach was needed to give protection to the buffer zones and to conserve the quality of the Core Zone. However, there was no special framework implemented to address the issue (Melaka Historic City Council, 2008, p. 35).

The visual quality, fabric, character and contextual setting were once again highlighted in the Development Control issue. As mentioned in the CMP:

> developments, small or large, within and around the city may have a substantial impact on the wider character (particularly visual appearance), historic fabric and archaeology of the WHS, depending on issues such as: design, size, materials used, integration with public realm, impact of traffic volume and change in use of a building, site or area (Melaka Historic City Council, 2008, p. 35).

At the moment, there is no analysis or guidance to cope with these physical changes. The CMP only mentions that these issues will be considered later and monitored by a new program, entitled "Programmed for Action" (Melaka Historic City Council, 2008, pp. 36-37).

Similar with the *Draft of Special Area Plan: Conservation Area Management Plan of Melaka Historical City* (2007), this document also listed few guidelines for the references. These guidelines are:

      i.   *Building Use Guidelines;*

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[3] This Square is also known as Dutch Square by the local community. Under *Guidelines for Conservation and Enhancement of World Heritage City Identity*, it is named as the Stadhuys Square.

ii.   *Adaptive Reuse Guidelines;*

iii.   *Guidelines on Public Convergence Activity Area;* and

iv.   *Guidelines on the Protection of Shop Houses Conducting Traditional and Threatened Activities* (Melaka Historic City Council, 2008, pp. 38-50).

From the list, *Building Use Guidelines* is the only document which indirectly mentions 'curtilage'. Under the guidelines the terms that relate to curtilage are discussed as to the suitability of building use. The appropriate building use is crucial as it "encourages the enhancement of the quality of the surroundings" and "restoring the condition and structure of the building" (Melaka Historic City Council, 2008, p. 38). Hence, it could contribute to the image and character of the Conservation Zone. A building that provides activities that can have a poor impact on the Conservation Zone is also strictly prohibited (Melaka Historic City Council, 2008, p. 43).

There is one part of the CMP document that emphasises visual quality. Under *Part Three: 7.0: Approaches to Enhancing Visual Quality*, that the visual of the Conservation Zone is enriched by "various types, positions, constructions and designs" of the heritage buildings and intricate architectural elements (Melaka Historic City Council, 2008, p. 43). However, the remaining discussion is focussed upon enhancing "the town utility system" and "signage and advertisement display" (Melaka Historic City Council, 2008, pp. 68-69). There is no further information on conserving visual links or visual corridors between heritage buildings and spaces.

5.4   Guidelines related to the Heritage Conservation in Malaysia

As mentioned earlier in subsection 5.2.4, there are two supporting documents published purposely for the conservation of a heritage building and site in Malaysia. These guidelines are the *Guidelines for the Conservation of Heritage Building* (2012) and *Guidelines for the Preparation of Conservation Management Plan of Site/Heritage Buildings* (2015).

5.4.1   *Guidelines for the Conservation of Heritage Building* (2012)

The preparation of this document took place seven years after the establishment of *Act 645*. It was prepared as a regulation to the implementation of the conservation of heritage buildings in Malaysia under *Act 645*. Referring to *Act 645*, the foundation of

these guidelines is based upon UNESCO's conservation guidelines and ICOMOS's charter's including the Burra Charter (1999) (Department of National Heritage, 2012, p. 1). Under the guidelines, all activities and work related to the conservation of heritage buildings must comply with the principles and procedures contained in the guidelines and approved by the Department of National Heritage (Department of National Heritage, 2012, p. 1).

The guidelines comprise four parts:

i.   Part I: Introduction;
ii.   Part II: Conservation Principles and Processes;
iii.   Part III: Guidelines for Documentation; and
iv.   Part IV: Guidelines for Conservation.

Under *Part I: Introduction*, there are ten terms listed. All definitions are in accordance with what is stated under *Act 645.* These terms are "cultural heritage", "tangible cultural heritage", "intangible cultural heritage", "cultural heritage significance", "National Heritage", "monument", "historical object", "building", "area" and "site" (Department of National Heritage, 2012, pp. 2-4).

To complement the *Act*, this document also includes "conservation concept" according to the authenticity of the "material", "design", "workmanship" and "setting". Interestingly, this section is closely related to curtilage. These terms are mentioned under "design authenticity…for the design conservation it is necessary to examine the original structure of the building, the architectural style and building's relationship with the environment" (Department of National Heritage, 2012, p. 5). Further, under "layout authenticity" conservation includes:

> The shape of the building and the position of the building, including the layout and the interior space of the building must be maintained as the original. Originality in design and layout of the building can structure the real picture regarding the architecture and relate it to the historical events. The authenticity of the forms and the layout is usually obtained after an archaeological research (Department of National Heritage, 2012, p. 5).

The concept of "setting" is mentioned under *Part II: Conservation Principles and Processes* under the general principles of heritage building conservation. Under these principles, there must be a "respect for a quality of place" (Department of National Heritage, 2012, p. 10).Hence, "any disruption during the investigation and preliminary work regarding the building layout (setting) and the fabric of the building must be

minimized" (Department of National Heritage, 2012, p. 10). "Setting" is once again highlighted under *Part 2.1.6: Most Minimum Disruption* but there is no further discussion on the term except by "whatever the disruption of work must be done with caution and respect and sincere in order to maintain the aesthetic value, historical and physical characteristics of the old building" (Department of National Heritage, 2012, p. 10).

The *Guidelines* (2012) have adopted the scope of work of a conservator from the ICOMOS document; the *Guide to Recording Historic Buildings*. One of the goals is the "understanding of the placement of monuments, buildings or sites, content and environmental related to the building or landscape" (Department of National Heritage, 2012, p. 16; ICOMOS, 1990, p. 69). Additionally, the importance of site conservation is also highlighted under *Part 2.3.14: Respecting the Heritage Character*. One of the criteria is to value the axis and viewpoints of the building and site and these elements must be clearly visible (Department of National Heritage, 2012, p. 20). In addition, the "layout (setting), space and other essential components of the historical aspects which related to the history of site and building such as structures, trees, and yard" must also respected (Department of National Heritage, 2012, p. 21).

Under these *Guidelines* (2012), identifying buildings or monuments and their landscapes that once existed on the site is prominent in ensuring that future development will not affect the heritage evidence (Department of National Heritage, 2012, p. 21). The "axis and viewpoints", "layout or setting" and the original "landscapes" statedin these parts are closely related to 'curtilage' because these elements contribute to heritage significance of the place. Since the establishment of the *Guidelines* (2012) is to monitor the activities and work related to the conservation of heritage building, the focus of the remaining parts are more of the physical characteristics and the façade of the buildings.

5.4.2   *Guidelines for the Preparation of Conservation Management Plan for Site/Heritage Buildings* (2015)

The *Guidelines for the Preparation of Conservation Management Plan (CMP) for Site or Heritage Buildings* (2015) was introduced by the Department of National Heritage in August 2015. The *Guidelines for the Conservation of Heritage Building* (2012), was in accordance with the requirements of the *National Heritage Act 2005 (Act 645)*. The document was prepared under *Section 46: Conservation Management Plan*. In addition to the provisions stated under *Section 46*, this *Guidelines* (2015) should also

be read together with the *Guidelines of the Conservation of Heritage Building* (2012) and other local authority guidelines(Department of National Heritage, 2015, p. 1). It functions as a tool for parties involved in conservation activities including owners, curators, managers, tenants, or organisations preparing comprehensive CMP's. A CMP will be monitored and improved in every 5 years or as needed from time-to-time. Slightly different from the previous guidelines, this guideline included "site" in the document.

As the provisions in the document are based on *Act 645*, the interpretations of site and heritage building are applied based on the *Act*. Emphasis upon site conservation is mentioned in *Part 6: Management Issue*. Under this section, one aspect is the preparation of a CMP to "identify any important elements in the immediate surroundings of the research area" (Department of National Heritage, 2015, p. 6). This action is to ensure that there is no obstruction during conservation works.

Overall, the acknowledgment of the importance of site conservation in these *Guidelines* (2015) is very limited. The core content of the *Guidelines* (2015) focuses on 'what' and 'how' the CMP needs to be prepared. Although the elements mentioned under *Part 6: Management Issue* are slightly close in defining 'curtilage', no further explanation is given in the remaining sections. Hence, site conservation in the Malaysian context is still vague.

5.5 Conservation Plans and Guidelines of Heritage Building and Site at Federal Territory (Kuala Lumpur)

In the previous discussion on the *Town and Country Planning Act 1976 (Act 172)*, when it was first introduced, this *Act* was only limited to State authorities and was not applicable for the Federal Territory of Kuala Lumpur. For the Federal Territory of Kuala Lumpur, a different *Act* was enforced as the "administration system of KL is unique and cannot be equally comparable to other local authorities" (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003b, p. 4002). This *Act*, the *Federal Territory (Planning) Act 1982 (Act 267)*, was enacted following the repeal of the *City of Kuala Lumpur (Planning) Act 1973 (Act 107)*. Within the ambit of this new *Act*, there are comprehensive provisions about "proper planning in the Federal Territory" especially for controlling and managing reasons (Parliament of Malaysia, 2006c, p. 7).

The main content in *Act 267* drew from a combination of the two Acts; *Act 107* and *Act 172*. *Act 267* has "maintained the administration framework in *Act 107* and at the same

time has combined the structure plan system in *Act 172*" (Jabatan Perancangan Bandar dan Desa Semenanjung Malaysia, 2003b, p. 4058). However, in 2001, *Act 172* was amended to include the Federal Territory of Kuala Lumpur in the *Act.* Today, as well as*Act* 172, the Federal Territory of Kuala Lumpur is embodied in the *Local Government Act 1976 (Act 171)* and *National Heritage Act 2005 (Act 645)*. To aid comprehensive management of the city, it is also supported by the *Kuala Lumpur Structure Plan 2020 (KLSP2020)*(2004), *Draft Kuala Lumpur City Plan 2020 (DKLCP2020)* (2008) and *Greater Kuala Lumpur/Klang Valley (Greater Kuala Lumpur)*(2010).

5.5.1 *Kuala Lumpur Structure Plan 2020 (KLSP2020)* (2004)

Under *Act 172, Part III: Development Plans,* a draft structure plan should be prepared by the State and submitted to the Committee for approval. Section 8(3)(a) clearly states that "the policy and general proposals of the State Authority in respect of the development and use of land in that State" should be provided for in the Draft (Parliament of Malaysia, 2006f, p. 24). Once approved by the Committee, the Plan will be legally enforced by the State. In terms of Kuala Lumpur, the *Kuala Lumpur Structure Plan 2020* (*KLSP2020*) (2004) was prepared under *Act 267* Section 10(1). The provisions are the same as stated under *Act 172*, except that the Plan was prepared and submitted by the Mayor for approval. After going through all the processes, in 2004, the Plan was finally approved by the Minister of the Federal Territory, and implemented until the year 2020.

In terms of heritage conservation, specifically for the Old Town of Kuala Lumpur, this place mentioned under *Development Strategy 6.4.6: Initiative and implement the redevelopment of blighted area* (Policy 186 to 190). The *Plan* clearly expresses concern for this historic area, in particular about its heritage buildings. *Policy 188* mentions that "due to neglect over a period of times, the historical buildings and sites which located in the oldest parts of the City have become dilapidated" (Kuala Lumpur City Hall, 2004, p. 16). Under *Policy 189*, all actions made must take into consideration the "unique characteristics of each of the areas and ensure that development will be compatible with the surrounding areas" (Kuala Lumpur City Hall, 2004, p. 16). This is to ensure that the image and character of the area are retained and enhanced.

Concern towards Old Kuala Lumpur is also mentioned under *8.2.3(b)*: *Cultural Heritage-Attractions*, whereby elements in Old Kuala Lumpur are to be conserved to provide a lasting image of Kuala Lumpur. These items include the "Dataran Merdeka

and the buildings that surround it, together with the Railway Station and the old shop house" (Kuala Lumpur City Hall, 2004, p. 32). In the *Plan's* objectives, the Kuala Lumpur City Hall aims to transform Kuala Lumpur into "a city which conserves the best of its environmental, architectural and cultural heritage" (Kuala Lumpur City Hall, 2004, p. 32). Under *Policy 319*, City Hall shall "designate the historic urban core as the main cultural heritage centre of the nation and diversify the cultural infrastructure so as to ensure that there is a critical mass of attractions" (Kuala Lumpur City Hall, 2004, p. 40). This Policy is explained in detail under *Development Strategy 14.4.4 Urban Identity.*

Based on the scope of heritage conservation and the heritage site or area under *14.4.3(b) Conservation Area*, the *Plan* acknowledges that the conservation programme has been successful in "preserving and conserving important heritage building, but the maintenance of the character of conservation areas has been less successful" (Kuala Lumpur City Hall, 2004, p. 62), but that many new developments were "insensitive to their context and have not integrated successfully with the surroundings" (Kuala Lumpur City Hall, 2004, pp. 62-63). This situation appears to have created an awkward juxtaposition of street views. The failure of enforcement of existing urban design guidelines and policies and the lack of follow-up instrument from the parties involvedbeen identified as one of the main delimiting factors causing this issue (Kuala Lumpur City Hall, 2004, pp. 65-66). As stated in the *Plan*, "currently there is no single body with overall responsibility for devising or implementing urban design policies. The responsibilities are variously divided among the architectural, landscaping, conservation and urban transport departments" (Kuala Lumpur City Hall, 2004, p. 68).

Therefore, several new policies were created to address these issues. These policies include:

i.   UD[4] 19: KLCH shall define, conserve and enhance distinctive identity areas in the City Centre, district, and local precincts;

ii.   UD 20: KLCH shall designate the conservation of areas, places, landscapes and structures of historical and architectural value and significance, and ensure that all developments in their vicinity are sympathetic in form, scale, and character; and

---

[4] Urban Design (UD)

iii.   UD 21: KLCH shall ensure a high standard of architectural design appropriate to the City's regional tropical setting and sympathetic to the built and natural context (Kuala Lumpur City Hall, 2004, pp. 30-32).

Interestingly, in conjunction with issues about heritage buildings and conservation areas, visual elements are also mentioned in this Plan. As stated under *14.2.1(a): View corridors and gateways*, *14.2.1(c): Skyline and Landmarks*, and *14.2.1(d) Visual linkages in the city centre*, the Plan identifies6 main view corridors from the main gateways leading into Kuala Lumpur. These major visual corridors were identified in conjunction with famous city landmark buildings including the PETRONAS Twin Towers and KL Tower that act as landmarks and focal points for views (Figure 5.9(a)). In addition, recognising the visual linkages in the city centre, 7 buildings were added to the *Plan* (2004) as local landmarks (Figure 5.9(b)).
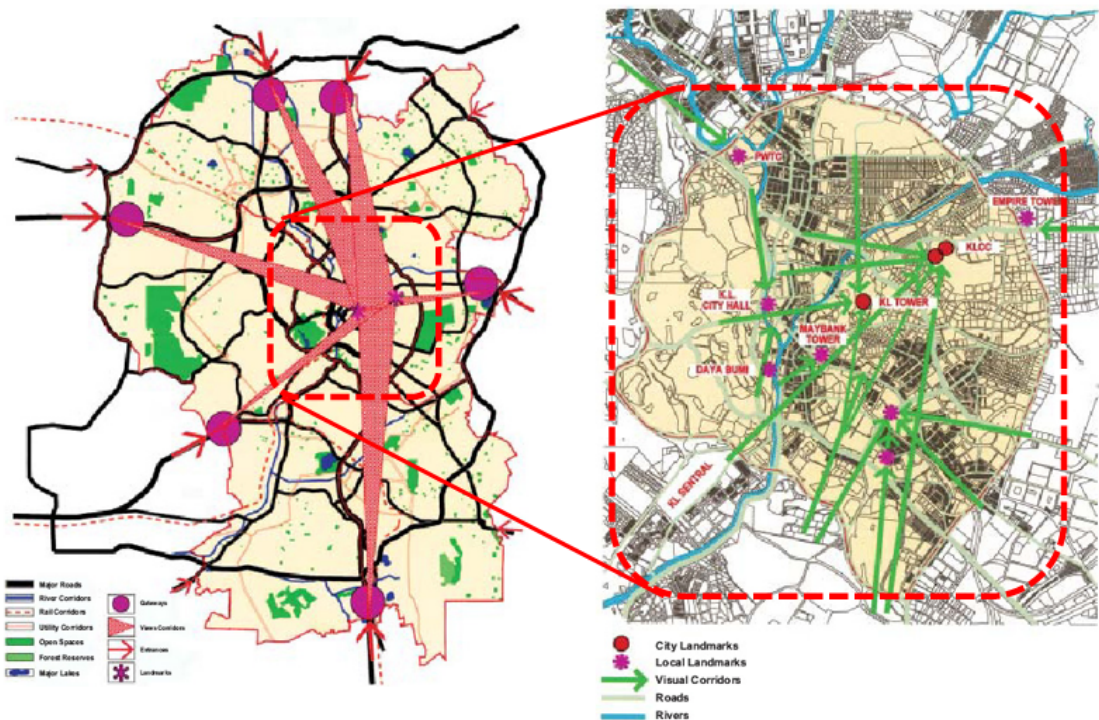
Figure 5.9: (a) Visual corridors for main gateways and city landmarks; **(b)** visual corridors in the city centre.
Source: (Kuala Lumpur City Hall, 2004, p. 28).

These measures demonstrate increased awareness and concern about visual aspects and contemporary changes in the original character of Kuala Lumpur's skyline. In terms of the Old Town of Kuala Lumpur, the original layout of the city and "its small-scale grid patterns have created smaller view corridors and axes" (Kuala Lumpur City Hall, 2004, p. 28). However, broader visual linkages are not well developed. These

broader views affect visual linkages in the city centre, especially to heritage buildings. Further the policy and detail in the KLSP2020 only focus upon the "City's gateways" and the "major roads corridors" (Kuala Lumpur City Hall, 2004, p. 28). There is no specific proposal that considers the Old Town precinct although the Old Town of Kuala Lumpur is mentioned under *Skyline, Landmarks, and Building Height. Proposal 694*wherein in "certain critical areas of the City … buildings should be scaled appropriately to harmonise with existing traditional or proposed lower rise development or particular special character precincts" (Kuala Lumpur City Hall, 2004, p. 29).

Another significant historical element mentioned in the *Plan* (2004) is the Sungai Klang and Sungai Gombak. The *Plan* (2004) recognises both as "one of the symbolic element to the historical existence of Kuala Lumpur" (Kuala Lumpur City Hall, 2004, p. 53). However, policies towards the rivers are limited to the amenity values. There is no suggestion as to the possible gazetting or designating these areas as part of the overall heritage site.

The Old Town is also considered under the *Strategic Zone. Strategic Zone 17.2.2(g) Urban character of the city centres* recognising that:

> The character of the older urban areas in the City Centre such as Chow Kit, Jalan Petaling, Jalan Bukit Bintang, Bukit Ceylon and Pudu shall be preserved and the infrastructure and building quality and general living and working environment upgraded. Conservation and preservation plans for heritage areas will promote a pedestrian-friendly ambience and maintain the rich diversity of street pattern and building vernacular that these areas display(Kuala Lumpur City Hall, 2004, p. 76).

However, there is no further suggestion made as to the specific details of the "conservation and preservation plan"(Kuala Lumpur City Hall, 2004, p. 77).

5.5.2 *Draft Kuala Lumpur City Plan 2020 (DKLCP2020)* **(2008)**

While the KLSP2020 (2004) articulates the development strategies, policies and proposals for Kuala Lumpur, the *Draft Kuala Lumpur City Plan 2020 (DKLCP2020)* (2008) interprets it in detailed development plans. The Federal Territory Minister officially introduced this Draft in 2008. The DKLCP2020 encompasses 3 volumes including *Volume 1: KL City Plan 2020*, *Volume 2 Part 1: KL Development Control Plan*, and *Volume 2 Part 2: Land Use and Intensity Maps*. As stated under *Volume 1: KL City Plan 2020*, one vision for Kuala Lumpur is "to be a liveable city that promotes health, safety, a vibrant economy and a just society that respects the natural

environment and values of its cultural heritage" (Kuala Lumpur City Hall, 2008a, p. 7). Hence, several strategic directions have been planned to achieve this goal.

The DKLCP2020 (2008) list several actions focusing upon the heritage conservation. These include the beautification of Sungai Klang and Sungai Gombak that is also discussed in the *Strategic Direction 8.4 – River Corridor Improvement.* Although the details listed in the initiatives and design principles are more towards "improving amenity value of river corridor", an illustration of Sungai Klang include in the *Plan* (2008) as it is envisioned by 2020, indicates otherwise (Kuala Lumpur City Hall, 2008a, p. 124). The proposed design embodies a visual image of seeking restoration of the original design of the confluence of these two rivers (Figure 5.10). If this visual representation is implemented, the area may be able to bring back the glory of Kuala Lumpur and may become a source of civic pride to citizens.

Figure 5.10: Sungai Klang, 19th century, present day, and as it is envisioned in 2020.
Source: (Kuala Lumpur City Hall, 2008a, p. 124)

Further, the "area along Sungai Gombak and Sungai Klang between Jalan Parlimen and Leboh Pasar Besar" will also be controlled regarding types of activities. Under *Strategic Direction 8.5 – Designating River Corridor Activity* Zone, this area is classified as Zone D, a Passive Zone (Figure 5.11). This *Direction* seeks to ensure that "incompatible or noisy activities do not compromise the serene and dignified ambience around the Mosque [Masjid Jamek]" (Kuala Lumpur City Hall, 2008a, p. 8.12). In addition, to restore the image of the Old Town of Kuala Lumpur the *Direction* suggests that:

> Buildings between Medan Pasar and Sungai Klang will be encouraged to develop double frontages facing onto the river and the more modern, less attractive building to retrofit their facades to create more attractive riverfront elevations which reflect the character of the adjacent historic buildings(Kuala Lumpur City Hall, 2008b, p. 127) (Refer Figure 5.11).
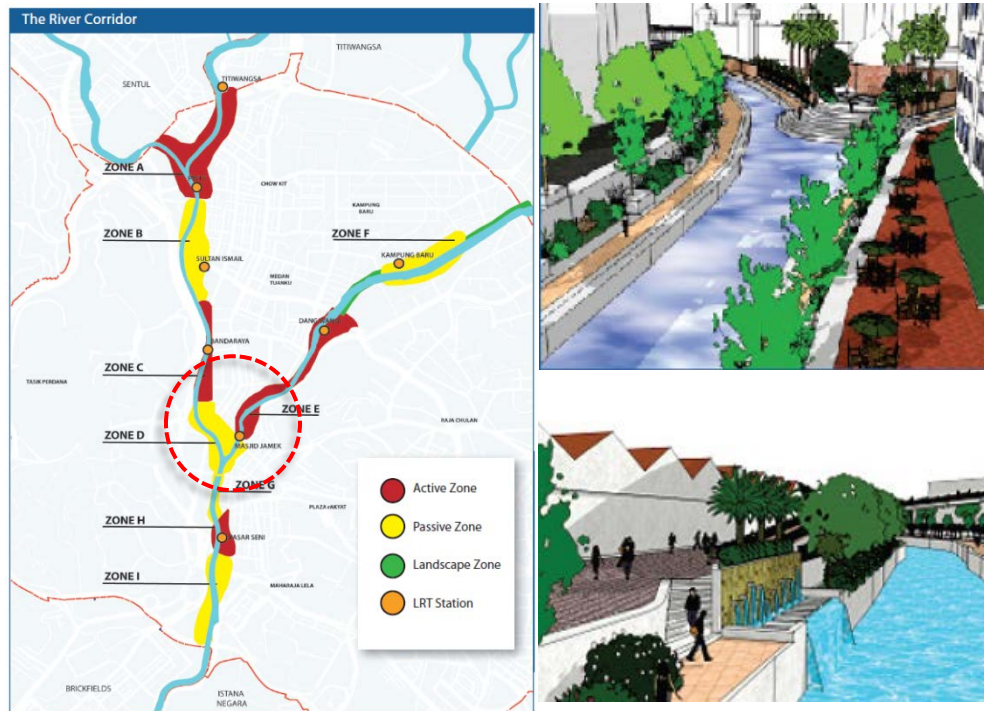
Figure 5.11: The river activities and riverfront designs proposed under the DKLCP2020.
Source: (Kuala Lumpur City Hall, 2008b, p. 126)

Strategic Directions that focus upon the heritage zone, and the distinctive city image and identity of Kuala Lumpur, are mentioned in the final part of *Volume 1: KL City Plan 2020* (2008). The City Hall proposed 5 *Strategic Directions* grouped in 2 categories. These include:

    i.   Conserving Cultural Heritage

        a.   Strategic Direction 9.1: Designating Heritage Zone;

        b.   Strategic Direction 9.2: Conserving Heritage Buildings;

    ii.   City Landmarks and Urban Profile

        a.   Strategic Direction 9.3: Enhancing City Landmarks and Skyline;

        b.   Strategic Direction 9.4: Enhancing City Centre Urban Profile; and

        c.   Strategic Direction 9.5: Enhancing Urban Profile of Other Centers.

The Strategic Directions, grouped under the Conserving Cultural Heritage category, are planned to implement the policy of *Urban Design (UD) 20* in the KLSP2020, as discussed earlier. In line with the main purpose of the *KLSP2020 Policy* (2008) and complicit to the *Strategic Directions*, the major area of the Old Town of Kuala Lumpur has been designated as a Primary Heritage Zone. However, the areas to the east of Sungai Klang which comprises rows of shophouses, including the Old Market Square, are defined as a Secondary Heritage Zone (Figure 5.12). The Primary Zone includes "groups of buildings Gazette under the *National Heritage Act 2005 (Act 645)"* (Kuala

Lumpur City Hall, 2008a, p. 129). The Secondary Zone contains "a mixture of newer and older buildings with significant historic merit" (Kuala Lumpur City Hall, 2008a, p. 129) (Figure 5.13).
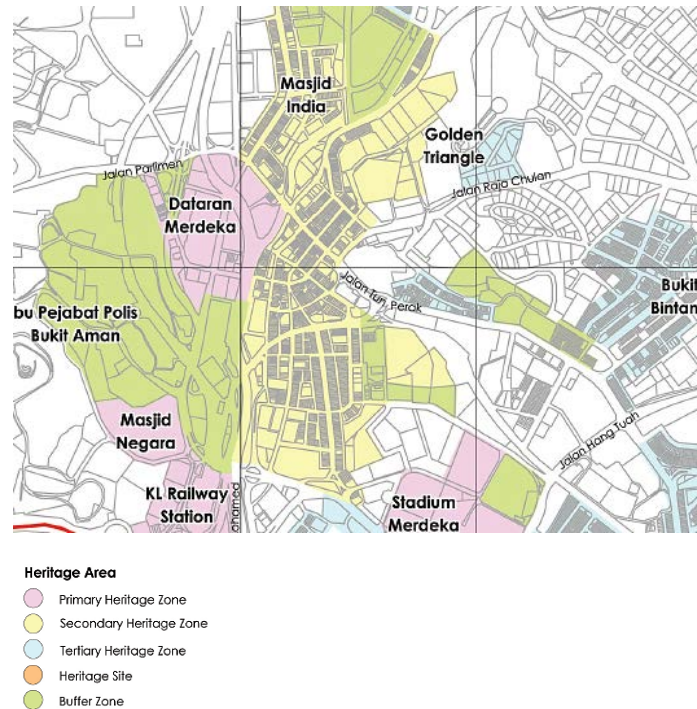
Figure 5.12: Categories of Heritage Zones under DKLCP2020.
Source: (Kuala Lumpur City Hall, 2008a, p. 179)
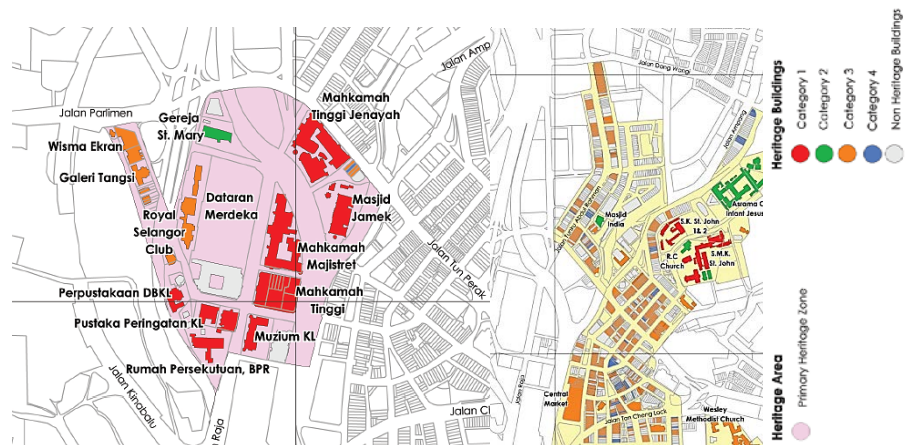
Figure 5.13: Primary and Secondary Heritage Zones with heritage buildings.
Source: (Kuala Lumpur City Hall, 2008a, pp. 186-187)

Under *Strategic Direction 9.2 – Conserving Heritage Buildings,* buildings located in these Heritage Zones have been broken into 3 categories. For Category 1 Heritage Buildings, all buildings that were previously gazetted under *Act 168* and *Act 645* were designated as a Category 1 building. For Category 2 Heritage Buildings, these

buildings have a "significant historical and/or architectural importance" and have not been gazetted under *Act 168* "because they are or were not more than 100 years old" (Kuala Lumpur City Hall, 2008b, p. 130) (Figure 5.13). However, Category 2 Heritage Buildings may be gazetted in the future under *Act 645*. These types of building thereupon would receive attention as all "heritage guidelines for this category are the most stringent" and require consideration by a Design Review Panel for any "major alterations and additions" (Kuala Lumpur City Hall, 2008a, p. 184). Buildings that are designated as Category 3 include buildings that may contain "elements or characteristics of some historical or architectural significance which are recommended to be conserved" (Kuala Lumpur City Hall, 2008b, p. 130). For Category 4, this category is only applicable for "shophouse buildings which are purely contextual value" (Kuala Lumpur City Hall, 2008b, p. 130).

To ensure a thorough protection of these heritage zones and buildings, these areas are bounded by delineated Buffer Zones (Figure 5.12). Buffer Zones are an area with "no inherent existing character" (Kuala Lumpur City Hall, 2008a, p. 184).Their main functions are to adjoin or connect other heritage zones. Hence, Buffer Zones help to "maintain a degree of urban continuity between or around heritage areas and to avoid the sudden juxtaposition of development that is out of scale" (Kuala Lumpur City Hall, 2008a, p. 184). Buffer Zones, which adjoin Primary Heritage Zones, may be developed, but should maintain the existing character of the area(s) (Kuala Lumpur City Hall, 2008a, p. 184).

In terms of the visual corridor policies discussed under the KLSP2020 (2004), the *Strategic Direction 9.3 – Enhancing City Landmarks and Skyline* include heritage monuments as part of the "*Landmark View Corridor* (LV)" (Kuala Lumpur City Hall, 2008b, p. 129). These monuments include the Tugu Negara (National Monument) and Dataran Merdeka (Merdeka Square) (Figure 5.14). Within this scope, the Old Town and its surrounding area have been proposed as a Heritage Zone Height Control Zone with specific guidelines to protect these zones.
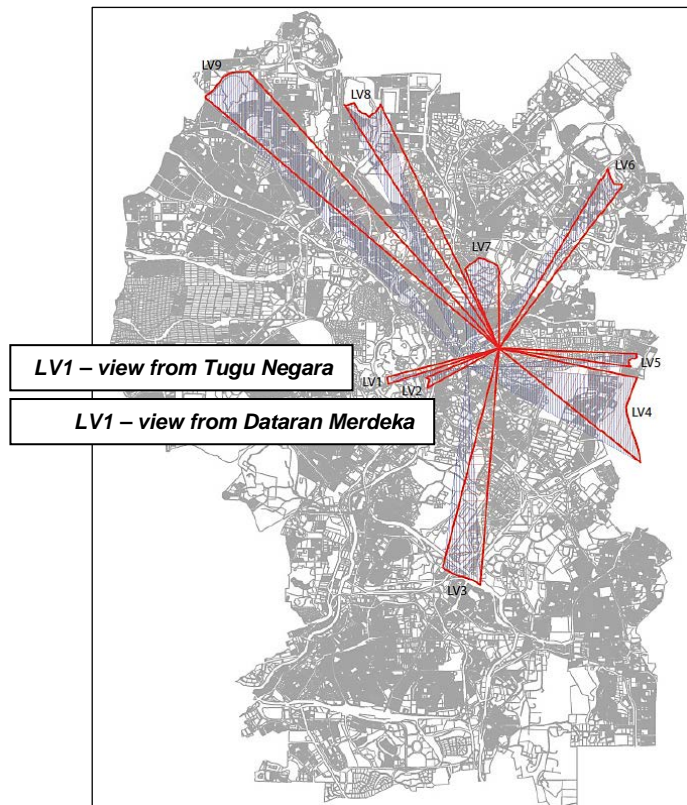
Figure 5.14: Landmark View Corridor (LV) looking towards landmark buildings or monuments.
Source: (Kuala Lumpur City Hall, 2008b, p. 130)

5.5.3 Guidelines of City of Kuala Lumpur

To enable a comprehensive approach to heritage buildings and site conservation, the DKLCP2020 (2008) proposes guidelines to inform all parties involved. A list of guidelines related to heritage buildings and site conservation include:

i.   *Guidelines Relating to Heritage Zones*

The guidelines cover envelope controls, building elements and materials, verandah ways, car and motorcycle parking and advertising and signage;

ii.   *Guidelines Relating to Heritage Buildings*

These guidelines are in compliance with the *Guidelines Relating to Heritage Zones*. Designated Heritage Buildings that lie within designated Heritage Zones will be bounded with this guideline. It includes aspects of demolition works, adaptive reuse, external elements and internal elements and alterations;

iii. *Guidelines for Landmark View Corridor Height Control Zone*

There are two landmarks identified for Kuala Lumpur; the PETRONAS Twin Towers and the KL Tower. Views towards these two landmark buildings are embodied in the *Landmark View Corridor,* and include nine viewpoint designated locations. Tugu Negara and Dataran Merdeka are two of the selected viewpoint locations (Figure 5.14); and

iv. *Guideline for City Centre Heritage Height Control Zone*

The Old Town of Kuala Lumpur is amongst the areas protected under this Guideline. Buildings located within this area are affected by this Guideline.

From all the above mentioned guidelines, there is no specific clause or provision that addresses the conservation of heritage space or area. The focus of these guidelines are more concerned with the conservation of building appearance, and building façade. The *Guideline Relating to Heritage Zones*, for example, only focuses on the 'appearance' of the heritage building but not the space that bounded the item. For example, shophouses are only subject to external conservation, and only limited to "nominal sightlines" that include viewing points from pedestrian streets to the top of the shophouse roof parapet.

5.5.4 *Greater Kuala Lumpur/Klang Valley (Greater KL)* (2010)

In addition to initiatives taken by the Kuala Lumpur City Hall, the national government also plays a direct role in protecting the heritage of Kuala Lumpur. In September 2010, the *Greater Kuala Lumpur/Klang Valley (Greater KL)*(2010) was launched as one of its National Key Economic Areas (NKEA) under *Malaysia's Economic Transformation*(Performance Management & Delivery Unit (PEMANDU), 2014, p. 2). There are nine Entry Point Projects (EPPs) listed under Greater KL (2010). EPPs that relate to a heritage include EPP 5: Revitalising the Klang and Gombak River into a Heritage and Commercial Area, and EPP 7: Creating Iconic Places and Attractions. Both EPPs are still in progress of completion.

Under EPP5: Revitalising the Klang and Gombak River into a Heritage and Commercial Area, this project is badge as the 'River of Life (RoL) Project'. The main aim of RoL is "to transform specific areas within KL facing the Klang River into a vibrant waterfront with high economic and commercial value" (Performance Management & Delivery Unit (PEMANDU), 2013a, p. 12). RoL is divided into three parts; River Cleaning, River Beautification and Land Development. River Beautification involves a

10.7km tract along the rivers. The beautification plans also include landmarks close to the rivers including the Dataran Merdeka, the Bangunan Sultan Abdul Samad and the Masjid Jamek.

Under EPP7, "led jointly by the Ministry of Federal Territories and Urban Wellbeing and KLCH, this EPP will leverage existing attractions and landmarks to cement KL's unique identity and heritage" (Performance Management & Delivery Unit (PEMANDU), 2013b, p. 23). There are four initiatives and three are closely related to the Old Town and centre of Kuala Lumpur. These initiatives are:

i. Establishing and enhancing Heritage Trails (HT) by developing guided pedestrian trails through landmark sites such as Dataran Merdeka, Medan Pasar and Central Market;

ii. Reviving Medan Pasar by transforming the area into a pedestrian arcade;

iii. Upgrading Masjid Jamek (Performance Management & Delivery Unit (PEMANDU), 2013b, p. 23).

One of the biggest changes under EPP7 was the conversion of Medan Pasar into a car-free square in 2013. In 2014, the Minister of Federal Territories launched the new proposal for Medan Pasar. Ongoing initiatives aim to "restore the surrounding historical buildings, [accommodate] change of business operations and [promote] arts and cultural events to market this pedestrian arcade" (Performance Management & Delivery Unit (PEMANDU), 2014, p. 38). If this program is successful, Medan Pasar and its heritage surrounds will be well protected from future developments.

5.6 Conclusion

Heritage conservation management in Malaysia is still a new concept compared to other countries. Efforts are needed to improve heritage conservation in Malaysia to ensure that all heritage elements in areas or sites can be conserved and not at the expense of focusing upon one significant item. Hence, this maturation needs to commence with revisions to the Heritage Act. Legally, in the Malaysian context, an Act is more powerful instead of policies, plans, or guidelines. Proposals or policies stated in a Plan are not 'strong' enough to protect valuable historical buildings and their curtilage.

In 2008, Malaysia successfully included Melaka and Penang as part of UNESCO's World Heritage listed sites. The *National Heritage Act 2005 (Act 645)* was established earlier in 2005, three years before these places were designated by UNESCO. From the perspectives of scholars, it is now time for this *Act* to be revised and amended (Idid & Ossen, 2013, p. 301; Yusoff et al., 2013, p. 76; Zuraidi, Akasah, & Rahman, 2011, p. 7). Confusion in the definitions are evident in the *Act* (Zuraidi et al., 2011, p. 7) and vague legal provisions (Hew, Tong, & Goh, 2014, p. 66) have caused problems in the practice of heritage conservation in Malaysia. There is also evidence of contradictions and overlaps between guidelines adopted by different parties. For example, in the case of Kuala Lumpur, the Pudu Jail was mentioned in the KLSP2020 (2004) as being a heritage monument. However, under DKLCP2020 (2008), the site was proposed for "mixed use commercial" (Kuala Lumpur City Hall, 2008a, p. 51). In 2010, Pudu Jail was officially demolished to make way for a new commercial development.

In addition to legal aspects, all parties should take responsibility for their official roles in heritage conservation, starting from the government, state authorities, local authorities, non-government organisations and local communities. Involvement from all parties is crucial to ensure prolonged and comprehensive actions for conservation efforts (Mustafa et al., 2015, p. 97). The "state of unawareness between the stakeholders to safeguard the "*living heritage*" makes conservation work in most cities in Malaysia difficult to administer" (Idid, 2010, p. 21).

There are opportunities to improve the scope and veracity of *Acts* and guidelines applied in Malaysia. Amendments from time-to-time are needed to ensure that these *Acts* and guidelines are compatible with the latest issues and conditions of heritage conservation theory and practice. Gazetting an area rather than the building itself is also one of the best solutions that could be better embodied under these *Acts* and guidelines. However, the primary understanding of 'heritage' is crucial in ensuring that knowledge can be expanded to include a bigger scope; an area or site conservation. Documents drafted and implemented for Melaka and Penang, as part of their UNESCO's requirements, may offer ideal exemplars to protect heritage sites and not just a single building.

6.1   Introduction

Discussion in the previous chapters included a comprehensive literature review on heritage (Chapter 03), theories of heritage curtilage from a conservation perspective (Chapter 04) and the interpretation of heritage curtilage in the Malaysian context (Chapter 05).This chapter discusses the research methods applied in this study, including the data collection process and procedures used to address the objectives of the study.

Overall, this chapter involves research design, qualitative research, and justification of the selection of such qualitative research, data collection strategies, and data analysis. The discussion includes:

i)   the rationale of the selected research questions;

ii)   the development of research methodology or study approach;

iii)   the research philosophy;

iv)   the research approaches used in the study;

v)   the review of the procedures involved in data collection; and

vi)   the techniques in the data analysis.

As discussed in Chapter 03, the implementation of the concept of heritage curtilage conservation is still new, and the term is not even mentioned in any of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) documents. However, appreciation of heritage curtilage by local planning authorities, especially in the United Kingdom and Australia, has given a new conservation perception about the future of this heritage form.

For a new field of research, qualitative research design is appropriate as it can provide a deeper understanding of the research (Silverman, 2000, p. 6). Moreover, it gives preference to understanding human "meaning making" (Patton, 2014, p. 4). Hence, for this study, a case study has been used as the research approach, with site assessment, interviews and a literature review employed as the research techniques. Direct engagement between the researcher and respondents in qualitative research was also applied to realise a precise picture in determining what is meaningful for curtilage (Patton, 2014, p. 5; Silverman, 2000, p. 90).

6.2   Research Questions

Careful development of research questions is important as these questions will lead to an appropriate methodology and approaches used in research (Light, Singer, & Willett, 1990, p. 13). As pointed out by Yin, this is the most important step in a research study (Yin, 2011, p. 19). Research questions have been structured carefully to identify, interrogate and solve the main issue in this research, as well as to achieve the objective(s) of the study. Therefore, "research questions can, and should be, tested" (Silverman, 2000, p. 79). They provide an "important clue regarding the appropriate research strategy to be used" (Yin, 2011, p. 19).

In this study, the research questions commenced with general concerns about theories and concepts of heritage curtilage conservation and the current knowledge of this heritage item through legislation and criteria used around the world. Questions then evolved about to current practices of heritage conservation in Malaysia. Further, questions unfolded about the appropriate design methods and criteria relevant for the adoption of a local heritage curtilage in the Malaysia context. The details of the key research questions are as listed below:

1. What are the theories or concepts of heritage curtilage conservation that could be applied in this research?
2. Is heritage curtilage around the world properly considered and what is the legislation or criteria used to conserve this form of heritage?
3. Is heritage curtilage recognised in Malaysia for heritage building?
4. Is Malaysia's heritage curtilage being properly considered having regard to the relevant legislation and criteria used in Malaysia, or in other related countries?
5. What are the most appropriate design methods or design criteria for conserving these local heritage curtilages?

The selection of these research questions is constructed considering various aspects of the research. These questions sought to ensure a valuable outcome to the research and a wider 'contribution to knowledge'. Such must be precise, clear and comprehensive to the research and fill gaps in the existing knowledge (Light et al., 1990, p. 19). To identify the best actions for conserving heritage curtilages either by conservationists around the world, or by Malaysia's stakeholders, a conceptual framework was developed to depict the relationship between concepts and research questions.
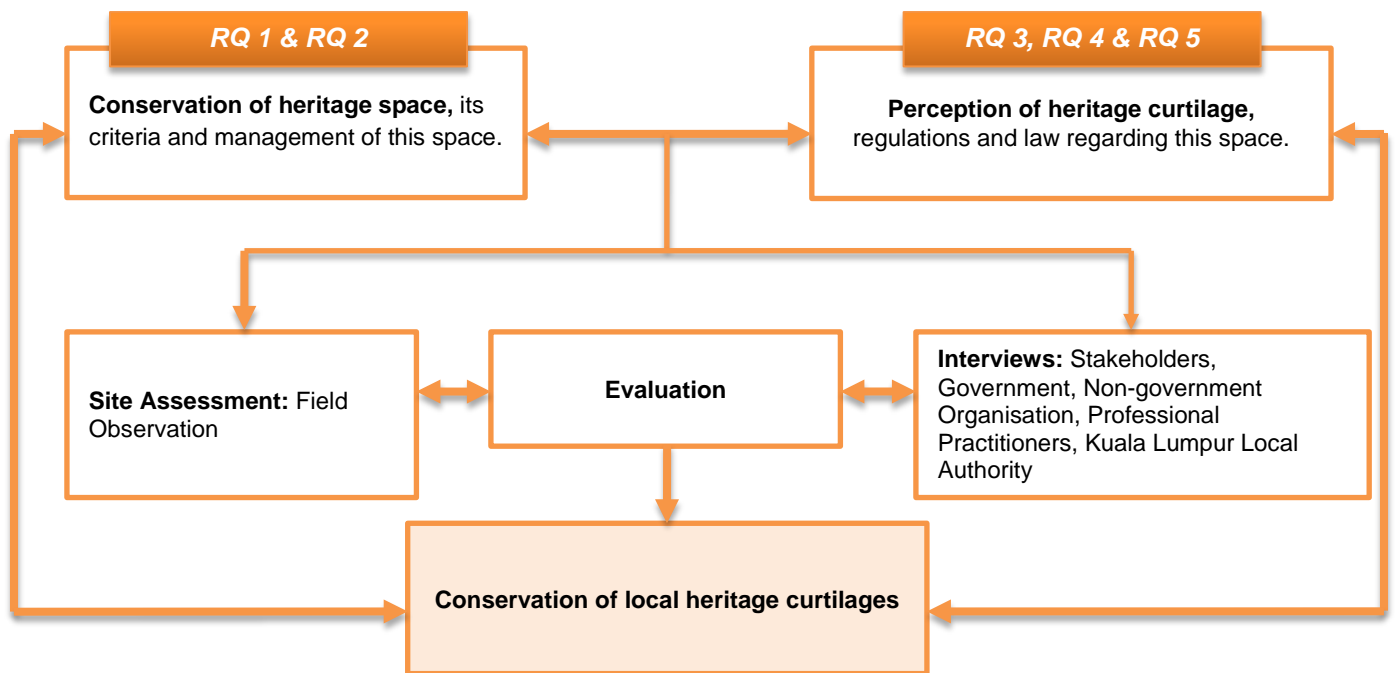
Figure 6.1: Conceptual framework of the research.

In the above figure (Figure 6.1), the first box on the top left-hand site is used to address the issues raised in Research Questions 1 and 2. Most of the issues discussed have explored the importance of heritage curtilage in retaining the identity of place. Using the theories and concepts applied in other countries and organisations helped to identify the main criteria of a heritage curtilage. The information gathered in Questions 1 and 2 were crucial to answer issues in Questions 3, 4 and 5 because these are connected to each other (as shown in the box on the top right-hand side).

6.3   Research Methodology / Selection of Study Approach

"Research is a systematic investigation to find answers to a problem" (Burns, 2000, p. 3) and must "suit the method to the problem, and not the problem to the method" (Linstone 1978 cited in Kagioglou, Cooper, Aouad, & Sexton, 2000, p. 143). The development of research questions determines the best methods and approaches for gathering data and information needed. To answer these questions, appropriate techniques have been chosen to achieve the primary purpose of the research.

Based on the research questions, this research applied a qualitative research method as it involved "a specific understanding of the relation between issue and method" (Flick, 2002, p. 40). Moreover, it is based on the nature of reality in obtaining knowledge and

understanding of the research (Wilson, 2002). Through qualitative research, researchers have the "ability to study meaning" (Bryman, 2012, p. 617).

Adopting a 'nested approach model' (Kagioglou et al., 2000, p. 143), this research design was based upon 3 main research paradigms; research philosophy, research approaches and research techniques (Kagioglou et al., 2000, p. 143; Yin, 2011, p. 11). Each paradigm comprises different elements which suit the research questions (Figure 6.2).
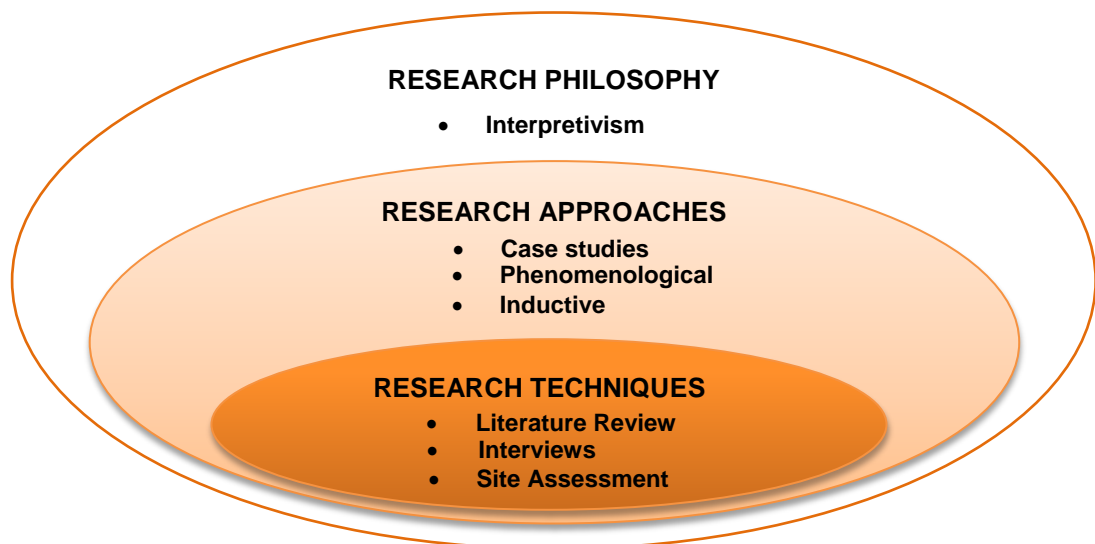
Figure 6.2: Nested Model Approach for research design.
Source: Adapted from (Kagioglou et al., 2000, p. 143).

The outer ring of Figure 6.2 represents the research philosophy that "guides and energizes the inner research and approaches and research techniques," whereas research approaches include the "dominant theory generation and testing methods" (Kagioglou et al., 2000, p. 143). The research technique encompasses the data collection and data analysis.

6.4   Research Philosophy: Interpretative Paradigm

Research philosophy is considered a major component in research as it involves research approaches through appropriate research techniques. The development of a research philosophy is based upon the researcher's personal lens on what knowledge to concentrate upon and which process to develop (Saunders & Tosey, 2012, p. 58). Such guides the researcher on concentrating on data needed for a specific strategy. Underpinning the methodology, there are two components in research philosophies that are important; the positivism and interpretivism paradigms (Bryman, 2012, p. 19; Taylor & Media, 2011, p. 9). The word paradigm is used as it represents "a way of examining

social phenomena from which particular understandings of these phenomena can be gained and explanations attempted" (Saunders, Lewis, & Thornbill, 2009, p. 118).

These two elements represent a different logic to the research. Positivism is more related to 'scientific knowledge' where it derives from quantifiable observations (Saunders & Tosey, 2012, p. 58; Taylor & Media, 2011, p. 10). It is purely dependent upon facts and has very minimal interactions with participants (Wilson, 2002, p. 8). Moreover, positivism is reliant upon "the law of large numbers to provide generalizable conclusion" (Wilson, 2002, p. 10), that concentrates upon data that is highly structured and measurable (Taylor & Media, 2011, p. 58). For qualitative research methods, positivism is considered unsuitable for research in the field (Markula & Silk, 2011, p. 200).

Interpretivism lies in contrast to positivism. Interpretivism is more reliable in qualitative research because data is mostly gained from the interactions with participants through participant observations and interviews (Bryman, 2012, p. 32). This philosophy relates to the "study of the social phenomena in their natural environment" (Saunders & Tosey, 2012, p. 58). It focuses upon people rather than objects. Thus, it "enables researchers to build rich local understandings of the life-world experiences" (Taylor & Media, 2011, p. 12). With this approach, it helps to generate an "in-depth understanding through description and interpretation rather than focus on measurements and prediction" (Hamilton, 1972 in Tones & Tilford, 2001, p. 162). The data gained is value-bound as each participant has their particular set of circumstances that differ based upon time and situation (Saunders & Tosey, 2012, p. 58). In addition, it also reflects the "identity of both the researcher and the research subjects" which helps to limit the generalisability of research findings (Collins, 2010, p. 39).

The selection of this research philosophy reflects the research questions in this study, which seek to identify and develop local heritage curtilage in the Malaysian context. Instead of having generalised data, the results are obtained from the interpretations of selected participants.[1] Through participants, data is interpreted and classified to achieve the aim of the study. To certify the validity of the data, there are three trustworthiness criteria involved which include credibility, dependability, and transferability (Guba & Lincoln, 1989 in Shenton, 2004, p. 64). Guba's criteria[2] helps to ensure that data gained from this study is valid and interpreted based purely on participant experiences. Within

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[1] Selections of participants are based on criteria stated by the researcher. The details on this justification will be discussed thoroughly under topic 5.5: Research Techniques.
[2] Each criterion stated will be elaborated in 5.6: Data Analysis.

this process, results obtained are more 'authentic' as they are delivered through human experiences (Collins, 2010, p. 39).

6.5 Research Approaches

The choice of research philosophy guides the researcher to the next process in the research. It relates to the "development and nature of knowledge" (Collins, 2010, p. 36). According to Saunders et al. (2009), research strategies and methods are two elements that underpin the research approach (Saunders et al., 2009, p. 108). These two elements give significant assumptions on how the research will be conducted. Referring to interpretivism philosophy, there are three main approaches related to this philosophy; the inductive approach, the phenomenological approach, and the case studies approach. These approaches are discussed in different subsections herein to explain their significance to this study.

6.5.1 Inductive Approach

Different research philosophy results in various approaches because both are attached to different research realms. Saunders et al. (2009), stated two main approaches to research; the deductive and the inductive approaches (Saunders et al., 2009). These approaches engage in different patterns of thinking or basic views on the research. Such are related to the "existence and placement of hypotheses and theories" (Dudovskiy, 2013, p. 69). Therefore, researchers should understand and think about their data scrutiny before rejecting any of these approaches (Strauss, 1990, p. 12).

Quantitative approaches largely use a deductive, hypothesis-based approach allowing for generalisations of results. A deductive approach starts with a general statement that formulates into a specific conclusion (Joubish, Khurram, Ahmed, Fatima, & Haider, 2011, p. 2083). There are three principles in the deductive approach; collecting, induction and validation examples (Strauss, 1990, p. 11). However, this approach fails to incorporate new social contexts and perspectives (Flick, 2002, p. 2). Inductive research fills this gap by generally relying upon qualitative methods to help build theory (Denzin & Lincoln, 2011, p. 9).

The inductive approach has been adopted by the qualitative researcher because the data analysed is based upon the pattern of meaning instead of numerical forms and statistics. Therefore, inductive researchers tend to engage with people in their study because people are a representative sample of the wider population. The data collection process

and analysis allows for greater flexibility (Flick, 2002, p. 2). It allows the researcher to obtain knowledge of local people distinctively as the 'local' knowledge (Geertz 1983, in Flick, 2002, p. 2).

This study applied an inductive approach as it gives an "understanding if the meanings people attach to various context" (Collins, 2010, p. 43). As discussed earlier in this chapter, participants' experiences are one of the main strategies for sourcing answers to research questions. Within this approach, methods are applied to establish different views which can inform the study. Hence, a small sample of participants is more appropriate to generate the data needed for this study.

6.5.2 Phenomenological Approach

"Implicit in the choice of qualitative methods is a relationship to a phenomenological perspective on the nature of reality, and our ability to understand it and gain knowledge of it" (Wilson, 2002, p. 10). Phenomenology refers to "the way in which we as humans make sense of the world around us" (Saunders et al., 2009, p. 116). The term, which started in the 20th century by Edmund Husserl, is also related to interpretivism philosophy. Phenomenological involves a "continual process of interpreting the social world around, and using that we interpret the actions of others with whom we interact, and this interpretation leads to adjustment of our meanings and actions" (Saunders et al., 2009, p. 116). Moreover, it is looking for 'authentic', 'vibrant' and 'fresh' data instead of a one-dimensional result (Collins, 2010, p. 39).

In the phenomenological approach, the researcher should be able to understand the correlation between "experiencing" and "that which is experienced" (Behnke, 2015). Therefore, interviews and observation are methods used in phenomenology and have been applied in various disciplines (Lester, 1999, p. 2; Wilson, 2002, p. 8). These approaches manage to gather information and perceptions from the perspective of the research participants.

This approach, applied in this study, is based on "personal knowledge and subjectivity, and emphasis on the personal perspectives and interpretation" (Lester, 1999, p. 1) about the heritage conservation issue in Malaysia. It helps to uncover, explore and develop the concepts of heritage curtilage having regard to the Malaysian context. Moreover, the phenomenological approach could address the issue and unveil "what lies behind the phenomena" (Wilson, 2002, p. 446) between stakeholders and heritage practitioners in Malaysia. Hence, it helps to understand the phenomenon within a particular period and scaffold the development of appropriate conservation criteria for local heritage curtilage.

Regarding guidelines and law implementation, this approach could "inform, support or challenge policy and action" (Lester, 1999, p. 1).

6.5.3 Case Studies Approach

As discussed earlier, the phenomenological approach can also be applied to case studies to identify issues (Lester, 1999, p. 1). However, Wolcott (2009) claims that a case study is not a research strategy for conducting data, but is only suitable for reporting (Wolcott, 2009, p. 85). This is rejected by Bryman (2012) and Yin (1989) who accept a case study as one of several research strategies (Bryman, 2012, p. 68; Yin, 1989, p. 13). In fact, in architectural research, case studies are the core approach in research strategies (Groat & Wang, 2013, p. 16). As a research strategy, it allows "an investigation to retain the holistic and meaningful characteristics of real-life events" (Yin, 1989, p. 14). Thus, it can be adapted in all phases of design, data collection and analysis, and reporting.

The case study approach enables a researcher to conduct an in-depth and thorough analysis (Zainal, 2007, p. 2). It is based on the research questions of 'how' and 'why' and is part of explanatory studies (Yin, 1989, p. 17). Details obtained through case studies not only help to explore or analyse data in real-life environments but also explain the complexity of real-life situations that may not be obtained through experiments or surveys.

There are two types of case studies approaches; the single-case study and multi-case study (Yin, 1989, p. 45). Adoption of either in this study depends upon the research questions (Yin, 1989, p. 46). This study adopted a single-case study located in Kuala Lumpur, Malaysia. The rationale for this selection was made to test theories and concepts of heritage curtilage in Malaysia. A single-case approach helped to "confirm, challenge, or extend the theory" (Yin, 1989, p. 47). Further, it can offer and represent a significant contribution to knowledge and theory-building (Yin, 1989, p. 47). As mentioned earlier, it is about the 'how' and 'why' questions. 'How' heritage conservation is practiced in Malaysia and 'why' Malaysia needs to conserve curtilage as part of its local heritage. However, this approach receives criticism because of its lack of robustness as a research tool (Zainal, 2007, p. 2). To overcome this issue, this study has applied triangulation techniques; literature review and semi-structured interviews. This helps to confirm the validity of the process.

6.6   Research Techniques

Research techniques are about 'how' to obtain sufficient and reliable data for the research. The selections of techniques are based upon the selected research approaches and procedures used to obtain the data. In interpretivism philosophy, research techniques usually involve "small samples, in-depth understanding, and qualitative" (Saunders et al., 2009, p. 119). There are three techniques applied in this study; literature review, site observation, and interview (Figure 6.3).

STAGE 01:

Background of Study & Literature Review
(Secondary Data Collection-
Books, journals, articles, magazine, etc.)

STAGE 02:
Reviews – concept of curtilage & practices in Australia and Malaysia

STAGE 03:
Site Survey (Primary data collection)

Data Collection Techniques

Pilot Study:
a.   Site Observations
b.   Interview

- Main study setting
- Refine Research techniques
- Variation & implementation of theoretical framework

Site Assessment
(Observation Technique & Documentation)

14 selected sites
(National Heritage List)

Interview

i. *Type of Interview*: Standard Structured Interview (Open-ended questions);
ii. *Target Population*: Group of authorities (Local Sub-set); and
iii. *Scheduling Interview*.

STAGE 04:
Analysis and Synthesis
Based on data collection in Stage 01 and Stage 02, data will be:
➢ Tested;
➢ Evaluated;
➢ Identified based on Legislation and Typology.

STAGE 05:
Writing & Presentation

Figure 6.3: Research Techniques.

6.6.1 Stage 01: Literature Reviews

Based on Fink (2014), a literature review is a process of identifying, evaluating and synthesizing existing work created by researchers, scholars, and practitioners in the field related to the issues to be studied (Easterby-Smith, Thorpe, & Lowe, 2004, p. 159; Fink, 2014, p. 3). Reviewing literature is based upon the research questions, methods and strategies for analysing the findings (Fink, 2014, p. 3; Groat & Wang, 2013, p. 101). It helps to sharpen the focus of research by understanding research gaps through limitations, and the research areas that need to be concentrated upon. Hence, it serves as a theoretical base to familiarise the study with credible sources of academic work that underpin the framework of the thesis (Easterby-Smith et al., 2004, p. 159). Through these processes, it will reveal a gap in knowledge that needs to be identified.

The first stage of this study commences with a review of the existing literature about the history of Kuala Lumpur. This is considered as the first "target population" (Deming & Swaffield, 2011, p. 146) as it provides the historical data needed for understanding old Kuala Lumpur. The existing literature of the history of Kuala Lumpur helps to "stimulate theoretical sensitivity" (Silverman, 2000, p. 191; Strauss, 1990, p. 11) by providing concepts of the 'original' heritage curtilage upon selected and gazetted heritage buildings. Most of this archive collection was sourced from the National Library of Malaysia, the Library of Kuala Lumpur and the National Archives of Malaysia. These included records and books on old Kuala Lumpur, as well as photos, postcards, and drawings. The only limitations were that some of the special collections had very limited access. These latter collections could only be accessed through application to the chief librarian or archives staff. This historical data deepened the researcher's understanding of the context required for the study.

From the historical data, the literature review shifted to theories and concepts of heritage curtilage conservation around the world. Literature on this topic is relevant to answer research Questions 1 and 2. This has been discussed in detail in Chapters 3 and 4. The reviews of literature in both chapters stimulated ideas on "where to uncover phenomena" (Silverman, 2002, p. 192) related to the theory and the concept of heritage curtilage. It helped the researcher to move from general literature to a more focused research topic (Groat & Wang, 2013, p. 144). Thereupon, the literature study was narrowed to the application of heritage curtilage conservation in Malaysia. The discussion continued with consideration of select heritage buildings as gazetted under the *National Heritage Act 2005 (Act 645)* located in the Old Town area of Kuala Lumpur.

6.6.2 Stage 02: Reviewing the Heritage Curtilage Concepts and Theories

After reviewing all the data obtained from the first stage, this data was reviewed and categorized based upon the concepts and theories of heritage curtilage. During this stage, all legislation types including amended *Acts* that related to heritage conservation in the United States, United Kingdom and Australia were reviewed. In addition, it also included legislation applied by international organisations.

In addition to the concepts and theories reviewed are typologies of heritage curtilages. These typologies were based upon guidelines for heritage curtilages that were prepared by the New South Wales (NSW) Heritage Office, include certain typologies used by the Government of Malaysia and Malaysian non-governmental organisations (NGOs).

6.6.3 Stage 03: Site Observations

From the literature review, a "theoretical sampling" was developed to "give ideas on where to go to uncover phenomena relevant to the development of the theory and concept" (Silverman, 2002, p. 192). As part of the phenomenological approach and case studies approach, fourteen gazetted and listed national heritage buildings were selected in the Old Town of Kuala Lumpur. The selection of these buildings was based upon the buildings gazetted presently under the *National Heritage Act 2005 (Act 645)*. These fourteen heritage buildings include:

1. The Residency Building;
2. The National Flag post;
3. The City Hall Building and Theatre;
4. The Sultan Abdul Samad Building;
5. The General Post Office;
6. The Public Works Department Building;
7. The Parliament House;
8. The Carcosa Seri Negara;
9. The National Monument;
10. The National Mosque;
11. The KTMB Headquarters;
12. The KTMB Station;
13. The Selangor Chinese Assembly Hall; and
14. The National Palace.

The rationale for conducting a site observation is to guide the researcher on "collecting, analysing and interpreting case studies" (Nachmias and Nachmias, 1976 in Yin, 1989, p. 28). Hence, a pilot study was conducted before performing data collection on the real site. This helped to "refine the content of the data and the procedures to be followed" (Yin, 1989, p. 80). The pilot study was conducted at The Rocks, Sydney, Australia, and informed by a Sydney Harbour Foreshore Authority representative. The pilot study provided conceptual clarification about how heritage curtilage conservation is applied under the NSW heritage regime. It also allowed the study to observe different phenomena from different angles and approaches.

The selection of The Rocks was made because the criteria applied during site observation in Kuala Lumpur were based upon the New South Wales *Heritage Curtilages* (1996) manual. An appropriate criterion is important as it is part of the case study validity and reliability (Yin, 1989, p. 42). All criteria for identifying heritage curtilage were tested on each building.

This technique included observations of heritage buildings and their surroundings, the relationship between these buildings and their environments (including natural or built environments), and the types of heritage curtilages that apply for these buildings. During these observations, appropriate methods of recording were used including field notes and digital image capture at that time. This technique helped to obtain a better understanding of the site context, and enabled cross-checking of information and evaluation of possible differences between heritage guidelines and heritage practice.

In addition to this process, this study also included reviewing collections of old photographs of that particular site, layout plans, boundary lot plans, Geographic Information Systems (GIS) data and other archive collections.

Data obtained from site observations was also important to make comparisons of secondary data and the real site situation. In this study, comparisons were also made between laws and legislation implemented in Malaysia and Kuala Lumpur and tested on the selected sites. During this process, photos and notes were taken and recorded on maps for each case study location. The same procedures were conducted for each building to increase the validity of the study and to minimize errors and biases (Yin, 1989, p. 45).

Once completed, data was analysed, and each building was grouped, based on four types of heritage curtilage. The selection of types of heritage curtilage was also based upon the NSW *Heritage Curtilages* (1996) manual. To increase the validity of the data, the findings

were tested on participants during the interview sessions. This step sought to confirm either "the theory propositions are correct, or whether some alternatives set of explanations are relevant" (Yin, 1989, p. 47).

6.6.4 Stage 03: Interviews

In addition to site observation, interviews were another strategy to obtain the reality of what exists in the social world (Miller & Glassner, 2002, p. 99). Interviews are an essential source for case studies and involve human affairs perceptions and values (Yin, 1989, p. 90). Interviews are also part of the interpretative philosophy and phenomenological approach (Mason, 2002, p. 56). Although this strategy thoroughly criticizes feasibility and desirability, well-informed participants can provide valuable insights into a current situation (Miller & Glassner, 2002, p. 99; Yin, 1989, p. 91). This helps to answer the questions of 'how' and 'why' and generate authentic data through people's experiences (Silverman, 2006, p. 113; Yin, 1989, p. 19). It can also provide data that complements information from a text (Miller & Glassner, 2002, p. 101).

This strategy was chosen in this study as it offered more space to the participants to express their perceptions of events and the questions asked could be immediately clarified. Information obtained from this strategy was varied as it was based on the participants' knowledge, values, preferences, and attitudes instead of standardized data obtained from a questionnaire (Gray, 2009, p. 370). Interviews are also appropriate to test theory and concept in a non-native language situation (Gray, 2009, p. 371). Therefore, it is suitable for this type of study as the term 'curtilage' is implemented in English-speaking countries including Australia and the United Kingdom, yet is still new in Malaysia.

Obtaining meaningful data from interview sessions involved numerous techniques. This study applied semi-structured open-ended questions through an in-depth interview. Once approved by the University of Adelaide's Human Ethics Committee, the questions were tested on selected participants. This procedure also involved establishing interview protocols to ensure that the interviews were conducted appropriately (Figure 6.4).
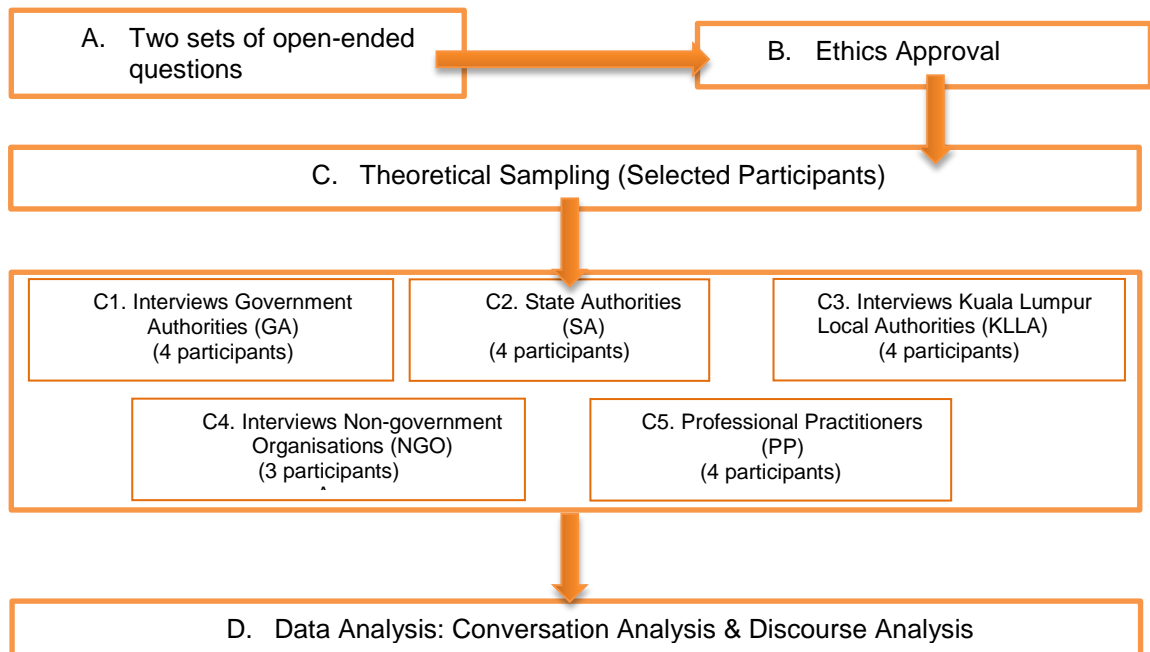
Figure 6.4: Procedures involved in interview strategies.

A. Semi-structured - Open ended questions - In-depth interview

Semi-structured interviews are widely used in qualitative research. This strategy requires "understanding the aims of the project" in the interview to ensure that the research questions are answered (Silverman, 2000, p. 111). The interviewer should be able to raise specific points that "determine the impact or meaning" to the study and "prevent the interview from remaining on the level of general statement" (Flick, 2002, p. 75). During this process, the interviewer needs to decide whether the answers are deep enough or require further enquiry and whether the range is completed before proceeding to the next questions in the interview (Flick, 2002, p. 75). Hence, contradictory answers can be better handled. This method was applied in this study and the questions were coded thematically starting from a general question on 'what' is heritage to more theoretical questions pertaining to 'what' heritage curtilage is and 'how' it could be implemented in Malaysia.

The process of developing a semi-structured interview questionnaire for the proposed participants was crucial as well-designed questions can result in a good interview (Kajornboon, 2005, p. 2). It is also necessary to ensure that it can attain and address highly personalized data needs in research (Gray, 2009, p. 371). As mentioned earlier, a pilot survey was conducted amongst professional practices in Malaysia and Australia, including Adelaide and Sydney. The questionnaire was also presented and discussed thoroughly amongst other international postgraduate students in the School of Architecture, Landscape Architecture and Urban Design (SALUD), University of Adelaide

(UoA), to ascertain whether the questions applied in the questionnaire were capable of achieving the main objective of the research and could answer the research questions. The questions were arranged according to the particular theme of heritage curtilage. The method involved a 'theory-driven' strategy. The questions were "oriented to the specific literature about the topic or based on the researcher's theoretical presuppositions" (Flick, 2002, p. 81). Thus, this process sought to ensure that answers gained from the interviewee during the interview session were explicit knowledge rather than implicit (Flick, 2002, p. 81).

Based upon Flick (2002), the use of supporting materials including an excerpt from a text or a picture sought to increase specificity amongst the interviewee (Flick, 2002, p. 75). Thus, it will provide a more accurate answer but "general enough to avoid having the interviewer structure it" (Merton and Kendall, 1946 in Flick, 2002, p. 75). Interviews conducted earlier during the pilot survey identified areas for improvement in the questions to be used during interviews carried out in Malaysia. Hence, an improvement was made based upon the pilot tests. The first enhancement involved introducing the concept of heritage curtilages through definitions used in the *Heritage Curtilages Manual* (1996), and secondly by graphically attaching four illustrative types of heritage curtilages as applied in the Manual. These diagrams were necessary as they helped the participant to state their perception about which curtilage was appropriate because this term was still new in the Malaysian context and amongst its architectural, planning and heritage practitioners (Figure 6.5). For the proposed participants in the Federal Territory of Kuala Lumpur, there was an additional diagram superimposed upon a map of Kuala Lumpur with the locations of all gazetted heritage buildings under the *National Heritage Act 2005 (Act 645)* (Figure 6.6).

Type 1 (Lot Boundary) Curtilage

Type 2 (Reduced) Curtilage

- Comprises the boundary of the property containing the heritage items
- May be desirable to provide a heritage curtilage, which maintains the link between the two.

- Significance of an item may not relate to total lot, but to a lesser area.
- Less than the lot boundary of the property.

Type 3 (Expanded) Curtilage

Type 4 (Composite) Curtilage

- Required to protect the landscape setting or visual catchment of a heritage item.

- Applies to heritage conservation areas: historic district, village, suburban precinct.
- Encompass heritage items which have a distinctive homogenous character.

Figure 6.5: Diagrams of four types of heritage curtilages attached with the questions to the proposed participants.
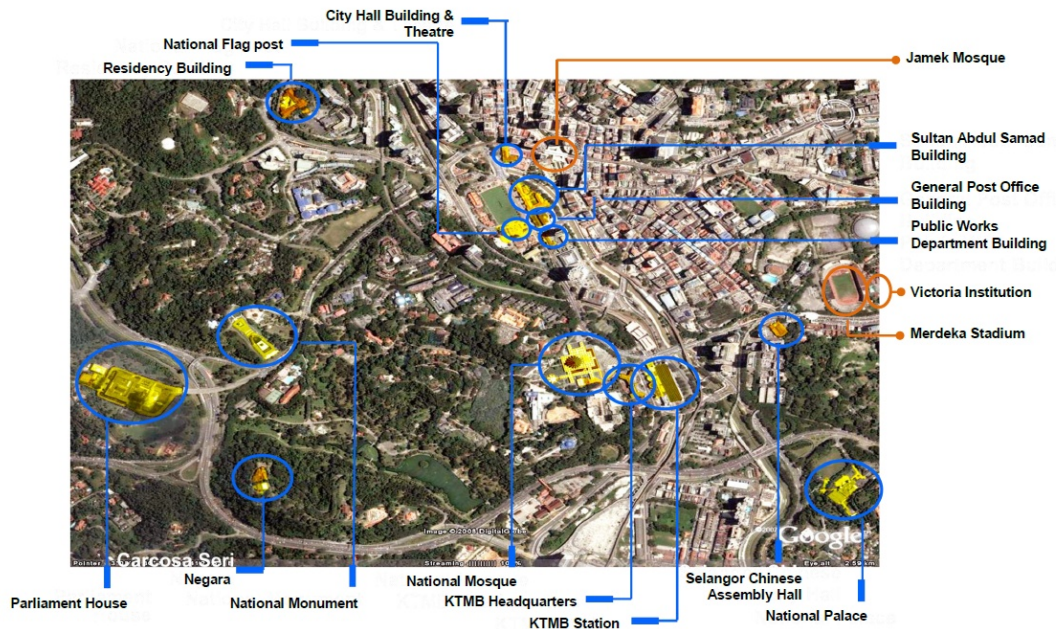
Figure 6.6: Diagram attached for the proposed participants in the Federal Territory of Kuala Lumpur.

There is no standard number of questions to test on different groups of interviewees. However, different types of questions can generate different answers. Based on Scheele and Groeben (1988), questions informed by 'subjective theory' are owned by the interviewee. Subjective theory is the "stock of knowledge about the topic under study" known by the interviewee (Flick, 2002, p. 80). Therefore, different types of questions were applied in this study. There were two sets of questions developed for the interview session. One was for the proposed participants in the Federal Territory of Kuala Lumpur[3], and the other set was specific for participants within and involved with the UNESCO World Heritage Site (WHS) of Penang and Melaka.[4] The main reason for conducting two sets of questionnaires was based on the likelihood that the WHS participants would have a different interpretation of heritage curtilage given that this site is more legislatively and procedurally informed by UNESCO's criteria and protection by various Malaysian (including Penang and Melaka State) laws and regulations. In contrast, in Kuala Lumpur, only buildings are listed as heritage items and not areas of the Old Town. Asking different questions from various interviewees can generate situated knowledge with all interviewees (Mason, 2002, p. 65). Hence, the 'subjective theory' of various participants is crucial in interpreting their understanding of heritage curtilages.

Driven by 'subjective theory', the questions for this study were arranged with an open question to open the questionnaire followed by a confrontational question. The questions for the proposed participants started with the topic of heritage in Malaysia and ended with contemporary issues in heritage conservation in Malaysia. Referring to the open-ended questions technique, the arrangement of questions sought to develop trust between the interviewer and the interviewee (Flick, 2002, p. 81). This offered more scope for the respondent to express their knowledge and understanding arising from each questions. It also provided the "maximum opportunity for the construction of contextual knowledge by focusing on relevant specifics in each interview" (Mason, 2002, p. 64).

In-depth interviewing applied throughout the interview sessions was to ensure competence data gained from the interviews. It involved "intensive individual interviews with a small number of participants" (Boyce & Neale, 2006, p. 3). The in-depth interview mainly focused upon the topic of study rather than other unconnected information (Flick, 2002, p. 77). Moreover, the in-depth interview also provides more detailed information than other data collection techniques (Boyce & Neale, 2006, p. 3; Silverman, 2000, p. 19). This strategy was applied so as to explore the participant's perspectives on the term;

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[3] Refer Appendix F – Questionnaires (for Kuala Lumpur's participants).
[4] Refer Appendix G – Questionnaires (for Penang and Melaka).

'heritage curtilage'. It sought to help the interviewer to be more focused upon interviewee experiences and to refer to the current situation or dilemma of this concept in Malaysia.

B. Research Ethics

Before the research can be conducted, the researcher needs to ensure that they have followed the "international and national ethical research standards, including review by research ethical committees" (Boyce & Neale, 2006, p. 4). Based on Mason (2002), research ethics and politics give more freedom and control to the interviewee. Thus, it generates a "fairer and fuller representation of the interviewees' perspectives" (Mason, 2002, p. 66). As the qualitative fields usually involved an "intimate engagement with the public and private lives of the individuals", it always creates an issue for the qualitative researcher (Mason, 2002, p. 80; Silverman, 2000, pp. 200 - 201). Therefore, researchers need to be sensitive to the interviewees and conduct the interview by an agreed ethical position and moral practice (Mason, 2002, p. 74; Silverman, 2000, p. 201).

For this study, once the interview questions were finalized, they were tabled for ethics approval. For students at the University of Adelaide, it is necessary to obtain "ethics clearance before commencing any activity involving human research" (Research Branch, 2016). The list of proposed questions was submitted to the University of Adelaide's Human Research Ethics Committee (HREC) for approval[5] to ensure there is "no foreseeable risk of harm or discomfort" (Research Branch, 2016). As this study was conducted in a non-English speaking country, the questions had to be translated in two languages; Bahasa Melayu and English. Once the criteria were fulfilled, the HREC gave approval for the study to be conducted.[6] To ensure the research integrity, University of Adelaide applied the *Australian Code for the Responsible Conduct of Research* (2007) to guide the researcher in responsible research practices (Australian Research Council, 2007, p. 6).

During the interviews, participants were procedurally given a few documents to sign. These documents included the Participant Information Sheet[7], Consent Form, and Contacts[8] and Independent Complaints Procedure[9] on University of Adelaide letterhead. These documents provided information about the research project and sought consent from the participants about their willingness to participate in the project. These documents highlighted that participant involvement would remain confidential once the data was

[5] Refer Appendix A – Ethics Application
[6] Refer Appendix B – Ethics Approval
[7] Refer Appendix C – Participant Information Sheet
[8] Refer Appendix D – Consent Form
[9] Refer Appendix E – Independent Complaint Procedure

published in the thesis or any other associated and allied academic publications. This guaranteed the confidentiality and anonymity of the interviewees (Mason, 2002, p. 80; Research Branch, 2016).

C. Theoretical sampling – Snowball – Setting

In an interview, theoretical sampling provides a generalisability of cases instead of populations or universes (Silverman, 2000, p. 105). Based on Mason (2002) theoretical sampling is important because:

> … theoretical sampling means selecting groups or categories to study on the basis of their relevance to your research questions, your theoretical position … and most importantly the explanation or account which you are developing. Theoretical sampling is concerned with constructing a sample … which is meaningful theoretically, because it builds in certain characteristics or criteria which help to develop and test your theory and explanation (Mason, 2002, p. 45).

Sampling and selection of the proposed participants involves "principles and procedures used to identify, choose, and gain access to relevant data sources" that generate data based upon particular methods (Mason, 2002, p. 120). Identifying a sample is necessary for the purpose of determining who is reliable and how many participants are sufficient to obtain a reliable data sample. However, the term of 'sampling' is hardly found in qualitative methods texts (Mason, 2002, p. 120).

In contrast to quantitative research, samples in qualitative research are often small-scale and not randomly selected. The researcher should know how many samples are enough. The general rule on sample size is reached when "the same stories, themes, issues, and topics are emerging from the interviewees" (Boyce & Neale, 2006, p. 3). Researchers need to identify their 'potential sources of information' to ensure data gained is sufficient and comprehensive (Boyce & Neale, 2006, p. 4). Researchers usually have criteria for selecting an appropriate sample for interviews.

To allow for minimal bias, the sample in this study included various sources from stakeholder groups, non-government organisations, and individual heritage practitioners. These participant groups directly identify to heritage conservation based upon their experiences and knowledge. The selection of sample is to ensure that the sample cohort can help to develop and test the theory and explanation (Mason, 2002, p. 121; Silverman, 2000, p. 105) of heritage curtilage in Malaysia. This sample can represent a wider population based upon their expertise.

For this study, during the early stages of data collection, the selection of the sample was made through an email to potential participants. The main participant was the head of the department of the organisation. To ensure the proposed participant was relevant to the scope of the study, a set of questions was attached. Through this process, the proposed participants were briefed on what theory and realm of knowledge framed the research. Therefore, the sample was not random but theoretically selected (Silverman, 2000, p. 107).

There are always changes in the size of the sample during research. This is because, "additional interviewees could be identified during data collection" (Boyce & Neale, 2006, p. 4). This one of the strengths in qualitative research design that allows for more flexibility than the qualitative research (Mason, 2002, p. 123; Silverman, 2000, p. 108). The potential participant was asked through the e-mail to propose a new or more appropriate person to interview. This is called the snowball research strategy. This approach is suitable for a qualitative and descriptive study as it offers practical advantages (Hendricks & Blanken, 1992, p. 20).

According to Vogt (2005), snowball sampling is a "technique for finding research subjects. One subject gives the researcher the name of another subject, who in turn provides the name of a third, and so on" (Vogt, 2005, p. 217). Through this strategy, a researcher can identify and contact the knowledge from the "hidden and hard-to-reach populations" (Atkinson & Flint, 2001, p. 1). This technique helps the interviewer to "restrict and determine the interview and the interviewee to the expertise of interest" (Flick, 2002, p. 89).

Overall, from the twenty two proposed participants approached, fourteen individuals were prepared to participate and consented to be interviewed. From the snowball methods, the researcher identified five further potential participants. All five were prepared to participate and consented to be interviewed. Thus, the response rate obtained was 70.4% (19 from 27). Another 29.6% was considered as unsuccessful interviews (8 from 27). This was caused by various factors; the refusal from participants (3.7%); unfamiliarity with the theme discussed (11.1%); zero response received by the researcher (7.4%), and unavailability (in terms of time) of the participant (7.4%). However, the response rate was considered satisfactory as the focus of the study was only to elicit perceptions about heritage curtilage conservation in Malaysia, especially in Kuala Lumpur as the main case study from a specialised and well-informed cohort. It was also deemed as satisfactory as the response rate was not aimed at generalising the findings from a larger population.

Choosing a right setting during an interview is also important. The setting, either private, public or semi-public, could prompt different results to the researcher (Taylor, Bogdan, & DeVault, 2016, p. 46; Mason, 2002, p. 91). The best option is to choose a setting with the least interactions and is comfortable to the interviewee (Taylor et al., 2016, p. 113; Mason, 2002, p. 91). In this study, all settings for the interviews were chosen by the participants; either in their personal office room or in a meeting room.

6.7 Data Analysis

Qualitative research is entirely different from quantitative research as the former involves the mental strength and effort of the researcher. Qualitative researchers are very attached to data. This is because they are "personally participating in every step of the research process" (Fink, 2000, p. 3). This is the main reason why the role of qualitative researchers differs from quantitative researchers (Fink, 2000, p. 4). Moreover, in qualitative research, it depends upon the depth of the data analysis. It is about how to "construct and present a convincing explanation or argument" (Mason, 2002, p. 147). It is also a process of interpreting, explaining, understanding and predicting a data (Dey, 1993, p. 31). It is a continuous process. Dey (1993) names such as a circular process (Dey, 1993, p. 32).

Data analysis in qualitative research can be developed using various ways including recordings, transcripts, and notes. This kind of data is much more complex to analyze than numerical data (Fink, 2000, p. 4). The interpretations were entirely based on the researcher. Hence, qualitative interpretation "encompasses no possibility of reference to exact means as quantitative interpretation"(Fink, 2000, p. 5). Therefore, trustworthiness and loyalty are crucial in ensuring the data are interpreted appropriately and produces a reliable result (Fink, 2000, p. 5; Gray, 2009, p. 300). As mentioned by Fink (2000), "the quality of the findings or results of a particular research project will be based on the researcher's ability to present valid argumentation for findings or results to readers while giving a fair presentation of data" (Fink, 2000, p. 5).

6.7.1 Analysing the Case Study

As mentioned earlier, the single case study approach is commonly associated with qualitative methods. However, analysing a single case study is difficult because there are no well-defined strategies and techniques, and additionally no or limited cross-comparative strategy (Yin, 1989, p. 105). According to Yin (1989), the researcher can implement two general strategies in analysing the case study; 1) relying on theoretical propositions, and 2) developing a case description. Relying on theoretical propositions is

a preferable strategy used for analysing a case study (Yin, 1989, p. 106). This strategy is reflected in research questions, in reviews of literature and in new insights (Yin, 1989, p. 106). Whereas the development of a case description "serves as an alternative when theoretical propositions are absent" (Yin, 1989, p. 107).

This study adapted the first strategy which relies on theoretical propositions. As mentioned earlier in this chapter, the selection of Kuala Lumpur as a case study was made to test the application of heritage curtilage conservation in Malaysia. Hence, the data collection plan commenced with a literature review of the implementation of curtilage around the world and the laws and regulations applied to conserve this heritage. The literature review was followed by an analysis of laws and regulations applied in Malaysia. The research proposition was about how to implement heritage curtilage conservation in Malaysia. The involvement in the form of "local planning organizations, … local government [and] federal program is considered as the basic proposition" (Yin, 1989, p. 107). This strategy again sought to answer the 'how' and 'why' questions of this study. Moreover, it helped the researcher to focus on certain data and ignored other data (Yin, 1989, p. 107).

Once the reliance upon theoretical propositions strategy was adopted, the analysis continued on a pattern-matching strategy. Pattern-matching was applied as site observations conducted for this study were based on a list of criteria developed as a checklist. This helped to identify relevant heritage curtilages for the selected heritage buildings. Accordingly, if the patterns match the theory, the results can contribute to strengthening the research validity (Yin, 1989, p. 109).

6.7.2 Analysing Interviews

"Writing up findings from interview data itself is an analytically active enterprise (Holstein & Gubrium, 2002, p. 127). It is about 'what' and 'how' to interpret the data. It is not about letting the data to 'speak for itself', but needs comprehensive analysis from the researcher. This is called a 'meaning-making' process (Holstein & Gubrium, 2002, p. 127). It is a time-consuming method and data gained is resource intensive. Therefore, it needs proper methods in order to be able to interpret the data wisely. To ensure that the data obtained from the interviewee is well interpreted, there are two main analysis methods involved in this study; the conversation analysis (CA), and discourse analysis (DA). CA and DA emphasize "talk and text as data sources" and can provide "much wider range of documentary sources and discursive expressions" (Mason, 2002, p. 57). Based on Silverman (2006), CA and DA are the only acceptable ways of doing qualitative research (Silverman, 2006, p. 236).

A. Conversation Analysis (CA)

CA aims to study peoples' perceptions through a phenomenological approach. It focuses on the ways in which "social realities and relationships are constituted through persons' talk-in-interaction" (Miller, 2002, p. 30). CA is developed to discover "the role of the sequential organisation of conversation in an understanding of language in use" (Lerner, 2004, p. 222). For this study, transcription for CA employed the Jefferson notation techniques. Through Jeffersonian techniques, interviews were transcribed according to certain conventions. This technique applied a set of symbols to represent the value of transcripts that have specific analytic outcomes (Jefferson, 2004, p. 13). The symbols included underlining for emphasis, capital letters for volume, arrows for pitch movement and *et cetera*. With proper notations, it produces a precise transcription for the CA (Silverman, 2006, p. 209).

In this study, audio recording was used during the interviews. These recordings were important as they "preserve the fluidity and temporality of the events" (Mondana, 2013, p. 58). However, there is a unique challenge in transcribing talks because this study was conducted in Malaysia, a non-English speaking country. English transcription conventions are well established but not with other languages (Mondana, 2013, p. 30). Luckily, the Malay language or the "Bahasa Melayu" is written in the Roman alphabet. Thus, there was no issue regarding transcribing using the Jefferson technique. Data gained from the transcription was then translated into English. However, any translation needs to be undertaken thoroughly and to be sensitive to details. This process is important as "translation is not just a perfunctory step in the transcription process, but is part of the analysis of the original talk" (Mondana, 2013, p. 30). Hence, this seeks to retain the originality of the content and contributes to the validity and reliability of the data.

B. Discourse Analysis (DA)

DA is also applied in this study. DA is considered the "sparring partner" for CA (Have, 2006, p. 2). Compared to CA, DA is more "concerned with the range of topics" and "quite catholic about what kind of data is acceptable (Silverman, 2006, p. 223). Moreover, DA studies "analyse issues which are closer to the topics of social sciences than those of CA" (Flick, 2002, p. 201).

DA for this study was based upon transcripts of open-ended interviews. Based upon DA, the study focused on the "content of talk and its subject matter rather than linguistic organization" (Flick, 2002, p. 200). In this study, DA was concerned with participant perceptions and how they related to the implementation of heritage curtilage in Malaysia.

From the transcription, interpretation and quotation from the interviewee was produced. It was then grouped based upon the theme created in the questionnaire. This process led to recognition of research questions. To evaluate DA results, the transcripts together with the analytic interpretation were sent to participants involved for verification.

6.7.3 Validity

Validity was first used in quantitative research and was thereupon adopted in qualitative research (Gray, 2009, p. 190). Therefore, challenges to validity are not only confined to qualitative research but also to other research methods (Silverman, 2000, p. 176). Sometimes qualitative data is accepted as 'richer' and 'more valid' than quantitative data. However, it is also criticized as being 'too subjective' because the "assessment are not made regarding established standards" (Dey, 1993, pp. 14-15). The problem arises because "people can describe themselves and others in multiple ways" (Silverman, 2006, p. 219).

Flick (2002) argues for transparency of data produced by a researcher, especially from interviews. He urges that interpretations and results of qualitative research should be "transparent and comprehensible" to the reader (Flick, 2002, p. 218). Researchers should allow the data to be viewed and not only expressed through the "interviewing of 'illustrative' quotations from the interviews" (Flick, 2002, p. 218). This is where the credibility of the researcher is questioned and the validity of the data is argued.

Even though it may be difficult to prove validity, the researcher can prove validity through a "true reflection of events" (Gray, 2009, p. 416). According to Gray (2009), this "true reflection of events" can be verified if the researcher is able to show a comprehensive understanding of the research that is being carry out (Gray, 2009, p. 416). Therefore, the output produced by the researcher should be stable in terms of the interpretation of "'realities' as 'facts' and 'experiences'" (Silverman, 2006, p. 117). To ensure stability of data, this study comprised data aligned to themes generate from the questions. Moreover, during the interview sessions the researcher never suggested any answers to the interviewees. The researcher only repeated the question or gave instructions and clarifications. Hence, all answers gathered were derived from the interviewee's own point of view. This technique is proven to secure validity of research (Silverman, 2006, p. 121). In a case of the validity of a site observation, researcher applied the same criteria in testing all 14 listed heritage buildings. Thus, the results gained from the observations differed and were unique from others. This comparative study also helped to ensure the validity of data and to reduce bias during the process (Gray, 2009, p. 416).

6.7.4 Reliability

In addition to validity, reliability is another issue highlighted in qualitative research. According to Gray (2009), reliability is "an indication of consistency between two measures of the same thing" (Gray, 2009, p. 158). Kirk and Miller (1986) define it as "the degree to which the finding is independent of accidental circumstances of the research" (Kirk & Miller, 1986 in Perakyla, 2002). Because data gained from qualitative research is usually unmeasurable and more flexible, it is always criticized for possessing a lack of structure and being unreliable (Silverman, 2006, p. 35). In fact, there is no standard set of qualitative methods applicable for data applicable to texts and transcription gathered from interviews (Perakyla, 2002, p. 201). Hence, to ensure reliability, especially in CA, the quality of tapes and transcripts is very important (Perakyla, 2002, p. 203). Therefore, a pilot test is important as it increases the credibility of the researcher in conducting an interview, or for site observations.

As mentioned earlier, a pilot test was conducted for this study to test either the questions prepared for proposed participant capacity and comprehension. Once conducted, the proposed questions were amended and submitted for University of Adelaide Human Ethics Committee approval. Based on Silverman (2006), this process will increase the reliability of an interview session (Silverman, 2006, p. 35). In addition, transcription from CA and DA for this study was grouped into similar themes applied in the interview session. To ensure the reliability of this study, the answers gained from one interviewee were compared to another interviewee. Comparison of these responses also contributed to the credibility of the research (Gray, 2009, pp. 158-159). Once comparison was made, a comprehensive summary was extracted from all these responses.

A pilot test was also applied for the site observation task before it was conducted on the real site. Hence, the researcher had an approximate appreciative idea before entering the actual site. This gave space for amending the criteria listed for a heritage site. Most importantly, it also was intended to increase the reliability of data gained from site observations (Flick, 2002, p. 221).

6.7.5 Generalisability

According to Alasuutari (1995), 'generalizability' is the wrong word to describe what to achieve in qualitative research. For Alasuutari, "generalize is … [a] word … that should be reserved for surveys only. What can be analysed instead is how the researcher demonstrates that the analysis relates to things beyond the material at hand" (Alasuutari, 1995, p. 156). Sometimes, generalisability requires an extended stay during research

especially in observing peoples' behaviour and routines (Gray, 2009, p. 416). However, this study was only limited to the physical observation of a building and the data generated from the CA and DA. In this situation, the final dimension of research concern is the generalisability of the research findings (Alasuutari, 1995, p. 143; Perakyla, 2002, p. 214).

Generalisation from qualitative data can be achieved by various ways. This study applied generalisability through the implementation of theoretical sampling and in-depth interviews. Even though Alasuutari disagrees about the use of this term for qualitative research, Alasuutari, however, agrees that generalisable results for theoretical sampling are better than random sampling (Alasuutari, 1995, p. 103).

6.8   Conclusion

This chapter discussed in detail the various forms of qualitative data collection data, namely interviews and observations. Conducting purely qualitative research is difficult. Qualitative research is "difficult intellectually, practically, socially and ethically" (Mason, 2002, p. 82). This is because qualitative researchers are dealing with people and their knowledge and experiences. It involves a matter of skills, time and effort from the researcher. Interactions between participants and the researcher can be rewarding and fascinating. As concluded by Miller and Glassner (2002):

> All we sociologists have stories. Some come from other people, some from us, some from our interactions with others. What matters is to understand how and where we can put them to honest and intelligent use in theorizing about social life (Miller & Glassner, 2002, p. 111).

Hence, qualitative research needs extra effort from the researcher to dig for appropriate data and to establish that the data gained is reliable and valuable.

Even though qualitative research is criticised regarding its trustworthiness of data obtained, the benefit gained from this realm of research cannot be denied. Qualitative research assembles a good and cumulative body of knowledge (Silverman, 2002, p. 1). It has been recognised that this research method is relevant to the wider community (Silverman, 2002, p. 1). It involves a productive dialogue among social scientists, practitioners and community groups. This is the main reason why this study involved a qualitative research method. It gave freedom to the researcher to entertain in-depth conversations and to deeper understand the topic from the perspective of the participant. Hence, the real promise of qualitative research is to "uncover aspects of social experience often hidden from both the researcher's and lay person's view of social life" (Atkinson & Flint, 2001, p. 4).

7.1 Introduction

This chapter discusses and analyses data obtained from the interviews conducted by the researcher during her fieldwork in Malaysia. The nineteen participants[1], who were involved in these interviews, were selected from different organisations and entities including the government authority (GA), Kuala Lumpur Local Authorities (KLLA), State authority (SA), non-government organisations (NGO) and professional practitioners (PP). The selection of the participants was based upon the researcher's "preference organisations", that is, organisations dedicated to heritage conservation (Silverman, 2006, p. 211). Each of the participants have been involved in heritage conservation projects and have varying degrees of knowledge about heritage laws and regulations in Malaysia. This criteria was important because all data gathered during the interviews were to be used to address Research Questions (RQ) 1, 3, 4 and 5 of this research. As highlighted earlier in the previous chapters, RQ 1 was tested amongst participants to obtain knowledge and understanding of heritage space conservation. RQ 3 and RQ 4 sought to identify knowledge and appreciation of heritage curtilage and its application in Malaysia. In addition, RQ 5 was applied to verify applicable criteria of heritage curtilage based upon the Malaysian context.

To ensure the authenticity and veracity of the data gathered during the interview sessions, all the conversations which occurred were digitally recorded. This data is considered as raw data. As the data "do not speak for themselves", this data was transcribed using the Discourse analysis (DA) approach (Silverman, 2006, p. 201). A detailed transcription method using particular symbols according to the Jefferson transcription system[2] was used in the analysis to generate precise transcriptions.

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[1] Participants are referred to interchangeably as government authority (GA), Kuala Lumpur Local Authorities (KLLA), non-government organisations (NGO) and professional practitioners (PP). The selection of these participants was based on specific criteria that were reviewed in Chapter 06.

[2] The 'Jefferson system' was named after Gail Jefferson who developed this notation system and it has been widely used by analysts either in Discourse Analysis (DA) or Conversation Analysis (CA).

As discussed previously in Chapter 06: Research Design, the questions for the proposed participants commenced with the topic of heritage in Malaysia and concluded with issues about heritage conservation in Malaysia. Hence, the analysis will start with the wider scope of heritage and its activities in Malaysia. It is based on the first theme of the question which is to gain an understanding of heritage in Malaysia and actions that have been taken to highlight Malaysian heritage. This discussion will provide a general appraisal about the interpretation of heritage amongst participants in promoting the distinctive identity of Malaysia.

Discussions then continue with the participants' understanding of the conservation of heritage buildings in Malaysia. The use of the term "heritage curtilage" is then discussed to identify the local Malaysian perception of curtilage and its future under existing laws and regulations. The advantages and limitations of these local issues will also be addressed to propose more effective approaches to heritage conservation in Malaysia.

To enable a logical and detailed discussion of the research findings, this chapter has been divided into four main sections:
i)   an appreciation of heritage in Malaysia;
ii)   an understanding of the importance of heritage buildings and their curtilages;
iii) the implementation of laws on heritage buildings and their curtilages; and
iv) the future of heritage conservation and curtilages in Malaysia.

7.2   Heritage Awareness in Malaysia

The importance of heritage is fiercely debated, not only in Malaysia but also globally. Advocates are most keen to find the best mechanisms to increase awareness amongst all classes of people around the world. International studies conducted on public awareness reported that the public has low levels of interest in heritage and tends to be uninterested in heritage issues and management (Grimwade & Carter, 2000, p. 33; McDonald, 2011, p. 1). Based on Tuan (2001), awareness is defined as "having knowledge or cognisance of one's surrounding environment" (Tuan, 2001, p. 51). The level of awareness is different between one individual and another and these are determined by "personal experience with people, places, and events" (Nyaupane & Timothy, 2010, p. 226).

In Malaysia, the issue of heritage awareness is not only being discussed in academic circles, but also at the highest management level within the government of Malaysia. The introduction of the *National Heritage Act 2005 (Act 645)* in 2005 followed by the establishment of the Department of National Heritage in 2006 and the 'rebranding' of the Ministry of Unity, Culture, Arts and Heritage (now known as the Ministry of Information, Communications and Culture (KPKK)[3] in 2009 demonstrate some of the positive steps taken by the government to raise heritage awareness amongst the Malaysian people. In addition, an important agenda was stated in the Department of National Heritage's vision "to empower and champion heritage as the core identity of the Malaysian people's legacy" (Ministry of Information Communication and Culture, 2009a, para. 2) with the main ministry objective being "to mould and nurture a sense of belonging and national pride amongst all Malaysians through arts, culture and heritage" (Ministry of Information Communication and Culture, 2009c, para. 6).

However, involvement between the government and heritage practitioners in Malaysia is still minimal and the latter have no influence in the heritage process (Bakri, Ibrahim, Ahmad, & Zaman, 2014, p. 384). The gap between the government and the heritage practitioner is of concern because the gap is the medium between government and locals.

Because heritage practitioners are involved directly with heritage in Malaysia, their knowledge about heritage awareness can not only be shared with heritage experts, but also measured to determine how effectively they can pursue their responsibilities as implementers (Poria et al. (2003) in Nyaupane & Timothy, 2010, p. 230). For the researcher, the results of this measurement amongst the participants, most of whom are the implementers, is very important as they reveal:
1. the extent of their knowledge and understanding of heritage in Malaysia;
2. actions taken to resolve heritage issues; and
3. their role in promoting awareness about the importance and value of heritage.

7.2.1 Interpretation of Heritage

Experience, knowledge, and sensitivity towards heritage are some of the criteria that differentiate one participant from another. Working and living in the same environment does not mean that these people have the same knowledge and understanding of

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[3] This Ministry is a combination of three previous ministries: (1) Ministry of Information; (2) Ministry of Unity, Culture, Arts and Heritage; and (3) Ministry of Energy, Water and Communications. This happened after the Cabinet was reshuffled when Dato' Seri Mohd. Najib Tun Abdul Razak was appointed as the 6th Prime Minister of Malaysia on 3rd April 2009 (Ministry of Information Communication and Culture, 2009b).

heritage. Giving the subject of interpretation of heritage in Malaysia, most of the participants referred to the definition of heritage as stated in the *National Heritage Act 2005 (Act 645)*. The majority of the participants agreed that this *Act* had a big impact on the community's sensitivity towards heritage. As some participants are involved in policy-making, this interpretation appears to have been the main reference in any decision-making process. The designation of Penang and Melaka as World Heritage Sites in 2007 to some extent changed Malaysia's attitude to heritage. In fact, results from the interviews conducted revealed that people are now looking forward to a universal value placed on their heritage instead of values that are limited to the historical aspects (Nayan, 2010; 2011).

In addition to what is stated in the *National Heritage Act 2005*, participants also concluded that age is not the only criteria for identifying an item as 'heritage'. Apart from 'old heritage', as described in the *Act*, participants urged that any items with outstanding value, distinctive architectural elements, landscapes, as well as traditional houses or villages should also be included as 'heritage' even though they were "only a few years old" (Nayan, 2010; 2011). The most prominent example of a new construction is the Kuala PETRONAS Twin Towers, Kuala Lumpur, designed by acclaimed architect, Cesar Pelli, completed in 1998. In 2011, this building seemed to be too young to be accepted as a heritage. However, for the "twentieth century heritage"[4] movement practiced by architects in the State of Victoria, Australia, "there is no set age at which places become old enough to be heritage" (Department of Planning and Community Development, 2011).

Besides the Victorian State Government, there is a global organisation that defends modern heritage. Known as the International Committee for Documentation and Conservation of Buildings, Sites and Neighbourhoods of the Modern Movement (DOCOMOMO), this organisation, which was established in 1988, is very concerned about the future of "modern masterpieces [that] had already been demolished or had changed beyond recognition" (DOCOMOMO, 2011, para. 2). Hence, one of its approaches is to promote "interest in the ideas and heritage of the modern movement" among heritage practitioners around the world (DOCOMOMO, 2011, para. 3). The Sydney Opera House is one modern building that was first recommended by this organisation in 1997 to be "on the list of modern buildings and sites in the World Heritage List" (Australian Government & New South Wales Government, 2006, para. 3). This building was successfully inscribed on the World Heritage List in 2007.

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[4] "Also known as modern, post-war or recent heritage" (Department of Planning and Community Development, 2011).

For Malaysia, it might be possible that one day, this approach could be implemented. Even though it might take a little bit longer given that the Act is quite recent, with positive participant feedback, it is possible that one day Malaysia will include its modern buildings as heritage items. However, awareness about heritage is also closely related to a person's sensitivity and their own understanding of 'heritage' itself. Lack of knowledge and understanding amongst the public[5] especially on the importance of heritage will usually generate a lack of awareness about a heritage environment (Bakri et al., 2014, p. 384). As pointed out by Moscardo (1996), "mindless" people do not have any sensitivity towards heritage even when he or she is visiting a heritage site (Moscardo, 1996 in Nyaupane & Timothy, 2010, p. 226). For the public, heritage is old buildings and history (McDonald, 2011, p. 3). As a result, more and more heritage sites have been partly or wholly demolished because of a lack of appreciation of the value of heritage by the public and it is usually too late to remedy the damage (Nyaupane & Timothy, 2010, p. 226). To ensure that this lack of awareness does not spread amongst the public, the implementers, which include the participants involved in this research, have to be creative to handle this issue wisely. As a role-model they themselves should understand heritage precisely before promoting awareness of it amongst the general public (McDonald, 2011, p. 3).

7.2.2   Forming Malaysian Identity through Heritage

Malaysia is one of the many multi-cultural countries in the world. With more than 28.25 million citizens (Census 2010), 80 ethnic groups and 60 different languages, Malaysia is rich in various customs and cultures (Department of Statistics Malaysia, 2010). This overall cultural 'melting pot' enriches and gives a 'sense of identity' to the country (Bakri et al., 2014, p. 382). Hence, these distinctive elements and heritage buildings are important as they mesh together in forming the national identity of Malaysia.

In Malaysia, the success of its "national identity" policy is still questioned and debated amongst "people, academic and non-academic, local and foreign" (Baharuddin, 1996, p. 482). While it is undeniable that heritage buildings and monuments comprise the most important part in shaping and promoting national identity (Edson, 2004, p. 344; Light & Dumbraveanu-Andone, 1997, p. 30), historic buildings and monuments are the "powerful symbol of the nation's aspirations and identity" (Light & Dumbraveanu-Andone, 1997, p. 28), and built heritage is both inherited and promotes a unique identity for each ethnic group in Malaysia (Baharuddin, 1996, p. 479; Bakri et al., 2014, p. 382). This uniqueness "*is something that we should be proud of. Because it shapes us, it shapes our identity.*

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[5] Based on the Longman Dictionary, public is defined as "ordinary people who do not belong to the government or have any special position in the society" (Dudovskiy, 2013, p. 1141).

People know other people based on their identity... [and] there is no boundary for heritage...not even a political boundary" (GA1). Moreover, the formation of "nationality" or "ethnicity" amongst the local community is not only the "language of identity it is indeed a language of morality. It is an encoded discourse about inclusion and exclusion" (Herzfeld, 1987, p. 43, in Nadel-Klein, 2003, p. 94).

Given participants' consensual identification of the importance of heritage in shaping the identity of Malaysia, various activities have been taken by participants to ensure the endurance of these elements. These activities or programs are grouped under action[6], advocacy[7], arts[8], education[9], research[10], tourism[11] and events[12] which depend on the types of programs conducted (Refer Table 7.1).

ORGANISATION	HERITAGE AWARENESS PROGRAMS						
	ACTION	**ADVOCACY**	**ARTS**	**EDUCATION**	**RESEARCH**	**TOURISM**	**EVENT**
Government Authorities (GA)	✔	✔	✔	✔	✔	✔	✔
State Authorities (SA)	✔	✔	✔	✔	✔	✔	✔
Kuala Lumpur Local Authority (KLLA)	✔	✔	✔	✔	✔	✔	✔
Non-government Organisations (NGO)	✔	✔	✔	✔	✔	✔	✔
Professional Practitioners (PP)	✔			✔	✔		

Table 7.1: Heritage awareness programs undertaken by selected organisations in Malaysia.
Source: (Adapted from the Grand Actions Registry (Grand River Conservation Authority Cambridge, 2011, pp. 9-13).

[6] Programs completed (or ongoing programs) which relate to the conservation, restoration, or the enhancement works of heritage buildings or sites;

[7] Activities involved to "influence decision-makers in governments, businesses, and institutions to undertake actions to increase heritage [awareness and] appreciation" towards heritage in Malaysia;

[8] Selection of programs that involve artists either in the "visual, performing, literary and / or folk arts" for promoting heritage;

[9] Actions involving educating students (primary, secondary or universities) and also the public through seminars, workshops, forums, or lectures;

[10] Efforts completed (or ongoing efforts) to "gather information, undertake heritage inventories and carry out historical research";

[11] Actions involved in promoting the heritage of Malaysia amongst locals and foreigners through arts, events or other programs;

[12] Programs completed (or ongoing programs) that involve communities in Malaysia in "celebrating local heritage" either at a national level or at an international level (Adapted from the Grand Actions Registry (Grand River Conservation Authority Cambridge, 2011, pp. 9-13)).

Referring to Table 7.1, this finding is quite revealing in several ways. It shows that all authorities involved in this research have done their best to promote heritage to the public (GA, SA, and KLLA). Surprisingly, for the NGOs, even without special allocation received from the government, they managed to carry out various efforts regarding this matter: at least one activity for each type of program. For the professional practitioners (PP), they also played special roles in this arena by contributing in particular to education and research. The continuous collaboration between these parties is very important as they are the "right people" to ensure "higher success in the conservation effort" (Mui, Meng, Yusof, & Fern, 2008, p. 2). It was found that, for the parties involved, their main target groups are numerous, including people from different age groups and backgrounds.

To increase this success rate in promoting Malaysia's heritage, most of the programs done under *Action* (Table 7.1), involved conservation works, especially for heritage buildings. For example, from 2006 to 2007, sixty-five historical monuments and heritage buildings were involved in restoration processes under the National Heritage Department. As for the authorities, most of the buildings selected were owned by the authorities. Under their special jurisdictions, authorities were responsible for monitoring conservation works undertaken on their properties. Most of the buildings selected in the case studies do have their own outstanding values or even 'one of a kind' status.

Besides the *Action*, programs undertaken in *Advocacy* (Table 7.1) are one of the most important steps for the future of heritage in Malaysia. The advantages of *Advocacy* lie with authorities being the implementers and being directly involved in decision-making processes. Their involvement includes the preparation of policies, guidelines, structural plans, local plans, special area plans and even the Malaysian National Physical Plan, many of these introduce the idea of heritage conservation. Yet, this is a totally different political situation to that of the other participants. The NGOs, for example, can voice their opinions (especially during public hearings), however, because they are not in the 'system' they cannot directly ensure that these policies will change according to their opinions. The same situation applies with PPs.

For the younger generations, the programs created under the umbrella of Arts, Education, Research and Events give opportunities to educate pupils as early as 7 years old by establishing a Heritage Club in selected schools, giving lectures and undertaking visits to museums and heritage buildings and sites. These programs were continued at a higher level of education including secondary schools, colleges and universities. With the involvement of these groups, it is hoped that the awareness of heritage in Malaysia will be increased. For other acts of *Advocacy* there have been a series of campaigns,

seminars, exhibitions and even workshops conducted by participants to educate Malaysians about heritage generally and the richness of this heritage. These activities further expose all Malaysians to their heritage because most of them only "associate the word 'heritage' with monuments and museums" (Gibson, 2007, p. 3).

On the other hand, authorities and the communities inside NGOs and PPs have been very active in promoting heritage through their research and publications. A significant amount of documentation has been completed in the last twenty years even though 'heritage' is still new in Malaysia (PP2, PP3). These documents and data are even included in government reports validating their veracity and professional standing. This continuous collaboration between the government of Malaysia and other parties demonstrates that the government has taken into account the need to promote and establish the identity of Malaysia through heritage. However, efforts undertaken by the government itself are not enough because the success of each program is based upon full cooperation from all parties including the Malaysian public.

7.3 Appreciation towards the Importance of Heritage Buildings and its Curtilages

Significant and repeated efforts and activities have been undertaken by the participants to educate the Malaysian public about the importance of the heritage of the built environment (Refer Table 7.1). These activities have proven to be effective in improving knowledge of heritage to the public. In addition, knowledge from personal experiences can help to increase heritage awareness amongst the public (Nyaupane & Timothy, 2010, p. 227). As most of the participants interviewed have engaged in such processes, they have increased heritage awareness generally amongst Malaysians. Once the public is educated about the value[13] of the built form that surrounds them, their appreciation of it will increase.

7.3.1 Recognition of Heritage Buildings

Recognition of heritage buildings as part of the national heritage of Malaysia commenced in the 1970s when the *Antiquities Act 1976* (Act 168)[14] was gazetted in 1976. Although

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[13] The topic on the heritage value has been discussed thoroughly under Section 2.3.1: Valuing Cultural Heritage.

[14] This Act has been discussed thoroughly under Section 4.2.1: *Antiquities Act 1976 (Act 168).*

this *Act* does not specifically mention the terms 'heritage building' it does include the term 'building' under the definition of a "monument" (Parliament of Malaysia, 2003, p. 3). Between 1976, when the *Act* was gazetted until the end of 2005, a total of 89 heritage buildings were identified as an "old monument" within the total of 180 monuments on the list (Ministry of Culture, Arts and Heritage in Parliament of Malaysia, 2005; Unit Rekabentuk Bandar dan Warisan, 1996, p. 6). A new heritage *Act* was introduced in December 2005 that repealed the previous *Act*; *Act 168*. Under this new *National Heritage Act 2005* (Act 645) the numbers of heritage buildings identified in the National Heritage Register continues to increase. Until 2015, 47 heritage buildings and monuments have been Gazetted as National Heritage (National Heritage Department, 2011a, 2011b). Under this Act (Part V, Section 23 (1)), the Commissioner of Heritage is given the power and responsibility to establish and maintain the National Heritage Register (Parliament of Malaysia, 2006a, p. 110).

Selection of Heritage Buildings

Even though the Commissioner has full authority to include any heritage items on the list, there are still procedures that involve cooperation from the state authorities. Any heritage buildings located in any state in Malaysia require approval from the State Authority (Part VII, Section 30 in Parliament of Malaysia, 2006a, p. 112). Simultaneously, for the authorities, all heritage buildings gazetted as National Heritage will usually be automatically declared as heritage buildings for the state or federal territory (KLLA, GA, SA).

The cooperation between the Commissioner and the state authorities proves that the authorities also play a role in identifying potential buildings in their province as a heritage building. Surveys are usually carried out by a professional survey team or an internal committee which is appointed by the authority (KLLA, GA, SA). Generally, heritage buildings included under the Register are based on a recommendation from the authorities assisted by the Commissioner. Thus, there are no overlaps of power between these two parties (KLLA, GA, SA).

In addition to buildings that have been selected by the Commissioner and the authorities, there are also heritage buildings that are selected by the NGOs and the PPs. However, the processes of selection of these buildings differ from the authorities as these parties are not bound by any provision or Act (NGO1). Buildings selected are usually identified as part of research undertaken by the committee members, or selections are made based

upon information gained from the public. These buildings are usually owned by individuals and some of them have been left unoccupied, derelict, and in poor condition (NGO1).

Despite this different selection process, these NGO and PP parties still have the same objectives as the authorities which are to conserve these valuable national heritage items. Historically, there are many types of collaboration that may take place between these two parties. Findings from research or surveys undertaken have always been presented and discussed with the parties involved. Usually, these efforts result in positive outcomes for the NGOs and PPs. The lists of heritage buildings selected are even included in the authority's City Plan (NGO1, KLLA). The significant efforts made by the NGOs are worthwhile given recognition they receive from international organisations including UNESCO. For example, a UNESCO Asia-Pacific Heritage Award for Culture Heritage Conservation category acknowledges the "achievement of individuals and organisations within the private sector, and the public-private initiatives, in successfully restoring structures of heritage value in the region" (NGO1, 2011; UNESCO, 2011c). This category has provided further motivation and impetus to the NGOs and PPs to conserve and express concern about Malaysia's heritage buildings.

7.3.2   Sensitivity towards Heritage Buildings and their Curtilages

Implementation of selected criteria by participants in identifying heritage buildings in Malaysia is very important for the future of buildings. However, conserving and maintaining a heritage building is not a 'short-term' activity. It needs full, ongoing support from all parties involved. The interviews revealed that there are several other constraints that will affect the future of these buildings. These constraints include political interference, human resources, public awareness, the pressure of development and even laws and regulations (GA, SA, KLLA, NGO, PP). According to the participants, if no further efforts are taken to address one or more of these constraints, it is possible that all heritage buildings in Malaysia will face an uncertain future.

Constraints on Conserving the Heritage Buildings in Malaysia

Analysis from the interviews revealed that there are six main constraints faced by the participants in conserving the heritage buildings in Malaysia; political interference, lack of expertise, budget, heritage awareness, pressure of development and legislations (Table 7.2). Lack of expertise in building conservation is the highest concern mentioned by the participants (GA, SA, NGO, PP). Lack of heritage awareness is regarded as a constraint by an equal number of participants (SA, KLLA, PP). Besides these, other constraints mentioned are related to perceptions of Political Interference (KLLA, NGO, PP). As for

the Budget (NGO, PP), Development Pressure (KLLA, PP) and Acts (KLLA, PP), the interviews indicated that these issues were of lesser importance.

CONSTRAINTS	PARTICIPANTS				
	GA	SA	KLLA	NGO	PP
Political Interference			✓	✓	✓
Expertise	✓	✓		✓	✓
Budget				✓	✓
Awareness		✓	✓		✓
Development			✓		✓
Acts			✓		✓

Table 7.2: The main constraints faced by participants in conserving heritage buildings in Malaysia.

Source: Author, 2011.

i) Professional Expertise

Concerns about the lack of expertise in building conservation works in Malaysia were identified by the government, state authorities, NGOs and the professional practitioners in the interviews. Given that most of the participants are involved directly in conservation activities, this aspect of heritage conservation was their major concern. Conservation is a lengthy process but it also involves activities before and after the physical act of conservation. Because of this, it requires a range of professional expertise. As stated by one of the government authorities *"...when you want to conserve a building, you have to diagnose it. This needs technical expertise. This will require a competent contractor, a competent consultant, a conservation architect … those that have knowledge in building conservation* [sic.] (GA1).

This aspect has been recognised by the government authority, and steps are being taken to resolve this lack of expertise. The National Heritage Department, for example, has organised a series of workshops and seminars on the conservation of heritage buildings (National Heritage Department, 2011d). These ongoing programs have proved to be beneficial in the dissemination of knowledge by heritage professionals. Until June 2015, a total of 33 participants were formally recognised as a Registered Conservator (National Heritage Department, 2015). These programs also collaborate with local experts who best understand the latest efforts in conservation works. These include the Malaysian Nuclear Agency, Minerals and Geosciences Department Malaysia (JMG), and also the Faculty of Sciences from various Malaysian universities (National Heritage Department, 2011c). In

addition, this Department also collaborates with international experts for knowledge sharing on latest conservation methods that are practiced at international levels.

In addition to the actions undertaken by the Ministry, there are also some state authorities who are active in educating heritage practitioners in conservation processes. Penang, for example, has a number of organisations involved keenly in this matter. One is the George Town World Heritage Incorporated (GTWHI) which was purposefully established to "manage, monitor, and enforce works related to heritage cooperation with the Federal Government" (George Town World Heritage Incorporated, 2010). One of its main functions, is to "encourage research and conduct skills training with the objective to educate on and maintain heritage issues" (George Town World Heritage Incorporated, 2010). Besides, GTWHI, Think City Sdn. Bhd.[15] and the Penang Heritage Trust (PHT)[16] also helped to overcome this constraint.

Think City was established in 2009 to work with the "local stakeholders, experts and civil society" to overcome the lack of heritage conservation expertise in Malaysia (Think City Sdn Bhd., 2011b). Think City provides an admirable approach and a valuable model that highlighted 4 methodologies for urban heritage solutions; the Baseline Study "to understand the area in detail", Stakeholder Engagement "as a community-based urban regeneration", the Strategy which is developed based on the Baseline Study and Stakeholder Engagement, and the Implementation which involves evaluation at the end of the project (Think City Sdn Bhd., 2016). Through this approach, it aims to "build local capacity and capability for the protection and development of the living heritage, culture and architecture" (Think City Sdn Bhd., 2011a). In an effort to fulfil this objective, Think City and PHT have signed a Memorandum of Understanding (MOU) with AusHeritage Ltd. on the 18th of April 2011. One of the areas covered in the MOU is "Skills Development" which is enabled between these 3 organisations through the "exchange of expertise and joint activities in the research, preservation, conservation, promotion and management of cultural and natural heritage" (AusHeritage, 2011; Think City Sdn Bhd., 2011b). Since then, "more than eleven senior heritage practitioners from Australia" have visited Penang to share their knowledge of conservation practices through heritage lectures and workshops (AusHeritage, 2011).

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[15] Think City Sdn Bhd is wholly-owned by the Khazanah Nasional Bhd; "the investment holding arm of the Government of Malaysia (Khazanah Malaysia Berhad, 2011).

[16] PHT is one of the active non-government organisations in Malaysia. Established in 1986, it is very committed to "promoting Penang's cultural and built heritage" (Penang Heritage Trust, 2010).

These focused efforts, undertaken by the Government of Malaysia, state and local authorities, and also other organisations including NGOs, offer significant steps to overcome the current lack of expertise in the area of conservation in Malaysia. Although there are still no 'accreditation' or evaluation methods in place in Malaysia to assess the quality of conservation work done, this continuous collaboration between local and international heritage conservation communities is a positive development that may in time generate qualified expertise within Malaysia that is on par with international precedents.

ii) Community Awareness of Heritage Buildings

Heritage awareness has been discussed earlier in this Chapter under section 7.2: Heritage Awareness in Malaysia. Although the previous analysis focused on programs undertaken by the participants to develop heritage awareness amongst the community, there is no doubt that these discussions are closely connected. This section focuses upon existing community awareness of heritage buildings, particularly on the part of building owners. Logically, if building owners are not aware of the importance of conserving heritage buildings, these buildings will be very vulnerable. In the past, buildings have been left in a state of dilapidation, abandonment and neglect because there is "*no interest especially from the new generation to retain the buildings ... thus, most of them have been demolished or sold"* (PP1).

Concerned about this issue, the participants interviewed articulated that they are making every effort to include as many buildings as possible, deemed to be of heritage significance, that are perceived to be in a state of deterioration in the heritage list. However, for the buildings' owners, this identification is perceived as a burden. Most owners prefer not to accept a heritage recommendation (KLLA1, KLLA2, KLLA3). They perceived such recommendations to be a constraint rather than appreciating the potential of heritage status and the positive impact it could make on their respective businesses (GA3). In Australia, evidence shows that heritage listing increases the property value of the building and its environs (Loffi, 2010; Office of Environment & Heritage, 2010). A similar scenario also happened in Malaysia, although the majority of participants interviewed are found to be unaware of this situation (GA3). Building owners are usually more likely to sell their property rather than to maintain it if heritage listing is involved or proposed (KLLA2). In George Town Penang, the price for a shophouse has increased

from RM300 to RM400 per square feet (psf) in 2000 to RM1,200 to RM1,400 psf in 2014 (Lee, 2014). With this range of prices offered to developers, owners are more passionate to sell their shophouses due to the higher foreseeable profit (KLLA3; Dewi, 2010). Hence, since 2008, more than a thousand pre-war properties in George Town were sold (Han, 2015; Hussin, 2011).

Cooperation between authorities and buildings' owners is important to ensure that these buildings are well maintained and conserved, or in the worst case scenario, not lost irretrievably. Further, authorities have to be more sophisticated in handling heritage building conservation as an implementer and as a communicator to ensure that practical information can reach the owners involved in conservation activities. The State Authority, the NGOs and the relevant Committee should work together to educate owners about how to conserve their buildings (PP2, NGO1). An open attitude by authorities demonstrates that it is possible that owners will be more responsible and aware of any actions taken by them. It was hoped by interview participants that one day there will be a "win-win" situation between these parties regarding the future of these buildings (GA3).

iii)   Political Interference

In addition to the identified lack of heritage expertise and the evidence of community awareness of heritage buildings, political interference was identified by the interview participants as being another significant constraint (KLLA, NGO and PP). As highlighted by one of the participants, "*political interference is real in Malaysia. It's real"* (PP3) and several actions are needed to overcome this issue. However, of all the participants, this constraint was only raised by KLLA participants and not from higher levels of management; the GA or SA (Refer Table 7.2). This appears to be occurring due to the organisational structure of the government system in Malaysia. Within this system, local authorities reside in the "third and lowest level" after state and federal authorities (Nooi, 2008, p. 126). In this context, the KLLA is positioned in the third level. Hence, power to implement Acts and guidelines by these local authorities is quite limited.[17] On the other hand, state authorities are given "executive powers within constitutional limits" to issue directions to the local authorities (Nooi, 2008, p. 127; Parliament of Malaysia, 2006d, p. 19). This provision is embodied in the *Local Government Act 1976 (Act 171)* under Part

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[17] Details on constraints faced by the KLLA in implementing these Acts and guidelines will be discussed further under subsection vi) Acts.

II: Administration of Local Authorities; Section 9 (Power of State Authority to issue directions) (Parliament of Malaysia, 2006d).

In Kuala Lumpur, special provisions are also applicable because it is a federal territory and not a state. The Federal Territory of Kuala Lumpur is "administered under the authorities of the Ministry of Federal Territories and Urban Wellbeing" (Government of Malaysia, 2011a). Hence, there are limits to the power given to the KLLA as a local authority in the Federal Territory of Kuala Lumpur.

Given this status, the KLLA has to expend additional effort communicating their views on heritage conservation. At the moment, participants are frustrated with this requirement because their policies on conserving the heritage buildings or sites in Kuala Lumpur keep changing due to their failure to appreciate their point of view given their lower political status. The demolition of Pudu Jail in 2010 is an example of the misinterpretation of what has been acknowledged under Federal Territory guidelines. Although being listed under *KLSP2020* (2004), the Pudu Jail was demolished to make way for a new multi-million ringgit mixed-use development that does not retain the character of the old place[18]. Hence, it will gradually alter the original visual and physical character of the urban space of Kuala Lumpur (Bachek, Zainudin, & Haron, 2014, p. 2).

In addition to the local government, NGOs and PPs also play significant roles in convincing the government of the importance of conserving buildings. However, it is not an easy task. Therefore, the "*professionals have to do a lot of hard work to convince them. The professionals should have the courage to actually stand up and say what is best for the site. Meaning that you are behaving as true professionals*" (PP3). Unfortunately, limited power compromises efforts by local governments. Thus, similar to what is happening in the KLLA: "*We produce a very nice master plan, but then in the end, they do not actually comply or follow what is included in the master plan*" (PP3). If this issue continues without an appropriate solution from every party involved, the future of these buildings will be at further risk. As stated by Henderson (2012), the politicisation of heritage in Malaysia should act as a positive force in keeping heritage sites and monuments from disruptive and destructive development (Henderson, 2012, p. 53). There should be transparency on every action taken and reasons given for each decision actioned by parties (NGO2). Hence, the public needs to know what solutions have been taken by governments to overcome this constraint in the future (Cardosa, 2006).

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[18] Discussion on the Pudu Jail and the *Kuala Lumpur Structure Plan (KLSP* (2004) and guidelines applied in Kuala Lumpur have been discussed thoroughly under Section 5.5: Conservation Plans and Guidelines of Heritage Building and Site at Federal Territory (Kuala Lumpur).

Excessive political interference can lead to a loss of authenticity of heritage especially in urban areas, as it is prone to commercialisation and commoditisation (Henderson, 2012, p. 53). Thus, strengthening the bond between the Government, local authorities, NGOs and heritage conservation experts is crucial to ensure that heritage items are well protected in Malaysia.

iv) Acts

Of all the issues identified during the interview process, extensive Malaysian heritage legislation received the least attention. This issue was only mentioned by participants from the Kuala Lumpur Local Authority (KLLA) and Professional Practitioners (PP).

For KLLA, the limited power given to them to enforce laws is a constraint. Kuala Lumpur does have an "equivalent status to other states in Malaysia" (Government of Malaysia, 2011a, para. 1; Nooi, 2008, p. 126). However, without "a head of state or a state assembly", all development policies are made under the administration of the Ministry of Federal Territories and Urban Wellbeing (Government of Malaysia, 2011a, para. 2; Nooi, 2008, p. 128). In the case of heritage buildings in Kuala Lumpur, any application made to the local authority that has been rejected can be submitted again to the state authority. The fact that this can occur demonstrated that there is a different evaluation criteria applicable between the State and the Federal Territory. However, this action is legal as *"it has been embodied in the Street, Drainage and Building Act 1974 (Act 133). There is a possibility that this application might be granted by the state authority especially when the building has not been gazetted"* (KLLA3). Hence, any building selected by the KLLA as a heritage site can be objected to by its owners. This is because the power to designate any site is placed under the Commissioner of Heritage and not under the local authority (Section 24 of *Act 645*). This lack of involvement between the local authority and the nomination process can undermine the credibility of the KLLA and the ability of this authority to implement laws when dealing with the future of heritage buildings in Kuala Lumpur (KLLA1).

Despite these circumstances, the absence of detail in *Act 645* has also added to the difficulty of enforcing Malaysian heritage laws. Some of the participants placed the blame upon this Act (KLLA1, PP1, and PP2) stating that the implementation of this Act was quite late. Moreover, the lack of details pertaining to specific conservation practices does not aid the realisation of a building conservation project (PP1). In addition, for accurate conservation work, *"you can't simply hire ordinary contractors, to do a conservation project. You have to appoint a conservation contractor. As I said, we don't have an Act*

on this. We don't have an equivalent to what's being practiced in overseas" (PP2). Unfortunately, at the moment, there are no specific methods or guidelines stated in this *Act*. There are only a few explanations given for "preservation", "restoration", "reconstruction", "rehabilitation" and "adaptation" to be practiced by the parties involved. The definitions are limited to describing conservation rather than stating 'how to do it'. Hence, the participants have to be smart to interpret and adapt an appropriate technique during real conservation works. This includes hiring a professional conservation expert to obtain the best output of conservation works (NGO1).

Further, although *Act 645* lacks a specific subsection discussing precise methods, other government organisations have published relevant guidelines. As discussed in Chapter 05: Heritage Curtilage Conservation in Malaysia, there are a few subsections in the *Town and Country Planning Act 1976 (Act 172)* that relate to the management of heritage buildings[19] in Malaysia including subsections 12(3)(a)*(viii)*, 21A(d)*(iii)* and 21B(1)(d), 22(5)*(i)*, 22(5)*(j)* and 22(5)*(k)* (Parliament of Malaysia, 2006f, p. 13). Besides the *National Heritage Act 2005 (Act 645)* and the *Town and Country Planning Act 1976 (Act 172)*, another Act that identifies the "maintenance of historical buildings" is the *Local Government Act 1976 (Act 171)* (Parliament of Malaysia, 2006d, p. 63). In 2012 and 2015, two guidelines were introduced under *Act 645.* These guidelines are known as the *Guidelines for the Conservation of Heritage Building (2012)[20]* and *Guidelines for the Preparation of Conservation Management Plan for Site/Heritage Buildings (2015).[21]* With the introduction of these guidelines, conservation practitioners have more applicable references in conservation activities.

The state authorities are also alert to the importance of conservation guidelines for heritage buildings. For example, the *Preservation and Conservation of Cultural Heritage Enactment 1988* was drawn up for Melaka. This enactment was prepared in collaboration with the Melaka Museum Corporation (PERZIM), with the shared goal of conserving heritage buildings in Melaka. Once recognised as a World Heritage Site in 2008, a few other documents were established to ensure thorough management of the heritage site. These documents were the *Draft of Special Area Plan: Conservation Area Management*

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[19] Details of this section and subsections have been discussed thoroughly in Chapter 05: Heritage Curtilage Conservation in Malaysia.

[20] Guideline has been discussed in Section 5.4.1.

[21] Guideline has been discussed in Section 5.4.2

Plan of Melaka Historical City (2007), and the *Conservation Management Plan of Melaka Historical City* (2008).[22]

The future of heritage buildings in the UNESCO World Heritage Site of George Town, Penang, is even more vulnerable. Penang implemented conservation guidelines in 1987, a year earlier than Melaka. Since then, the *Draft Guidelines for Conservation Areas and Heritage Buildings* have been the main reference for all parties involved in conservation activities including the Municipal Council of Penang (MPPP), public authorities, property owners and developers (Municipal Council of Penang Island, 2005, p. 1). Even though it is said to "provide a full statement of the State Government's policy for the identification and protection of heritage buildings" (Municipal Council of Penang Island, 2005, p. 1), based on the report done by ICOMOS in 2008 it contains "no specific legislation for the protection of its heritage properties" (Government of Malaysia & International Council on Monuments and Sites (ICOMOS), 2008, p. 79). Hence, ICOMOS suggested that there should be a "comprehensive conservation plan designed and implemented" to deal with all heritage buildings in both states (Government of Malaysia & International Council on Monuments and Sites (ICOMOS), 2008, p. 83). As a result, in June 2010 the UNESCO World Heritage Committee requested a special document named as the Special Area Plan (SAP) for Penang which comprises a complete conservation plan on heritage buildings at the site, and a conservation plan of architectural heritage components (Cheah, 2011, para. 7-9).

In addition to Melaka and Penang, guidelines have been proposed for heritage buildings under the *Draft Kuala Lumpur City Plan 2020* (DKLCP 2020). As mentioned under the Criteria of Selection of Heritage Buildings, under the *DKLCP 2020* buildings are grouped based on categories; 1, 2, 3 and 4. However, for a heritage zone, it is classified based on Primary, Secondary, Tertiary, Buffer and Heritage Site. So, for each heritage zone, there are various categories of heritage buildings within. The proposed guidelines will be implemented based on the heritage zone category. For the Primary Heritage Zone, as it contains groups of gazetted heritage buildings, there will be "no specific set of guidelines". However, "all new development or proposals for alterations and additions to existing buildings will be referred to a Design Review Panel" (Kuala Lumpur City Hall, 2008c, p. 180). For the Secondary and Tertiary Heritage Zone, there are various categories of heritage buildings. However, similar to what has been proposed in the Primary Zone, any alterations and additions to the buildings have to go through the Design Review Panel.

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[22] These documents are discussed in details in Section 5.3.2 Heritage Building and Site Conservation in Melaka.

Exemptions apply for shophouses which have separate guidelines (Kuala Lumpur City Hall, 2008c, p. 180). The Buffer Zone is considered to be a redevelopment area. Hence, neither specific guidelines nor a Design Review Panel is required. Focus is only given to the "pedestrian linkages, covered walkways and active frontages" (Kuala Lumpur City Hall, 2008c, p. 182).

Awareness of the lack of competitive Acts for the heritage buildings is not only experienced by the participants in Malaysia but throughout the world. Recognition of the need for appropriate Acts can be traced to the 17th century. Heritage legislation was motivated as a response to the Industrial Revolution. Beginning in Greece in 1834, the application of a legislation aimed to protect "ruins, monuments and ancient remains" was echoed in France in 1841, Spain (1860), Italy (1872), Hungary and Egypt (1881), United Kingdom (1882), Finland (1883), Bulgaria (1889), Romania (1892) and Norway in 1897 (Heritage Space, 2011; Martinez, 2008, p. 245; Stubbs, 2008, p. 134). France was the first country to develop a comprehensive legislation with "a specific code of conservation principles and guidelines" that is maintained until today (Stubbs, 2008, p. 135). Whereas in Asia, Japan and India were the earliest countries which implemented the protection of cultural heritage. The legislations started in the late 19th century, two centuries after France (Costin, 1991, p. 30). These early efforts at legislation share the same aims which seek to protect the heritage item from undesirable activities such as the demolition of heritage buildings and illegal excavation of archaeological sites (Costin, 1991, p. 30).

In Malaysia, the process of having comprehensive legislation is continuing and it is yet to reach a conclusion. United Kingdom, for example, had its first heritage legislation in 1882, known as the *Ancient Monuments Protection Act 1882*. Even though it only referred to 'monuments', during this period, it was also applied to the buildings and the owners. Even though there were no 'conservation' or 'preservation' terms mentioned, it is surprising that the terms "maintain" and "maintenance" were used. Under the transcription, these included "fencing, repairing, cleansing, covering in, or doing any other act or thing which may be required for the purpose of repairing any monument or protecting the same from decay or injury" (Heritage Law, 2011, para. 3-7). Almost 100 years after its implementation and a number of amendments, this *Act* is now known as the *Ancient Monuments and Archaeological Areas Act 1979*. Within this new *Act*, the scope has been widened to include not only individual ancient monuments or archaeological remains, but also areas (Welsh Government, 2011, para. 1).

Awareness of the requirement for practical heritage legislation is demonstrated by both individual nations and international organisations. In particular, a number of Charters have

been established that relate to conservation activities. The *Athens Charter for the Restoration of Historic Monuments* was founded in 1931 by the International Council on Monuments and Sites (ICOMOS). Despite its limitations due to the current constraints and threats, the establishment of this Charter was the catalyst for subsequent important Charter. The *International Charter for the Conservation and Restoration of Monuments and Sites* known as the *Venice Charter 1964*, provided further details on 'Historic Sites' and 'Excavations'. However, it still lacks details on the conservation techniques that could be applied either to buildings or sites. The *Burra Charter* (1979) represented a further development to address these shortcomings and recently it has been republished as *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 1999.*

The *Burra Charter*, as discussed previously, includes detailed sections on "Conservation Principles", "Conservation Processes", and "Conservation Practice" and it is the first written document that defines these basic principles (Australia ICOMOS, 1999, p. 2; Government of Western Australia, 2016, para. 3). Moreover, the *Charter* has a number of supporting documents: i) Guidelines to the Burra Charter: Cultural Significance; ii) Guidelines to the Burra Charter: Conservation Policy; iii) Guidelines to the Burra Charter: Procedures for Undertaking Studies and Reports; and iv) Code on the Ethics of Coexistence in Conserving Significant Places (Australia ICOMOS, 1999, p. 1). The comprehensiveness of this *Charter* has been acknowledged by the New South Wales Heritage Office and the Lismore City Council, Australia, as "the best practice" in providing "set of principles and guidelines on heritage conservation and management" (Lismore City Council, 2000, p. 4; New South Wales Heritage Office, 2002, para. 1). Because of this, the *Charter* has been adopted by the Government of Australia in their heritage management works. Malaysia and China are among countries that adopted this Charter in their regulations. Malaysia has adopted this *Charter* for its *Guidelines for the Conservation of Heritage Building* (2012). For China, the ideas of the conservation codes were adopted as part of its *China Principles*.

Even though these charters are not officially cited in any *Act*, they play an important role due to their influence on the conservation of heritage buildings around the world. With the existence of these Charters, they "primarily address architectural conservation principles and issue-specific guidelines" (Stubbs, 2008, p. 136). These Charters represent the current cultural heritage constraints which may be implemented to a wide range of places with different situations (Department of Transport Planning and Local Infrastructure, 2014, p. 2; NSW Heritage Office, 2002, p. 13). Moreover, the importance of having comprehensive heritage acts and guidelines is undeniable as it is able to protect vulnerable heritage buildings. In Malaysia, even though the heritage Act is considered

new, cooperation between the government organisations and other parties such as the NGOs, professional practitioners, and stakeholders, it is possible that one day there will be appropriate heritage Acts and guidelines that can protect not only the individual heritage item but expanded to the whole sites. With the concern from the policy makers and the input from the conservation expertise it is possible that this could be achieved. The ideas of adopting the international Charter for the documents applied in Malaysia would be a good start for appropriate conservation activities in future.

7.3.3 Understanding of Heritage Buildings and Curtilages in Malaysia

The main aim of this research is to gather information about the understanding of heritage curtilage in Malaysia. Data yielded from the second part of the questionnaire – Theme 02: Heritage Buildings and their Curtilages – focused specifically on heritage curtilage as a further dimension of local professional knowledge about heritage buildings. As defined in Chapter 04: Theories of Heritage Curtilage, heritage curtilage describes the larger context within which a building is situated and it is often as significant, if not more so, than the heritage building per se. Understanding heritage curtilage, together with heritage buildings and the issues and challenges discussed thus far, will present important insights into the vulnerability of the selected heritage buildings chosen for this study and the sensitivity of the participants to these buildings.

The *Heritage Curtilages Guidelines* (1996) by the New South Wales (NSW) Heritage Office, Australia, was used as the main reference to gather the understanding of 'what' heritage curtilage is and 'how' it is applied to heritage buildings in Australia. Hence, this understanding will lead to further discussion on the suitability of this concept in the Malaysian context. The principles of heritage curtilage[23], such as the relationship of the heritage items to its site, setting, visual catchment or corridors and buffer areas, which has been adopted by various organisations around the world were also introduced to the participants to acknowledge the importance of curtilage for retaining and interpreting the heritage significance of the site.

Recognition of Heritage Curtilage in Malaysia

To test the validity of heritage curtilage conservation in Malaysia, questions about heritage curtilages were purposefully asked after the participants gave their responses on the conservation of heritage buildings. To introduce the terminology, the definition of heritage

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[23] The Principles of Heritage Curtilage are discussed thoroughly under Chapter 04: Theories of Heritage Curtilage. The list of the principles is summarized based on the terms and concepts applied by various organisations which identify the curtilage.

curtilages adopted by the NSW Heritage Office was used to explain curtilage to the participants involved.

Besides the definition, a diagram of Types of Heritage Curtilages was also used as supporting material to offer more detail, through specific examples, about heritage curtilages (Figure: 7.1). Clarification of this term helped to increase the participants' understanding and their receptiveness during the interview (Cooper & Shindler, 2003, p. 328; Oksenberg et. al in Schaeffer & Presser, 2003, p. 72). This, in turn, enhanced data comparability for the analysis (National Statistical Service, 2011, p. 3).

Type 01: Lot Boundary   Type 02: Reduced Type 03: Composite   Type 04: Expanded
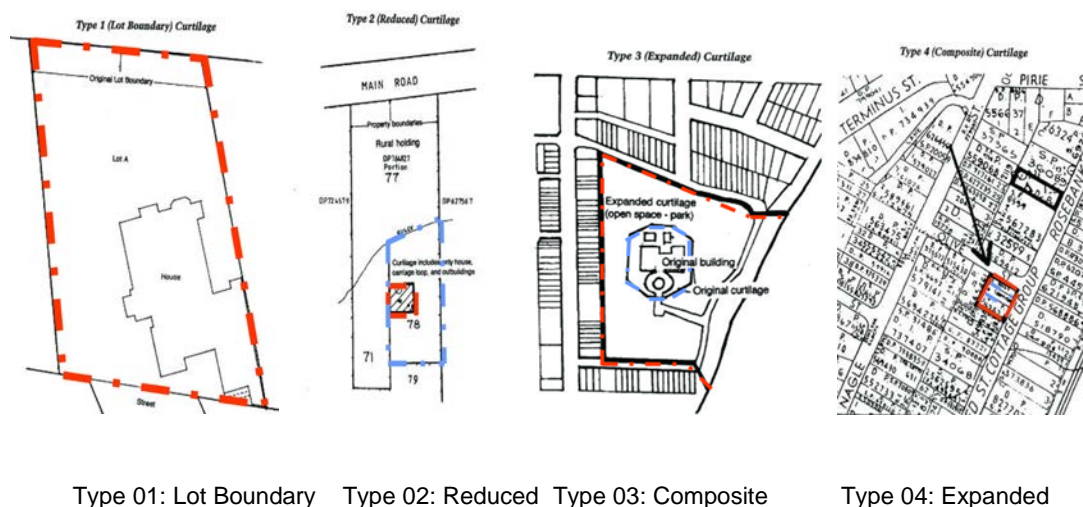
Types of Heritage Curtilages

Figure 7.1: Diagram used as supporting material during the interviews.
Source: (Heritage Office, 1996, p. 4).

The provision of this definition and the use of the diagram to clarify the concept revealed that only one-third (33%) of the participants knew about this term (GA1, GA2, NGO2, PP1, PP3 and PP6). The remainder (67%), clearly stated that this was the first time they had heard the term (GA3, GA4, SA1, SA2, SA3, KLLA1, KLLA2, KLLA3, NGO1, PP2, PP4 and PP5) (Refer to Figure 7.2). The participants that were familiar with the term had come across it through their research activities or during their studies overseas. All the participants that knew about this term had studied in the United Kingdom where the term has been widely used, particularly in a legal context.[24]

The questionnaire revealed that the percentage of participants familiar with the term heritage curtilage is quite low, and the majority of these participants were from

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[24] Literature review conducted in Chapter 04: Theories of Heritage Curtilages, showed that this term was first used in legal cases in 1941 before being implemented in planning legislation: *Planning Act 1990 (Listed Buildings and Conservation Areas).*

government authorities, non-government organisations and the professional heritage practitioners. The understanding of this concept among the local participants and their ability to connect it with the closest concept could be acknowledged as positive feedback about the acceptance of this concept in Malaysia.

Percentage Breakdown of Answers for Questions 2.2(i)

33% — YES
67% — NO
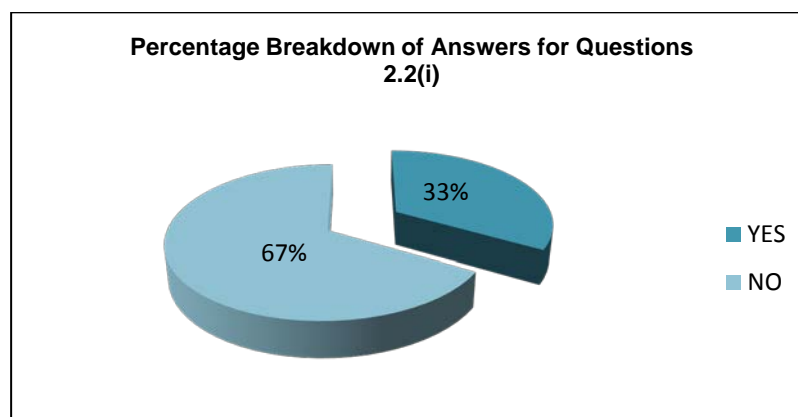
Figure 7.2: Data driven percentage breakdown of familiarity with the term 'heritage curtilage'.
Source: Author, 2011

Despite the low percentage of participants that were familiar with the term heritage curtilage, the "importance of the land which is integral to the heritage significance of items of the built heritage" was appreciated and similar approaches were identified: the setting (GA, SA, KLLA, NGO, PP), zone (SA, NGO, PP), area (GA, NGO, PP) and boundary (SA, KLLA) (Refer to Table 7.3). Overall, all the participants agreed the term heritage curtilage was useful: "*It is a good concept to be implemented in heritage conservation in Malaysia...as we are still lacking concepts, and methods compared to those which are being practiced in other countries, such as the UK and Australia*" (GA2). As discussed earlier in Chapter 05: Heritage Curtilage Conservation in Malaysia, legislations in Malaysia need a set of standards or principles to identify and conserve the heritage site or space. Hence, participants believed that by adopting the guidelines implemented by the NSW Heritage Office, it can be measured and amended based on the Malaysian context.

This awareness of heritage curtilage (also known as setting, zone, area or boundary), collectively understood as the significant surrounding context within which a heritage building is located, is rarely evident in the Acts pertaining to heritage conservation, given the participants familiarity with the concept, the current Acts were examined for evidence of it: the *Street, Drainage and Building Act 1974* (*Act 133*), the *Antiquities Act 1976* (*Act 168*), the *Local Government Act 1976* (*Act 171*), the *Town and Country Planning Act* 1976 (*Act 172*), and the *National Heritage Act 2005* (Act 645). Only the *National Heritage Act 2005 (Act 645)*, included terms that corresponded to those identified by the participants

(Refer Table 7.4). These findings reveal the gap between professional sensitivity towards the concept of heritage curtilage and what has been legislated in the Acts. Moreover, absence of substantial reference to curtilage (or similar) is indicative of its vulnerability in the process of heritage conservation. As mentioned by the one of the participants, "*if we state it in the Act, we can use the Act to prevent future development near this historical area...because without an appropriate Act, we do not have a special mechanism to protect this area*" (PP1). Furthermore, competitive heritage legislations are needed to overcome this gap (PP3). Although the recognition of heritage curtilage in the *National Heritage Act 2005 (Act 645)* is promising, the term must be incorporated more substantially into this and other Acts to protect heritage buildings and their significant setting in Malaysia.

	Terms identified by the Participants			
	Setting	**Zone**	**Area**	**Boundary**
GA	✔		✔	
SA	✔	✔		✔
KLLA	✔			✔
NGO	✔	✔	✔	
PP	✔	✔	✔	

Table 7.3: Terms identified by the participants pertaining to the concept of heritage curtilage.
Source: Author, 2011.

	ACTS	**Setting**	**Zone**	**Area**	**Boundary**
i.	Street, Drainage and Building Act 1974 (Act 133)	-	-	-	-
ii.	Antiquities Act 1976 (Act 168)	-	-	-	-
iii.	Local Government Act 1976 (Act 171)	-	-	-	-
iv.	Town and Country Planning Act 1976 (Act 172)	x	x	*special area	x
v.	National Heritage Act 2005 (Act 645)	x	✔	✔	x
vi.	Malacca Enactment No. 7 of 1993	-	-	x	-
vii.	Enactment of Johor No. 7 1988	-	-	-	-

Symbols:
-      term never been mentioned in the Act;
x   term has been mentioned in the Act but no details description on it;
*   similar term has been used in the Act; and
√   term has been interpreted in the Act.

Table 7.4: Comparison between terms mentioned by participants with existing heritage Acts in Malaysia.
Source: Adapted from (Foundation of the State of Johor, 1988; Parliament of Malaysia, 2003, 2006a, 2006d, 2006e, 2006f; State of Malacca, 1994).

Despite the recognition of and support for the concept of heritage curtilage (or similar) by the participants there is a considerable amount of work required to enable successful implementation of the concept in heritage practice in Malaysia. The process of identifying the appropriate size for heritage curtilage in different cases is not a straight forward task. Most importantly, the definition of curtilage is still unclear (Kerr, 2004; Mynors, 2000, 2006). To address the issue, the *Heritage Curtilages Guidelines* (1996) lists several elements which need to be considered before the environs of a heritage building can be declared to be heritage curtilage. These elements are:

    i. Connections between Heritage Buildings and their Curtilages;

    ii. Visual sightlines;

    iii. Buffer area; and

    iv. Setting.

Understanding of each of these terms is important as it pertains to the most appropriate type of heritage curtilage conservation methods. Weighting of each of these elements differ as heritage curtilage is site specific and "not all buildings will have a curtilage" (Historic England, 2016). Heritage building located in urban areas may be vulnerable to visual sightlines with a smaller area of curtilage. In other cases, the boundary of the curtilage is clearly defined such as a square or a garden. Therefore, these elements were discussed with the participants to determine their sensitivity to, and the particularities of, the environs of the selected buildings. Based on these findings, the intent is to develop criteria for local heritage curtilage based on the Malaysian context.

Factors contributing to the Significance of Heritage Buildings and Curtilages

To identify the area and character of heritage curtilage, several factors need to be considered – i) the connections between a heritage building and its surroundings, ii) visual sightlines, iii) buffer area and iv) the setting of the building (Heritage Office, 1996, p. 9). These factors are important to identify "the extent of land around it which should be defined as encompassing its heritage significance" (Heritage Office, 1996, p. 1). Even though the NSW Heritage Curtilages guidelines does state lot boundary as one of the methods to determine the curtilage, the size of this curtilage could still be changed. The size of the lot boundary curtilage could either be reduced, expanded or merged with the neighbouring land as long as other important heritage elements could be included to "maintain the heritage significance" of the building (Heritage Office, 1996, p. 6).

As each and every building will establish its own curtilage, it is hoped that by undertaking these factors, the findings from the research could be adapted based on the Malaysian context. Besides acting as a parameter, it will also help authorities and professional practitioners to identify all elements involved in establishing a heritage curtilage. Without these, it is quite difficult for the parties involved to identify an appropriate size of a curtilage (MacFarlane, 2000; Mynors, 2000, p. 11).

i) Connections between a Heritage Building and its Environs

To establish heritage curtilage, the relationship between the building and its surroundings is an integral part of the assessment. To define this connection, it is important that there is sufficient research done on the heritage building and the area involved (Heritage Office, 1996, p. 12). As stated previously, although curtilage has never been legislated in conservation work in Malaysia, all participants positively agreed that it is important to conserve the heritage building together with its immediate environs. The main factor mentioned by the participants that linked the building to its environs is the historical context.

From the findings, it is evident that the historical context is a very significant part of the connection between a building and its environs. For example, one of the participants stated, *"the history of a place is not only about the building...but, the whole area. The whole area is the history" (PP1).* Therefore, research on the historical background of the buildings and the area is very important to ensure all important elements are included in the conservation works. This type of research is already being conducted by several of the participants whereby the historical background is interpreted with reference to archive material including old records (reports, forms, notices), original photos, and interviews with the local community (PP1, PP3, PP4 and NGO1). In addition, site assessments are also carried out by the participant, encompassing the "*nearby buildings, streetscapes, landscape, furniture, relics, path, steps, ramps, and fences are all being documented. It is a huge amount of on-site physical information* (PP3). With the thorough historical analysis, it is possible to interpret a connection between the building and its surrounding (PP3, PP4).

To further understand the link between a building and its environs, it is vital to understand the cultural history. Chapter 02: Kuala Lumpur City in Historical Perspectives has already examined the original character of the old town of Kuala Lumpur and the importance of the setting, particularly the concept of *kampong* in relation to Malays culture especially in identified spaces according to activities. This is also acknowledged by the participants

with reference to their professional experience. "*Malays are always associated with space...outside the building there must be a space for landscaping, for them to plant herbs, and etc. They always relate to space and surrounding...it's part of their culture*" (GA1).

However, many Malays have moved to higher density urban areas due to the pressure of development and the *kampung* are now neglected. As a result, traditional Malay houses have been abandoned and left to decay (PP2, NGO1, and NGO2). To save these buildings, drastic action has been taken by some of the heritage practitioners by relocating individual buildings. Although this action can preserve the building, the original setting and hence the connection between the building and its setting is lost (PP1). As mentioned by one of the participants, "*the architectural aspect of the Malay house is very impressive...but it will lose its greatness once it is removed from its atmosphere*" (PP4). In addition, the preservation of setting will safeguard the cultural identity of the place. This is because each place and space is unique and their characteristics are closely related to each area's history (Peterková, 2003, p. 2). By changing the original atmosphere of a building, it may change the authenticity of the building and its identity. Therefore, to ensure the connections between the heritage buildings and its surroundings are well conserved these two aspects should be included during the conservation works in Malaysia (GA4). Given these concerns, it is rational to be adopted in Malaysia especially when the latest heritage Act; the *National Heritage Act 2005 (Act 645)* does not have a special clause on this matter.

Further grounds for the implementation of legislation that protects heritage curtilage and enhances a heritage building are documented in Australia, United Kingdom and Scotland. As stated under the *NSW Heritage Curtilages Guidelines*, this connection is not only to "widen the setting" but also to "provide physical evidence of the historical associations between the land and successive human activities and structures upon it" (Heritage Office, 1996,p. 12). With this, it will help to retain the historical and cultural aspects of the buildings and its surroundings (Heritage Office, 1996,p. 12). In the United Kingdom and Scotland, the importance of acknowledging the connection between buildings and their surroundings has been stated under specific Acts; the *Planning (Listed Buildings and Conservation Areas) Act 1990*, the *Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997*. Both Acts have the same objective which is not only to conserve the building but also the elements that have close historical connection with the building (Parliament of the United Kingdom, 1990; Scottish Law Commission, 2010). Once identified, these elements inside the curtilage are also eligible to be included as part of the heritage building's listing and granted the same consideration as the building.

Although only a few countries have implemented 'curtilage' in their heritage legislations, it does not mean that other heritage organisations do not integrate the same concepts in their conservation works. Since the 1960s, heritage conservation activities have encompassed a wider scope of conservation that extends to the surrounding environment and is not limited to the buildings alone (Thabet, 1998). UNESCO, as an example, provides guidelines to homeowners living within historic towns that address the importance of a setting in the publication of *The Heritage Homeowner's Preservation Manual for UNESCO World Heritage Sites*. In the third volume, the focus on the World Heritage Site of Hoi An in Vietnam. Under the *Hoi An Homeowner's Manual,* the importance of including a buildings' context in a preservation activity is highlighted (UNESCO Bangkok, 2008, p. 9). This includes the streets that are adjacent the shophouses. Most importantly, Hoi An is designated not only because of its heritage buildings, but also because of the significance of the cultural activities including the traditional way of life, religion and customs (Local Case Study Team, 2000, p. 2). UNESCO argues that to achieve holistic conservation, it is necessary to achieve a balance between these values, Hoi An has been conserved "in an integrated way with both its social and architectural values intact" (UNESCO Bangkok, 2008, p. 12). Furthermore, the intent of this high profile manual is to assist heritage practitioners in effective and comprehensive conservation work (UNESCO Bangkok, 2008, p. 2).

Besides UNESCO, the World Bank is another organisation that takes into account the relationship between a building and its surroundings. This relationship has been stressed several times in its handbook; *Safer Homes, Stronger Communities: A Handbook for Reconstructing after Natural Disasters*. As an aspect of cultural heritage conservation, the scope of works involves the protection of "economically valuable physical assets" and also the preservation of "its practices, history, and the environment, and a sense of continuity and identity" (Jha, Barenstein, Pheps, Pittet, & Sena, 2010, p. 172). Hence, current practice encompasses "all aspects of the physical and spiritual relationship between human societies and their environment" (Jha et al., 2010, p. 173). Even though this handbook is published for post-disaster housing reconstruction programs, it continuously emphasises the importance of acknowledging a building and its surroundings, especially for the development of new housing. In this example, new development must be harmonised with the existing "local culture and settlements layout, especially when building new houses within or near existing historical or vernacular settlements" (Jha et al., 2010, p. 175). It shows how important it is to recognise the surroundings even though for a new development.

In addition, the Aga Khan Development Network (AKDN) also recognised the intervention between heritage properties and their environs. In 2016, AKDN shortlisted 19 projects for the Aga Khan Award for Architecture. From the list, there are several projects which highlighted the connection between buildings and their environs. One of the projects is the Nasrid Tower Restoration in Almeria, Spain. Located at the edge of the cliff, the restoration project had to "reuse the existing topography" to ensure the original character of the sites are remained (Aga Khan Development Network, 2016a). The site surroundings complemented the tower and had become an important landmark in the area. There are also conservation projects purposely carried out to maintain the historical link between the built monuments and sites. The Preservation of Sacred and Collective Oasis Sites, Guelmim Region, Morocco, for example, tried to preserve the heritage of oasis towns which encompasses the distinctive environs. The surroundings of the sites contributed to the historic value and character of the town (Aga Khan Development Network, 2016b).

There are also heritage properties which have become well-known because of the environs. The historic city of Sana in Yemen, historic sanctuary of Machu Picchu in Peru, or even groups of megaliths or Stonehenge in England, are several examples of sites that had been recognised because of the extraordinary setting. As stated by Coleman (2014), a good setting may act as a barrier to the site from the impact of development (Coleman, 2014). Hence, identifying the connection between a heritage item and its environs is crucial to ensure comprehensive protection of the site.

ii)   Visual Sightlines

Besides the connections between heritage buildings and its surroundings, visual sightlines are another element that should be taken into account to establish an appropriate heritage curtilage (Heritage Office, 1996, p. 14). Whether this element existed because of "economic accident or careful planning", it needs special attention in any development plan as it is also part of the "aesthetic qualities" for the building (Heritage Office, 1996, p. 14; Kerr, 2004, p. 15). In addition, the relationship between the building and its visual sightlines is also important in heritage conservation as it will enhance the area and contribute to the history of the place (Kerr, 2004, p. 15; Office of the Queensland Government Architect, 2010, p. 25). Recognition of the importance of visual sightlines for Malaysia's heritage buildings, is one of the factors tested among the participants.

Discussing visual sightlines and their contributions to the significance of the heritage buildings, all participants agreed that this element was very important and should be

conserved together with the buildings. However, a few points were highlighted in relation to achieving this objective especially to buildings located in an urban area. As stressed by one participant, *"even a slightly taller building from the new development will definitely affect the original skyline....and its existing view" (GA1).* Therefore, to sustain these visual sightlines into or out of the heritage buildings, more than half of the participants agreed that this could only be achieved through good legal documents (GA1, GA3, KLLA1, KLLA2, KLLA3, PP1, PP2, NGO1, and SH1). They expressed concern about the future of these buildings especially when Kuala Lumpur Twin Tower (KLCC) which is known as the highest building in Malaysia is also facing the same issue (GA1, GA3, KLLA1, KLLA2 and PP1). *"If the view towards KLCC also has been blocked by the new development, it is not impossible that it could happen to other buildings" (PP1).* Hence, it is not impossible that in future these buildings will look more like a "*doll-house...or a miniature because it has been surrounded with juggernaut buildings" (NGO1)* and *"gradually will lose its original views" (GA3).*

The notion of a visual sightline is not new in legal terms in Malaysia. Although there is no interpretation or policy about vistas or views in the *National Heritage Act 2005 (Act 245),* Kuala Lumpur authority (Kuala Lumpur City Hall (KLCH) has discussed the notion of "view corridors and gateways" and "visual linkages in the city centre" in its Kuala Lumpur Structure Plan 2020 (KLSP 2020) under the Urban Design and Landscape component (Kuala Lumpur City Hall, 2005, p. 141). Yet, this policy is only applicable for the tallest landmark buildings in Kuala Lumpur such as the PETRONAS Twin Tower and the Kuala Lumpur Tower and not heritage buildings, monuments or heritage areas in the old town of Kuala Lumpur (Figure 7.3). One of the main issues identified by KLCH is that it is quite hard to develop "broader visual linkages" in this area because of the "linear nature of the old city and its small-scale grid patterns" (Kuala Lumpur City Hall, 2005, p. 143). Under KLSP 2020 *Urban Design Policies* (UD), *UD9* has stated that KLCH shall "control building heights to ensure the visual primacy of certain designated areas in the City Centre, the protection of special character areas and the accenting of entry gateways and activity nodes" (Kuala Lumpur City Hall, 2005, p. 149). Hence, new development "should be scaled approximately to harmonise with existing traditional or proposed lower rise development or special character precincts" (Kuala Lumpur City Hall, 2005, p. 149).
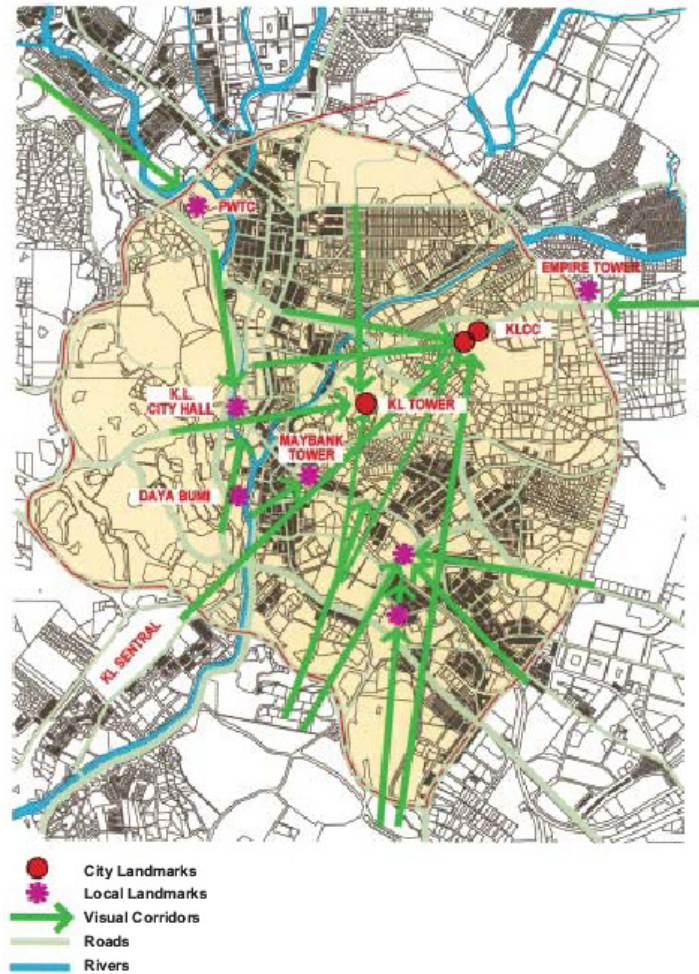
Figure 7.3: Main visual corridors, linkages and landmarks of Kuala Lumpur.
Source: Kuala Lumpur City Hall, 2004, p. 144

This policy was later strengthened by the formation of the Draft Kuala Lumpur City Plan 2020 (DKLCP2020) in 2008. From the *UD9* highlighted in KLSP2020, DKLCP2020 has come out with a Special Planning Zones for these heritage buildings and area known as the Heritage Zone (SPZ 2) and Height Control Zone (SPZ 3). These two SPZ were then combined and expanded and finally developed guidelines which were drafted deliberately to control the visual sightlines for the areas involved, which was later named as the *Guidelines for City Centre Heritage Height Control Zone* (Kuala Lumpur City Hall, 2008c, p. 227) (Figure 7.4). But, apart from mentioning the "areas affected by this zone" and the "allowable height as indicated on the map", there is no other further explanation given especially on the mechanism of applying these guidelines on site (Kuala Lumpur City Hall, 2008c, p. 227). Most participants mentioned that this 'gap' has been one of the major reasons why this effort is quite hard to be enforced (GA1, GA3, KLLA1, KLLA2, PP1, PP2, PP3 and NGO1) (Figure 7.5).

Figure 7.4: Heritage Area Height Control Zone for Kuala Lumpur's City Centre.
Source: (Kuala Lumpur City Hall, 2008c, p. 228).

Figure 7.5: Views taken from the Kuala Lumpur Tower (the nearest tallest building located near the old town of Kuala Lumpur) has shown the dilemma faced by KLCH in enforcing the guidelines. The highlighted area shows parts of the old town seen from the tower.
Source: Author, 2011.

Issues related to visual sightlines are not only experienced in Kuala Lumpur, they also threatened George Town in Penang. As a UNESCO World Heritage Sit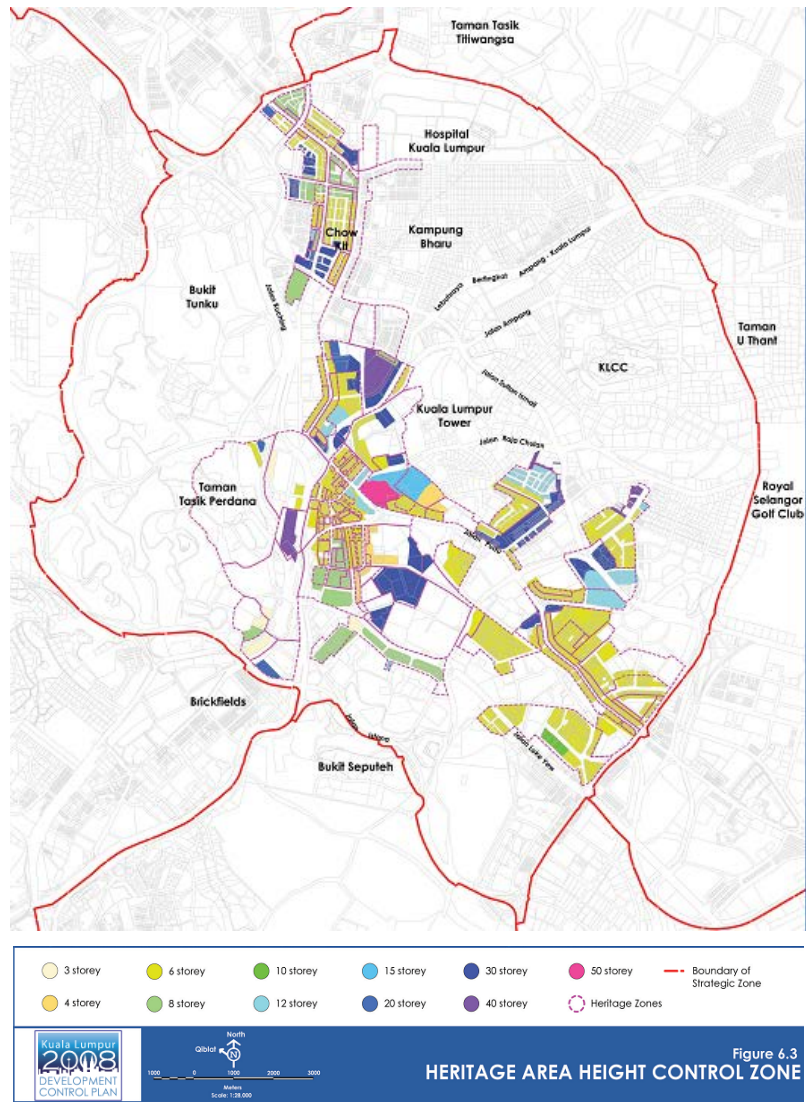e, height control and visual sightlines have been one of the major aspects taken into account by the UNESCO assessors. A proposal to build four new hotels; two within the heritage core zone and another two in the buffer zone, received criticism from the assessors as it exceeded the maximum height allowed by UNESCO (Singh, 2008, para. 2). Failure to comply with the regulations that only allow the maximum height of 18m may "revoke George Town's listing as a World Heritage Site" (Sulaiman, 2009, para. 5). Earlier, the same concern was raised in Vienna in 2007 in relation to a 100m high-rise building proposal (ICOMOS Austria, 2007, p. 33). The effect of these new buildings either in Penang, Vienna or other historic sites will certainly change the original sightlines of the area. Any changes to this element will "affect the overall aesthetic impression of the historic area, its unhindered perceivability and its dominating effect from a distance". Moreover, it will also leave an impact to the "building's identity" (Heritage as Opportunity (HerO), 2009, p. 4) and "*the historic setting of that place" (PP3).*

iii) Buffer Area

In addition to the two elements discussed earlier in the previous subsection; i) the connections between heritage buildings and its curtilages, and ii) the visual sightlines, the third element being tested among the participants for establishing a heritage curtilage for Malaysia's heritage buildings was the buffer zone. The establishment of a buffer area for a heritage building or areas is not only for aesthetic purposes but also "to screen the heritage item from visually unsympathetic development or to provide protection from vibration, traffic, noise, pollution and vandalism" (Heritage Office, 1996, p. 10). Based on UNESCO's *Operational Guidelines for the Implementation of the World Heritage Convention (2011)* an effective buffer area should also comprise "...important views and other areas or attributes that are functionally important as a support to the property and its protection" (UNESCO, 2015, p. 26). Interestingly, these elements are the same elements discussed in this subsection. It proved that these elements "cannot stand alone", and connect each other (UNESCO, 2008a, p. 17). Therefore, they need to be defined equally in establishing an appropriate heritage curtilage for a building or an area (Heritage Office, 1996, p. 10).

The concept of a buffer area generated various responses. Most of the participants agreed that the declaration of George Town and Melaka as World Heritage Sites in 2008 has acted as a catalyst in relation to the importance of having an appropriate buffer area for protecting a heritage building or an area (GA1, GA4, PP3, PP4, and NGO1). In

addition, with the right implementation it could enhance the character of the heritage zone (GA4). Criticism given by UNESCO on a new hotel development located within a buffer zone in George Town have verified the importance of this area in this heritage context (GA1). Positive responses about the impact of a buffer area on a heritage item indicated that all participants hoped that it could be compulsory to implement this to all heritage areas and not be limited to the World Heritage Site.

To support this good intention, Kuala Lumpur City Hall, for example, has come out with its own "buffer zone" for Kuala Lumpur City Centre (KLCC) Heritage Zone as part of its *Strategic Direction 9.1 – Designing Heritage Zone* (Kuala Lumpur City Hall, 2008b, p. 9.2) (Figure 7.6) . However, the main objective of the formation of KLCC's buffer zone is quite different from what has been practised in George Town or Melaka. In these UNESCO's World Heritage Site, the roles of this area is to protect the heritage zone and the buffer area itself comprises "numbers of [traditional] religious buildings" and more than 3,000 heritage buildings (Government of Malaysia, 2008, pp. 14 - 22). For this reason, "the development within the buffer zone is only restricted to 4-storey" height buildings (Government of Malaysia, 2008, p. 142) (Refer to Figure 7.7). But for Kuala Lumpur, a different situation is evident. The roles of this buffer area are just for "adjoining or connecting heritage zones to others" (Kuala Lumpur City Hall, 2008c, p. 9.2). Therefore, the establishment of this area does not cover all parts of its heritage zone (Refer to Figure 7.7). Moreover, this area does not have any "intrinsic existing character which requires conservation" (Kuala Lumpur City Hall, 2008b, p. 92). Due to these factors, the buffer area in Kuala Lumpur is not bounded by any special guideline (KLLA2, KLLA3).
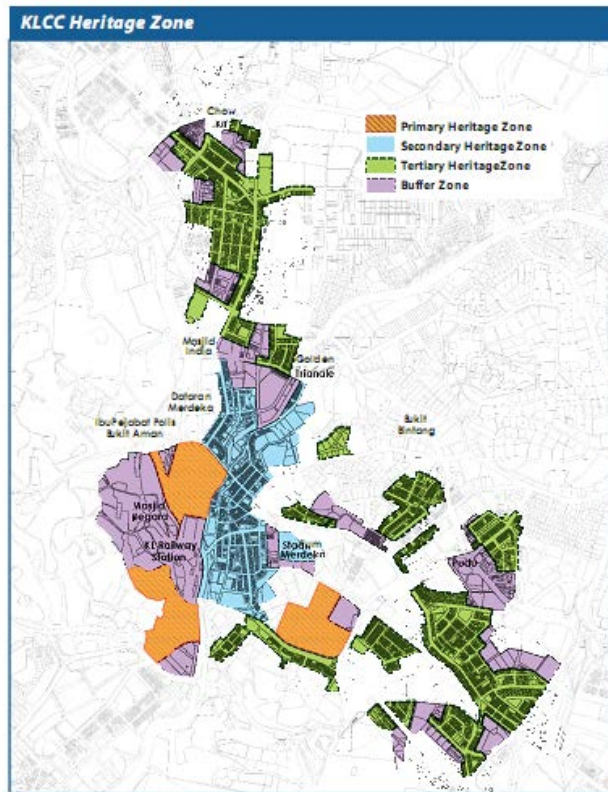
Figure 7.6: The core and buffer zones of the Kuala Lumpur City Centre.
Source: (Kuala Lumpur City Hall, 2008b, p. 93).
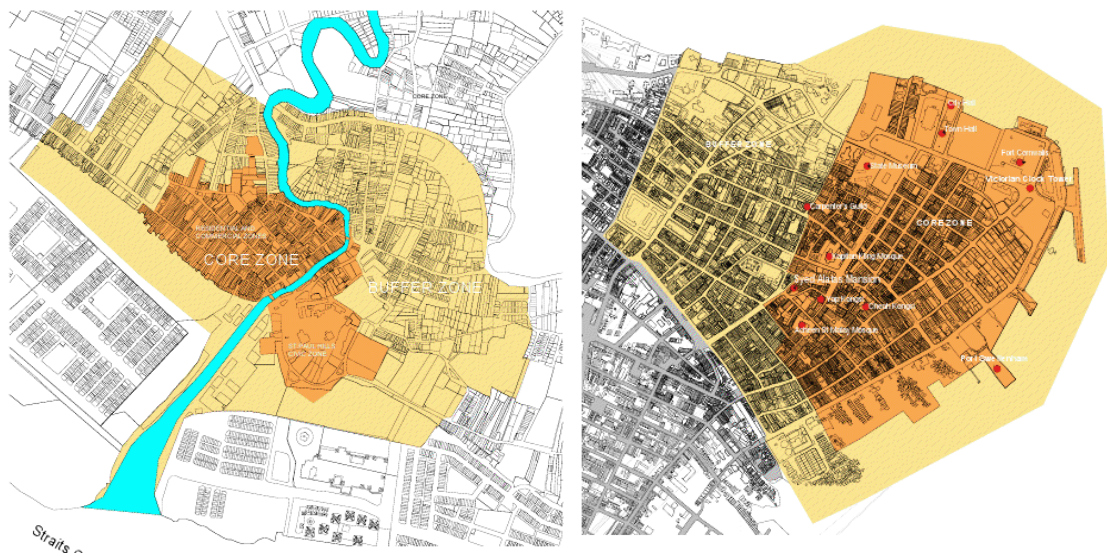

Figure 7.7: The core and buffer zones of the Historic City of Melaka and George Town.
Source: (Town and Country Planning Department Melaka, 2008, p. 18; Town and Country Planning Department Melaka, 2008, p. 18).

The issue of finding an appropriate guideline for a buffer zone is not only faced in Malaysia, but also experienced by UNESCO. In the case of UNESCO, the "buffer zone" concept was introduced as early as the 1970s in its first version of the *Operational Guidelines* in 1977 (UNESCO, 2008a, p. 25). Concerned about the importance of this concept, UNESCO held an *International Expert Meeting on World Heritage and Buffer Zones* in 2005 to "foster the reflection on the role of buffer zones in modern conservation practices" (UNESCO, 2009c, p. 9). As a result, the experts raised several queries in their interrogation of this concept, claiming amongst other factors, that a "weaker or non-existing legal mechanism" has made this issue more complicated (UNESCO, 2009c, p. 17). As stated in its latest review of the *Operational Guidelines* in 2015, although the establishment of a buffer zone for a World Heritage Site is not compulsory, "it is strongly recommended" to include it in a new nomination "for the proper protection" to the heritage area (UNESCO, 2015, p. 26).

Aware of the importance of a buffer area for a heritage item, there are positive initiatives taken in relation to UNESCO World Heritage Sites around the world to include this area in their conservation plan. One of the well-known World Heritage Sites mentioned earlier, the Sydney Opera House which was inscribed in 2007, had identified its buffer zone in its nomination documents to control the development nearby and to preserve the value of this heritage site (Australian Government & New South Wales Government, 2006, p. 70). Britain which currently owned 28 properties inscribed on the World Heritage List with 15 more on the Tentative List had begun to implement a buffer area for its heritage sites after UNESCO's inspection in 2006 found that "Britain has been putting 'at risk' world heritage sites...by allowing huge skyscraper developments" ("Building 'buffer zones' to protect heritage sites," 2007). The Tower of London which was listed in 1988, together with Westminster Palace, Westminster Abbey and Saint Margaret's Church, had been giving "notes with great concern" from the inspectors when the new developments around these properties "appear not to respect the significance of either World Heritage property, their settings and related vistas" (UNESCO, 2006). However, the UNESCO committee feels "regret" as until 2009 "a buffer zone with protection has still not been put in place" (UNESCO, 2009a). Finally, after more than 5 years waiting, in 2011 the UNESCO Committee had "acknowledged" the effort shown by the state parties in its report of the Tower of London Local Setting Study. However, there were still expressions of "great concern" amongst the Committee. In one such example, the "overall setting of the Tower ... has not been defined and provided with protection" as requested by the Committee in the previous report in 2009; Decision 33 COM 7B.127 (UNESCO, 2011b, p. 16).

From the current situation in Malaysia or other UNESCO Heritage Sites around the world, an appropriate legal restriction is urgently needed. Full cooperation from all parties and clear understanding of this concept is necessary to ensure it could be implemented at all levels, including the community (UNESCO, 2009c, p. 17). And most importantly, the buffer area should be seen to be equally as important as the heritage item (UNESCO, 2009c, p. 25).

iv) Setting

On identifying a heritage curtilage in the Malaysian context, the setting of a heritage building or area was the last element tested among the participants. Their understanding of the relationship between the heritage item and its setting is important to establish the appropriate curtilages for Malaysia. In fact, the relationship between these two elements can be "an indivisible part of the heritage significance of a site or place" (Heritage Office, 1996, p. 12). This is because the setting comprises other factors of significance as identified earlier including the visual sightlines and the buffer area. As a result, the setting of a heritage item or area could be wider than the buffer area (Kerr, 2004, p. 17; UNESCO, 2009c, p. 31). Therefore, the understanding of this concept amongst the participants is important to ensure that the knowledge could be shared and transferred between all levels in the conservation management area. With this, it will help to develop an appropriate setting for a heritage building or an area (UNESCO, 2009c, p. 31).

All participants agreed that setting is very important and should be acknowledged in the process of establishing a heritage curtilage for the building. However, most of the participants were concerned about how to interpret this within the Malaysian legislations. Referring to the *National Heritage Act 2005 (Act 645)*, this term has been mentioned once but it only refers to the building's setting involved during the restoration works (Parliament of Malaysia, 2006a, p. 98). Besides this, there is no other special clause in this Act which treats the setting especially a term which could be related to the heritage building or area. The same situation applies in the Federal Territory of Kuala Lumpur. This term has been mentioned several times in the *Federal Territory (Planning) Act 1982 (Act 267).* Yet, it's still applied for the "setting back of the building" and not the overall surrounding (Parliament of Malaysia, 2006c, p. 26). As for the *Draft Kuala Lumpur City Plan 2020: KL Development Control Plan 2020*, the setting has been mentioned under the *Guidelines for Plot Ratio Control in Kuala Lumpur*. However, besides mentioning the "physical setting of the area" there are no other relevant details mentioned (Kuala Lumpur City Hall, 2008c, p. 3.11).

If there is no immediate action taken by the government, the participants were concerned that the future of Malaysia's heritage buildings and the surroundings will be threatened by unplanned development (GA1, GA2, GA3, KLLA1, KLLA3, PP1, and PP3). *"If you want to preserve the setting, you need to preserve the whole area rather than one half" (PP1).* With a detailed analysis, it is possible to identify a setting for heritage items in Malaysia (GA1, KLLA1, KLLA2, PP1, PP2, PP3, PP4, and NGO1). As stated by UNESCO, "It may therefore be useful to think of "setting" as including the buffer zone, and defined zone(s) beyond the buffer zone" (UNESCO, 2008a, p. 24).

7.4   Implementation of Laws on Conservation of Heritage Buildings and its Curtilages

The two previous sections lead to the topic of the implementation of laws in Malaysia. This section profiles the current situation in Malaysia amongst the participants. Comments from the participants were analysed and grouped into two subsections:

i)   the management of heritage buildings and their curtilages; and

ii) the expectation of the future management of these buildings and their curtilages.

Interestingly, concerns about heritage laws and their enforcement in Malaysia and at the international level is not new. This topic has been debated in various forums around the world (African Cultural Heritage Organizations, 2009, p. 4). Therefore, it is relevant to test the understanding of this topic amongst participants for ideas as to the appropriate legal approaches to be adopted in the Malaysian context.

7.4.1   Management of Heritage Buildings and its Curtilages

Legally, the *National Heritage Act 2005 (Act 645)* is the core Malaysian reference since 2005 when the previous *Act*, the *Antiquities Act 1976 (Act 168)*, was repealed. It provides a "wide scope of protection and restoration" (Yusoff, Dollah, Kechot, & Din, 2010, p. 277). All participants concluded that this Act is flexible and could be implemented by all heritage practitioners including government officers, professional practitioners and non-government organisations. With its broad scope of heritage conservation, it has also become the main reference for the management of a heritage building and its surroundings (GA1, GA2, GA3, KLLA2, KLL3, PP1, PP3, PP4, NGO1, and SA1).

Although curtilage is not mentioned in this *Act*, throughout the interviews, participants were all able to relate to this word as being a term applied in the *National Heritage Act 2005 (Act 645)*; the "site". The definition of "site" is chosen as being the closest definition to curtilage in discussing their efforts in managing buildings and their surroundings as it embraces a "monument or building attached to land...and any land with building, garden, tree or archaeological reserve" (GA1, GA2, KLLA2, KLLA3, PP1, PP2, PP3, PP4, and NGO1; Parliament of Malaysia, 2006a, p. 100). This definition of site was commonly used by authorities, professionals or non-governmental organisations during the interviews being "area, place, [and] zone" (Parliament of Malaysia, 2006a, p. 100).

In supporting the *National Heritage Act 2005 (Act 645),* a few other *Acts* were referred to by the participants in terms of conserving heritage buildings and sites. These *Acts*, the *Town and Country Planning Act 1976 (Act 172)* (GA1, GA2, GA4), the *Local Government Act 1976 (Act 171)* (GA2, KLLA1), the *Street, Drainage and Building Act 1974 (Act 133)* (GA2, GA3, KLLA1), the *Federal Territory (Planning) Act 1982 (Act 267)* (KLLA1, KLLA2, KLLA3) and the *Melaka Enactment (PP2, PP3)* were acknowledged as complementing the *National Heritage Act 2005 (Act 645).* A deep understanding of these *Acts* can assist all parties, especially local authorities, in giving "their best recommendations and strategies before any new development is taking place especially in the heritage site" (GA4).

In obtaining maximum protection for these heritage items, Malaysia is in the process of requiring a *Heritage Impact Assessment (HIA)* for planning approval (GA1, GA2, and GA4). At the moment, a HIA is compulsory for an application in the World Heritage places of George Town and Melaka in seeking Planning Permission (Melaka Historic City Council (MBMB), 2011, p. 9; Municipal Council of Penang Island, 2011, p. 3). Concerned about the future of other heritage buildings in Malaysia, the Heritage of Malaysia Trust (BWM) in a statement on August 15, 2011, urged that this HIA approach be implemented as soon as possible to all heritage areas due to the rapid development occuring especially in urban areas ("Ambil alih: Badan Warisan bimbang masa depan Chinatown [Takeover: Heritage of Malaysia Trust worry about the future of the Chinatown]," 2011, para. 6). Citing Chinatown in Kuala Lumpur as one of their main concerns, the BWM observed that any development actions taken in relation to these heritage buildings would probably affect the historic fabric and their setting (Hamid, 2011, para.12). All participants agreed that the absence of this HIA resulted in the situation being out of control. Hence, an HIA is urgently required as a monitoring tool for local authorities and professional bodies to minimize the impact of development upon these heritage items (GA1, GA2, GA3, KLLA1, PP2, and PP3).

Knowing the importance of having an integrated conservation plan for a heritage building and area, Conservation Management Plan (CMP) is a key tool that has been implemented in the last decade in Malaysia (GA1, GA2, GA3, GA4, PP2, and PP3). Unlike the HIA, a CMP term is stated in the *National Heritage Act 2005 (Act 645)* under *Part VII: Heritage Site; Chapter 5: Conservation Area and Conservation Management Plan (Section 46)*. Under this section, one of the main reasons for a CMP is to ensure "proper management of a heritage site including the use and development of all buildings and lands in the heritage site" (Parliament of Malaysia, 2006a, p. 122). However, at the moment, the preparation of a CMP is only compulsory for a designated heritage site or area (Parliament of Malaysia, 2006a, p. 122).

From the research findings, it demonstrates that authorities in Malaysia are working hard to produce appropriate mechanisms to conserve and manage heritage buildings and areas. When George Town and Melaka were listed as a World Heritage Site in 2008, these efforts were boosted (Wai, 2011, p. 4). This approach is aligned with UNESCO's requirements including a *Special Area Plans* (SAP) and a CMP. The local authorities of George Town and Melaka are among the earliest that have published a SAP and a CMP (GA1, GA2, KLLA1, KLLA3, and PP2), that meet the requirements stated in the *Acts*, but also fulfil requirements from UNESCO (Government of Malaysia, 2008, p. 8).

Although implementations of SAP and CMP are relatively new in Malaysia, they have been widely practiced worldwide. The CMP, for example, has been implemented in the United Kingdom since 1968 under its *Transport Act 1968* (Hume, 2001, p. 1) whereas it was introduced in Australia in 1979 with the adoption of the *Burra Charter* (Smith, 2005, p. 102). The CMP has been acknowledged as an effective tool for managing heritage buildings and their surroundings (Hume, 2001, p. 1; Kerr, 2004, p. 50; New South Wales Government, 2011, para. 4). Thus, it is not surprising that this a CMP has been established as a compulsory procedure by UNESCO, the Government of Australia and the Historic Buildings and Monuments Commission for England[25] when dealing with modifications and a development proposal for a historic building or place (Australian Government, 2011, p. 130; English Heritage, 2011, para. 5; UNESCO, 2015, p. 33).

Acting as a heritage management tool, a CMP or a SAP should be a flexible document to enable implementation to protect the future of the heritage and at the same time help parties involved in "making decisions about the changes" (English Heritage, 2011, para. 4). Therefore, the enforcement of either plan is not a short term practice, but rather an

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[25] Also known as English Heritage.

ongoing process as evidenced in Malaysia when the State Party had to submit "a more detailed level of planning controls and guidance" for George Town and Melaka (UNESCO, 2009b, p. 3) as part of the World Heritage Site enactment. As a result, a minor amendment was made to the original proposed boundary of the World Heritage Site for Melaka since the approval by UNESCO's Committee in its 35th meeting in Paris (Refer to Figure 7.8) (UNESCO, 2011d, p. 6). From this action, it demonstrates that with continuous assessment and clear action, legislation enforcement can become easier and more successful (GA1). While it is possible to provide the best protection for a heritage building and site, "*numbers are not important...what is most important is how to enforce it" (GA1)* as stated by one participant.

| The inscribed property and the buffer zone of the Historic City of Melaka in 2007 (Town and Country Planning Department Melaka, 2008, p. 20) | The inscribed minor boundary for the Historic City of Melaka in 2011 (Government of Malaysia, 2011b, p. 13) |
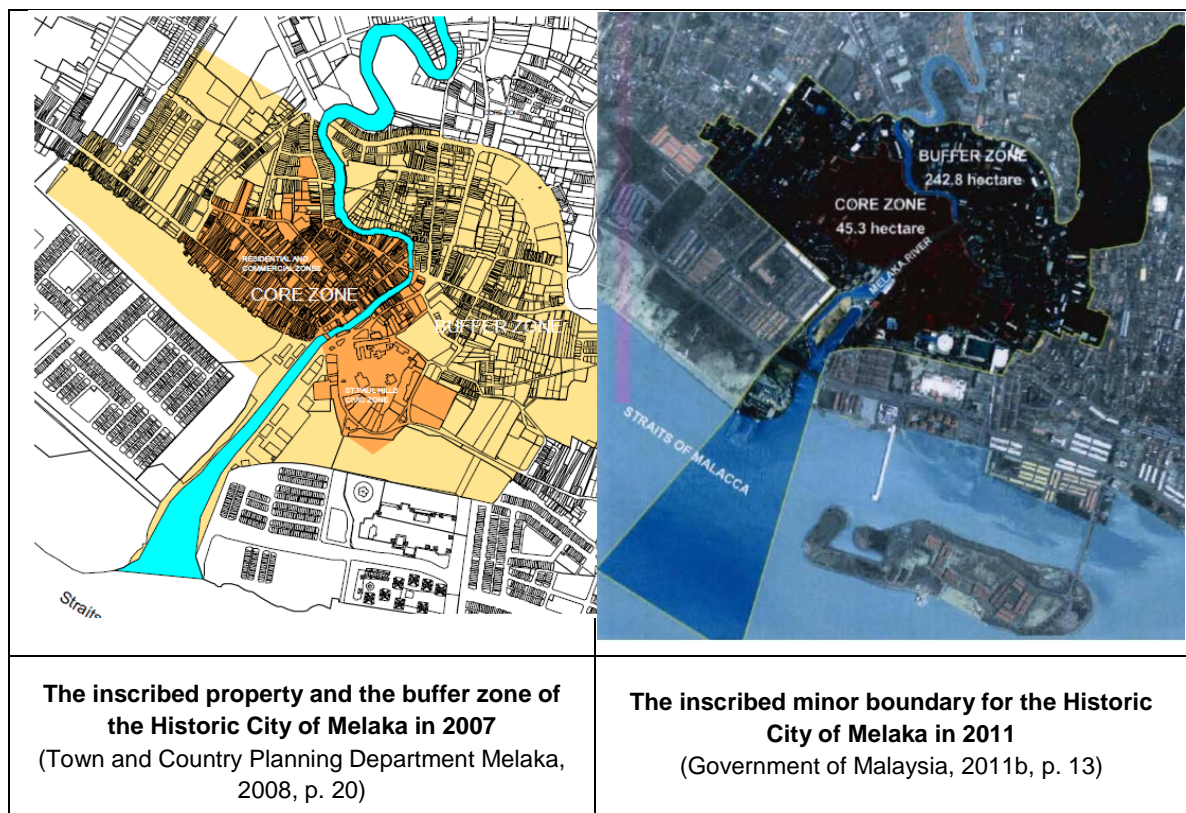
Figure 7.8: The newly inscribed property for Melaka.
Source: (Government of Malaysia, 2011b, p. 13; Town and Country Planning Department Melaka, 2008, p. 20)

7.4.2   Expectation of Future Management of Heritage Buildings and its Curtilages

While participants noted their concerns about legislation, the discussion often turned to the future management of these heritage buildings and sites. From the previous discussions, it was evident that all participants were highly alert to the existing heritage *Acts* in Malaysia and were concerned about their impact towards heritage buildings and sites. Referring to the first Heritage *Act*, the *Antiquities Act 1976 (Act 168),* Malaysia has

started to "control and preserve" its "ancient and historical monuments, archaeological sites and remains, antiquities and historical objects" since March 1976 (Parliament of Malaysia, 2003, p. 2).

This *Act* had been enforced for 29 years before it was repealed by the *National Heritage Act 2005 (Act 645)* in 2005. If the previous heritage *Act* is taken into account, Malaysia has thus practiced heritage conservation for over 35 years. Even after more than 3 decades, for the participants, they concluded that it was still too early to discuss the success of these Acts regarding the management of heritage buildings and sites (GA1, GA4, PP1, PP2, PP3 and SH1). In fact, more that 80% of the participants believed that there is still room for improvement for the current *Act* through a legal approach and continuous amendments. As identified by non-government organisations (NGOs) and professional practitioner (PPs) participants adding more details about 'what', 'how' and 'why' in this Act would certainly improve conservation activities in Malaysia. Positive feedback obtained from one participant, from the Ministry of Information, Communications and Culture about the ongoing process of amending the *National Heritage Act 2005 (Act 645)*, revealed a positive opportunity for the realisation of this goal. For the remaining 20% of the participants, the introduction of this *Act* in 2005 was considered a saviour for heritage in Malaysia compared to the previous *Act* (*Act 168*) and perceived more time should be given before amending it permitting a maturation process (KLLA2, PP1 and GA4).

Being recognised as "the most decisive legal document in the government in rescuing and conserving the national heritage" (Yusoff, Dollah, & Kechot, 2011, p. 186; Yusoff et al., 2010, p. 279), "*there is always room for improvement*" (GA2). Recognising the need for change, there is a specific clause in *Act 645* that grants power to the Minister to make "modifications in provisions of this Act as may appear to him to be necessary..." (Parliament of Malaysia, 2006a, p. 162). Within this clause, the "modifications" processes, which include "amendments, additions, deletions, substitutions, adaptations, variations, alterations and non-application of any provision of this Act" (Parliament of Malaysia, 2006a, p. 162), can ensure the currency of this Act with needs and situations (Nor, 2006, p. 15). So far, the amendments to the *Act* have only involved minor changes to the notice published in the *Gazette*; the *Notice of Intention to Designate Site as Heritage Site* (Attorney General's Chambers, 2012). Yet, it is possible that with continuous actions, such will help to develop a better heritage management regime for Malaysia (PP1, NGO1), ensuring that all amendments should be aligned with *Act 645's* primary role in conserving and preserving Malaysia's heritage (Parliament of Malaysia, 2006a, p. 95).

The process of amending an *Act* is an ongoing and continuous legal process and "most new Acts of Parliament amend previous Acts" (French, 2012, p. 2). Hence, some *Acts* are still suitable to be implemented even after 30 years. For example, in Canada, one of its earliest heritage *Acts* – the *Ontario Heritage Act 1974* – was implemented in 1975 and continues today. Known as the "*enabling* legislation", it gives power to "municipalities to protect their local heritage" rather than obligating it (Ministry of Culture, 2002, p. 1). Since 1975, the *Act* has experienced numerous amendments before being subjected to a major review in 2002. Changes made in 2002 strengthened the current Act (Ministry of Culture, 2002, p. 1; Ministry of Tourism Culture and Sport, 2011, para. 1). In 2005, "the government passed comprehension amendments to the *Ontario Heritage Act*" (Ministry of Tourism Culture and Sport, 2011, p. 3), introducing a new level of enforcement that seeks to ensure that it always will be "in line with lead jurisdictions in Canada" (Ministry of Culture, 2002, p. 1; Ministry of Tourism Culture and Sport, 2011, p. 5).

A similar situation applies in Australia with the oldest *Acts* passed, the *New South Wales Heritage Act 1977*, which is enforced by the New South Wales state government. Since enacted in 1978, the *NSW Heritage Act 1977* has experienced several amendments necessitating the repeal of a few sections and clauses or their refinement depending upon current needs and regulations (New South Wales Government, 2012b, para. 2). In 2009, a new *Act* known as the *Heritage Amendment Act 2009* was introduced by the NSW Government to strengthen the amendment process of the *Heritage Act 1977* (New South Wales Government, 2009, p. 1; 2012b, para. 3). Within this supporting Act, a "range of changes has been introduced to the *Heritage Act 1977*" to protect the State's heritage (Environmental Defender's Office, 2012, para. 1; New South Wales Government, 2012a, para. 3). Moreover, numerous efforts demonstrated by countries around the world to strengthen their heritage legislation are evident, and international heritage organisations are also moving in the same direction.

One of these organisations is the Australia International Council on Monuments and Sites (Australia ICOMOS). In 1979, Australia ICOMOS introduced *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 1979* which adapted the *International Charter for the Conservation and Restoration of Monuments and Sites (Venice Charter 1964)* for the Australia context. Because the *Burra Charter* is based upon Australian culture and settings, it has been recognised as the "most useful [charter] of all the international charters" (Burman, 1995, p. 52). To ensure the reliability and currency of this Charter, as "the best practice standard for cultural heritage management in Australia", it has experienced three major amendments in 1981, 1988 and 1999 (Australia ICOMOS, 2011, para. 13). These changes "reflect the current concern of heritage and conservation

in Australia" (Ahmad, 2006, p. 297). Most importantly, this *Charter* has brought "remarkable influence and effect on conservation practice" amongst conservation bodies in Australia (Brooks, 1992, p. 85).

Efforts by conservation organisations around the world have provided precedents to heritage organisations in Malaysia (PP1). With proper research, it is possible to adapt the scope, purpose and ambit of international legislation to current heritage *Acts* practiced in Malaysia (GA1, GA2, GA3, PP1, PP2 and KLLA1).

7.5   Future of Heritage Conservation and Curtilages in Malaysia

Discussions in the previous subsection led to the question about the future of heritage conservation and curtilages in Malaysia. Subsection 7.5.1 discusses the impact of heritage issues upon the establishment of heritage curtilages in Malaysia. Within this, it is hoped that there will be a solution offered for the issues raised to better address this heritage.

7.5.1   The Impact of Heritage Conservation Issues towards the Establishment of Heritage Curtilages in Malaysia

From the previous discussion, it can be noted that more attention needs to be given to the conservation of heritage buildings themselves. It was seen that a heritage space or area is often overlooked (NGO1) as part of this discussion. In terms of selling heritage properties in George Town, Penang, participants believed that this issue was under control because the place was under continuous monitoring by UNESCO (GA1, GA2, KLLA3, PP1, PP3 and PP4). Most importantly, their perceptions were that conservation involved the whole designated heritage area and not the buildings themselves (GA2, GA4, KLLA1 and PP3). In terms of non-UNESCO areas, the future of heritage buildings especially their surroundings is still vague. As stated by one of the government officers, "*the conservation works [were] only limited to the buildings boundary… not even the lot…and this is what [is] mostly practiced here*" (GA2). Naming the street Jalan Masjid India as an example, which is located in the centre of Kuala Lumpur, participants identified that it suffered a planning failure when redeveloped in 2002 (KLLA1, KLLA3 and NGO1). Jalan Masjid India is unique in Kuala Lumpur because it includes one of the oldest mosques in Kuala Lumpur; the Masjid India. Built in 1893, it is a symbol of pride for the Indian Muslim community. However, a redevelopment project in 2002 had significantly impacted not only this building but also the whole streetscape. Known as a "popular

shopping district" in the early 1900s, it had turned into an "eyesore and chaotic" area when Kuala Lumpur City Hall decided to permit the construction of "a bazaar in front of the buildings" in this street (Bavani, 2012, para. 12). As a result, the view towards the street and Masjid India is now hidden by the bazaar's structures (Figure 7.9 and Figure 7.10). In addition, "more condominiums have been built within walking distance from the mosque" to cater to the needs of local and foreign tourists that makes this area more congested (Masjid India Committee, 2012, para. 4). This planning decision showed unawareness by the City Hall on the streetscape sensitivity of this area; the history of the place and its impact upon the local community. As a place of worship, "*it needs space to breath*" (NGO1).
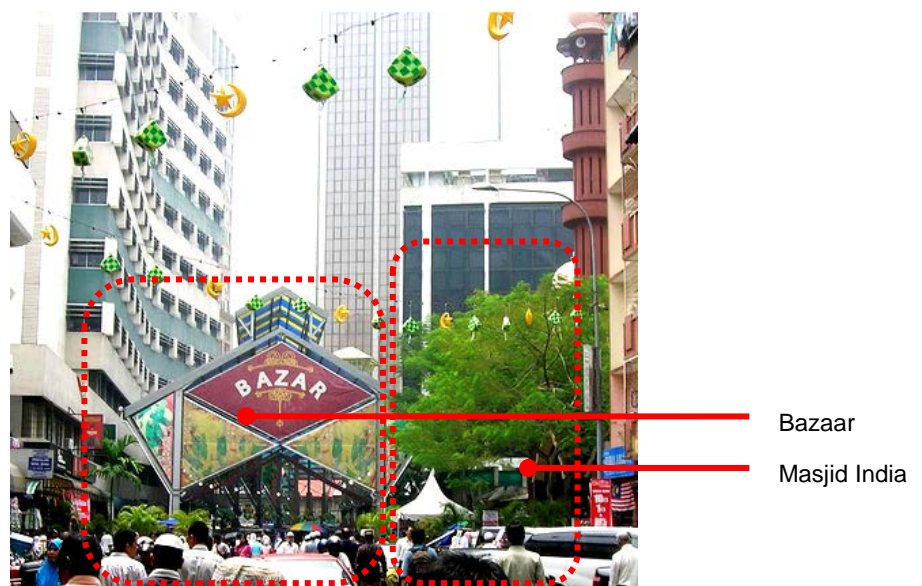

Figure 7.9: The Bazaar structures have blocked the view of Jalan Masjid India and its heritage building, the Masjid India.
Source: Author, 2016.

Figure 7.10: The front view of Masjid India which screened with Bazaar structures and activities.
Source: Author, 2016.

Recognising this development approval error, the government decided to renovate this area to rectify the issue. In the new proposal, the street will be "upgraded, regenerated and beautified" to enhance "the uniqueness of the architectural characteristic of this area" (Kuala Lumpur City Hall, 2005; 2008a, p. 3.4). Thus, in the *Draft Kuala Lumpur City Plan 2020* the mosque has been listed under *Category 2 Heritage Buildings* and the street listed under the *Secondary Heritage Zone*. It hoped that one day this building will be listed under *Category 1 Heritage Buildings*, and later gazetted as the National Heritage (Figure 7.11). Within this space, the mosque and its unique surrounding will be conserved as a heritage curtilage (PP1, PP2 and NGO1). Hence, their futures are better ensured as they are protected under the *National Heritage Act 2005 (Act 645)* (PP2 and PP4).
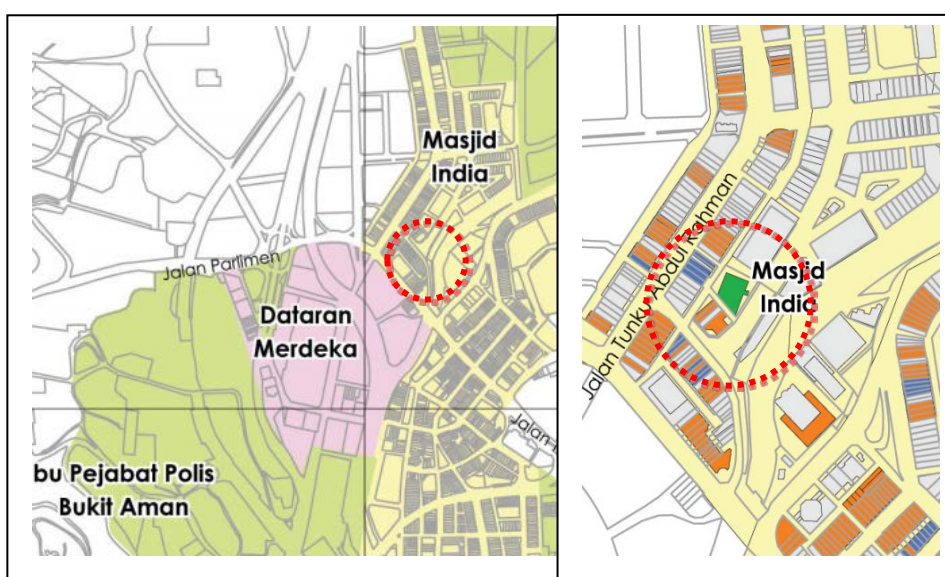
Figure 7.11: Jalan Masjid India and its precious heritage building, Masjid India (highlighted in green).
Source: (Kuala Lumpur City Hall, 2008c, pp. 178-179)

Although curtilage is not mentioned in the *National Heritage Act 2005 (Act 645)*, the implementation of this concept towards the conservation of heritage buildings and their surroundings received positive feedback and support from the participants. However, the issues discussed earlier in this chapter greatly influenced the perceptions of the participants as to the implementation of this terminology in the Malaysian context. Referring to the Old Town of Kuala Lumpur as a case study, until August 2016, 10 buildings had been individually gazetted as National Heritage (Figure 7.12). As these buildings are located close to each other and most of these were built in the same historical period, participants felt that groups of buildings should be gazetted together as a conservation area, and not as a single building (GA2, KLLA3, KLLA4, PP1, PP2, PP3 and NGO1). However, most of these building are fortunate, as perceived by the

participants, as being spatially located in a strategically compact area that implicitly and collectively forms a heritage curtilage (GA1, GA2, GA4, KLLA3, KLLA4, PP2, and SA1).
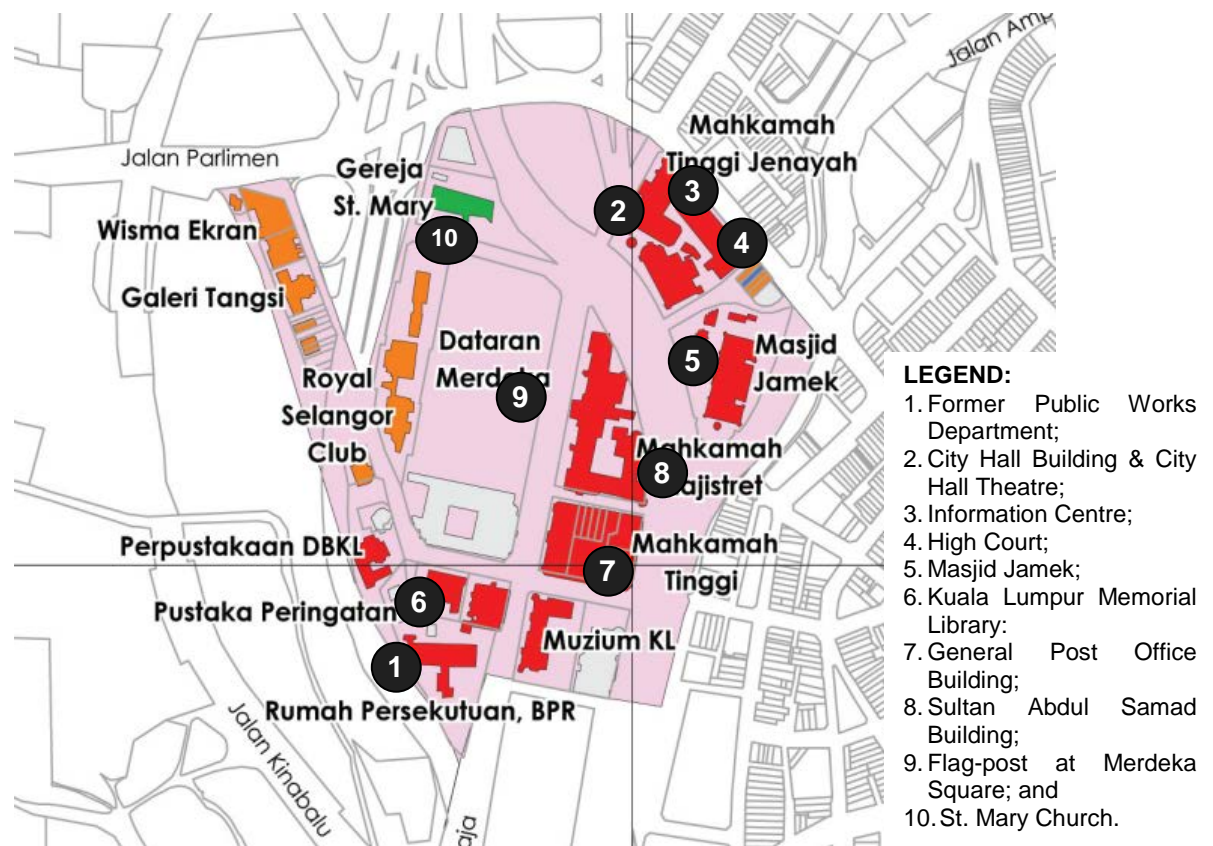
Figure 7.12: List of gazetted National Heritage Buildings in the Old Town of Kuala Lumpur.
Source: Image retrieved from (Kuala Lumpur City Hall, 2008c, p. 5.11)

Amongst these 10 National Heritage Buildings, Masjid Jamek was referred to by the participants as comprising one unique site that warranted the establishment of a heritage curtilage. The Masjid is built on a "highly symbolic site of the junction of the Klang and Gombak rivers" that has saved it from potential threats especially from new developments (King, 2008, p. 186) (Figure 7.13). These two rivers acted as buffer strips to this building and reduced threats to the site (KLLA1, KLLA3 and GA2). In addition, the site is also bounded by the Sultan Abdul Samad Building on the west bank of the Sungai Klang. However, in 1994, the north side of this site was developed to make way for Kuala Lumpur's light rail transit (LRT) project. Although the development took place outside the boundary, it nearly blocked the vista from Jalan Tun Perak to the Masjid (Figure 7.14). Thus, the area that looks larger from Leboh Pasar Besar seems smaller when viewed from Jalan Tun Perak. In fact, the Masjid is unseen if viewed from Medan Pasar and Leboh Ampang, unless it is viewed from the road junction. Luckily, the view from Jalan Mahkamah Persekutuan is clear without any visual disruption because it is framed by

another National Heritage building; the Sultan Abdul Samad Building. The same scenario also applies to the view from Jalan Benteng. As this Jalan acts as a back lane for rows of shophouses in Medan Pasar and Leboh Ampang, visitors or residents can enjoy the whole view of Masjid Jamek from this street (Figure 7.14). Thus, it is hoped that there will be no further development near this heritage building as it will most likely detrimentally affect its view and threaten the places' historical value (GA2, KLLA3 and NGO1).
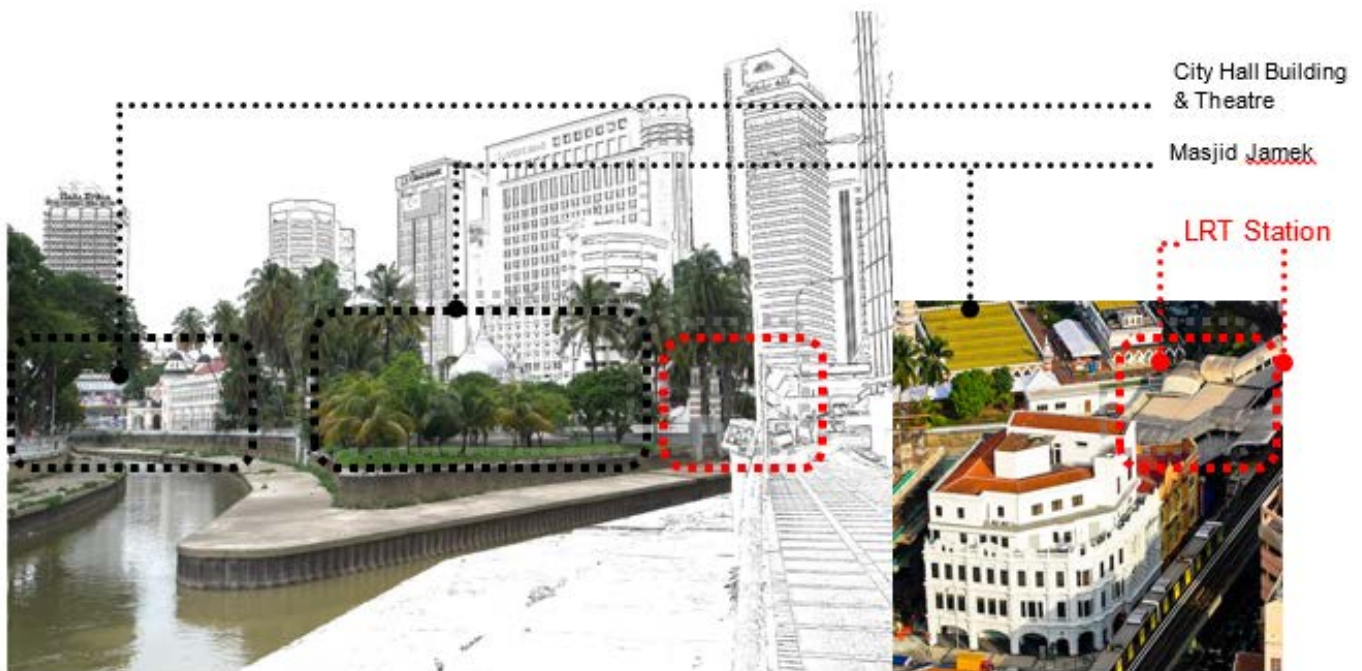
Figure 7.13: Masjid Jamek is considered to be 'safe' from urban development as it is situated at the confluence of two rivers and surrounded by a few National Heritage Buildings. Highlighted in red is the Masjid Jamek's Light Rail Transit (LRT) Station, which is built near the mosque's boundary.
Source: Author, 2012. Aerial view of Masjid Jamek retrieved from (Putra, 2008).

Figure 7.14: Views towards Masjid Jamek from various directions.
Source: Author, 2012. Map retrieved from Google Maps, 2015.

For each heritage building, there is always an element that contributes to the historical value of the buildings and its area. Therefore, it is important to identify these elements as they can "protect the heritage significance of a building, place or area" (State Government of Victoria, 2012, p. 5). In the example of the Old Town of Kuala Lumpur, the Klang and Gombak rivers are the most important element that should be conserved as they both contribute to the history of Kuala Lumpur (GA1, GA3, GA4, KLLA2, KLLA3, KLLA4, PP2, PP2, PP3, PP4, SH1 and NGO1). While protecting the Masjid Jamek from urban development, the rivers also carry high historical value for Kuala Lumpur as the site of the commencement of Kuala Lumpur as a village. This site was also once a point on the main route for the traders and even the "principal sites of warfare" (Yeang, 1992, p. 61). Sadly today, "neither the history of the spot nor the ancient character of the landscape is marked" (King, 2008, p. 201); "*It is quite disappointing to see how these rivers have been neglected and the new generation does not know how important they are to the history*" (KLLA1).

In 2005, Sungai Klang was listed as one of the eleven most polluted rivers in Malaysia, with a Water Quality Index (WQI) of a "Level IV: Only for irrigation purposes and slightly polluted" (BERNAMA, 2009, para. 4). The issue of "poor water quality of the City rivers" was also highlighted in the *Kuala Lumpur Structure Plan 2020 (KLSP2020)* (Kuala Lumpur City Hall, 2005, p. 11.12). This situation was noted by the former Prime Minister, Tun Abdullah Ahmad Badawi, when he expressed his disappointment about its condition despite many efforts made to improve the cleanliness of Gombak and Klang rivers (BERNAMA, 2009, para. 7). This public criticism awakened many parties, including Kuala Lumpur City Hall, to expedite the task of rejuvenating both rivers. The issue highlighted in *Kuala Lumpur Structure Plan 2020 (KLSP2020)* was detailed in the *Draft Kuala Lumpur City Plan 2020 (DKLCP2020).*

In 2011, a new government program known as *Greater Kuala Lumpur/Klang Valley* was introduced under the National Key Economic Area 2020 (NKEA2020). One of its "Entry Points Projects (EPPs)" is to "Revitalising the Klang River into a Heritage and Commercial Centre for Greater KL/KV" (Prime Minister's Department, 2011, p. 29). This new development project, named as EPP 5: River of Life (RoL), sought to ensure that any new development of RoL respects the existing local heritage. Thus, elements in the new project have to respect the existing heritage, integrate it with current needs, and enhance the historical structures and landscapes of this area (Dunn, 2011, p. 31) (Figure 7.15 & Figure 7.16). Once the rejuvenation project is completed, the confluence of Klang and Gombak rivers "will serve as one of the focal points for urban recreation in the city" and surrounded by "significant historic assets" (1Malaysia Development Berhad, 2011, para. 6; Dunn, 2011, p. 36).

Figure 7.15: River Activity Zones for Sungai Klang and Sungai Gombak within City Centre.
Source: (Kuala Lumpur City Hall, 2008c, p. 182).

Figure 7.16: Proposal of a new River of Life project.
Source: (Prime Minister's Department, 2011, p. 29).

Besides Masjid India and its street, Masjid Jamek and the rivers, there is another important element that contributes to the early history of Kuala Lumpur; Merdeka Square. For participants, this space acts as a pivot point for all National Heritage listed buildings because there are 10 listed heritage buildings built around this space (Figure 7.17). The

main question that arose amongst the participants was why this space was not listed as the National Heritage and gazetted together with the flag-post (GA2, GA3, GA4, KLLA4, PP1, PP2, PP3 and NGO1). From a historical perspective, this area existed and became a valuable space from the 1880s whereas the flag-post was erected in 1957 in conjunction with the declaration of independence of Malaysia. Starting as "an uneven stretch of vegetable plots" for the Chinese community in the 1870s, twenty years later it has turned into "the centre of social life" for the European community (Gullick, 1988, p. 24). Since then it has become an important venue for major ceremonies held in Malaya and now Malaysia. Today, because of its historical value, it has been recognised as "the symbolic centre of the nation" (Kuala Lumpur City Hall, 2005, p. 14.12) and the "civic heart of Kuala Lumpur" (Gibson, 2009, p. 3).
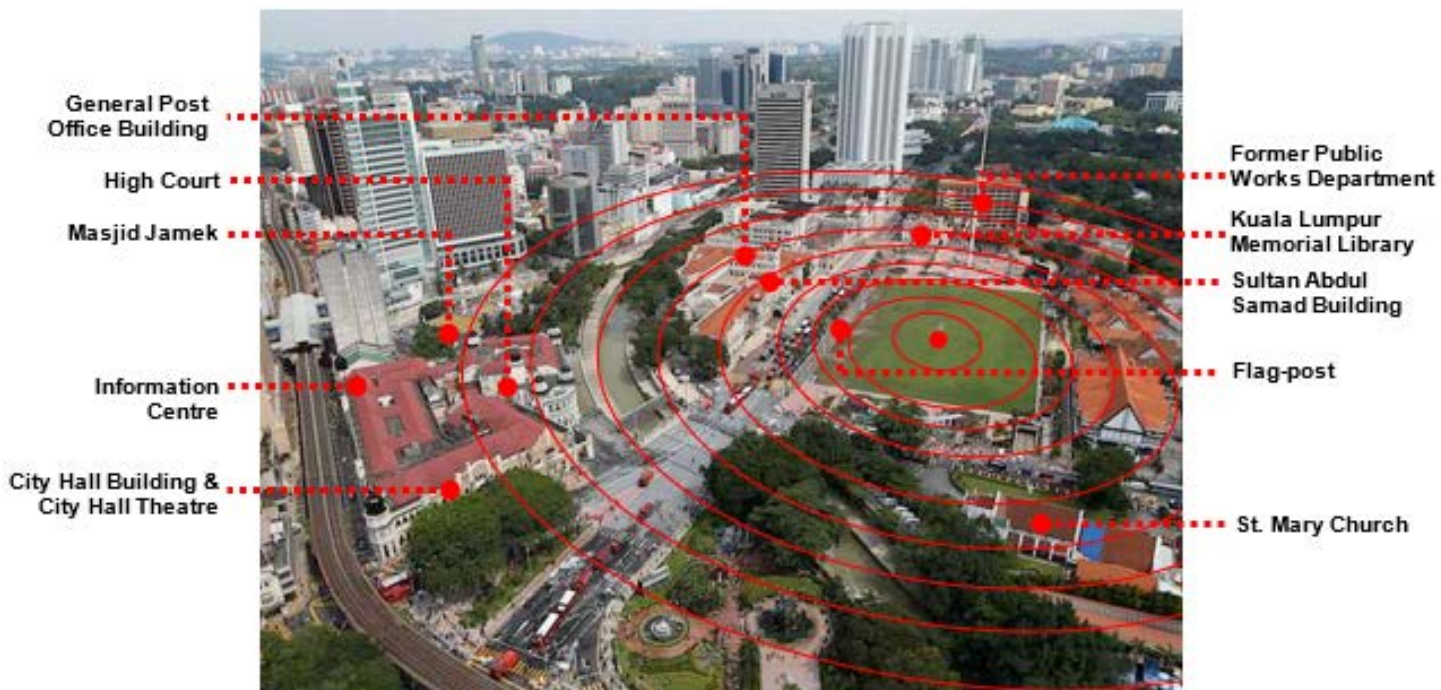
Figure 7.17: Merdeka Square acts as a centre to other National Heritage Buildings in the Old Town of Kuala Lumpur.
Source: Illustration by Author, 2016. Image retrieved from (The Malay Mail, 2012).

Although Merdeka Square is not listed as a National Heritage, a few initiatives have been taken by the KLCH to acknowledge the importance of this heritage space to the overall history of Kuala Lumpur. One initiative is the creation of the *Merdeka Square Heritage Trails* under *Strategic Direction 3.3: Promoting International Urban Tourism* to enhance the area's urban heritage tourism (Kuala Lumpur City Hall, 2008a, p. 3.7). This place is also one of several designated locations for the *Landmark View Corridor Zone.* However, views taken into account in this Zone only involve "views towards the landmarks buildings;

Kuala Lumpur City Centre and the KL Tower" and not from the Merdeka Square itself (Kuala Lumpur City Hall, 2008c, p. 222) (Figure 7.18). Luckily, as the Square is located in the *City Centre Historical Areas,* and within a primary heritage zone, the Square is protected under the *Heritage Zone Height Control Zone* (Figure 7.19). For the participants, initiatives taken by the KLCH were much appreciated, but they perceived that such initiatives were not enough to halt any urban development in future if this area in the absence of a National Heritage listing (GA4, PP2 and PP3). Hence, it became a question to the participants of simply when this site be recognised by the local authority and the government of Malaysia as precious National Heritage (KLLA2, KLLA3, PP2, PP3, PP4 and NGO1).

Figure 7.18: Merdeka Square as viewed from Kuala Lumpur Tower.
Source: Author, 2014.

Figure 7.19: *Heritage Area Height Control Zone* which applies to Merdeka Square.
Source: Image retrieved from (Kuala Lumpur City Hall, 2008c, p. 228).

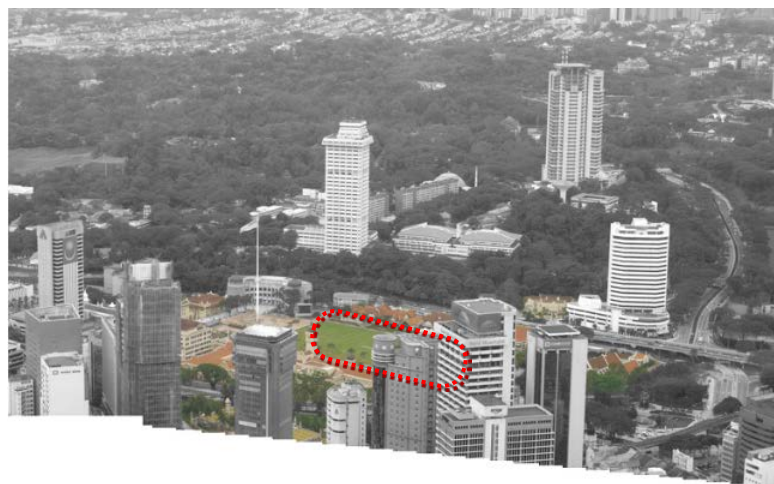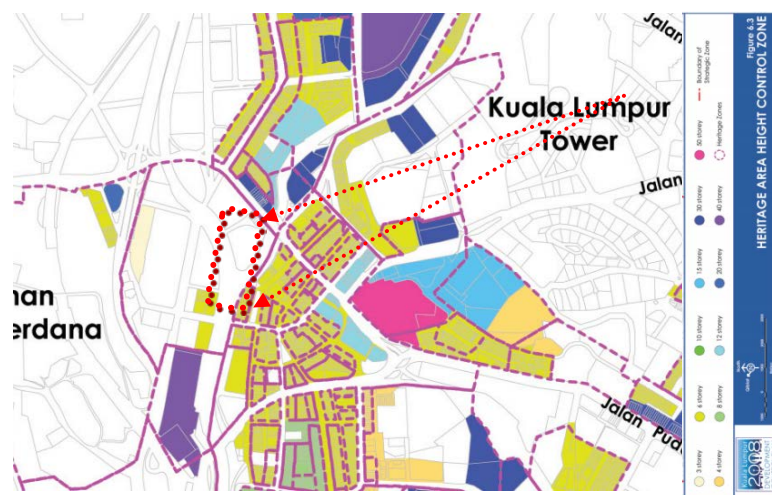From the interviews, participants believed that the application of curtilage in Malaysia will possibly happen, but that it may take considerable time to occur. The participants considered that if these historical elements are still overlooked *"towards the end we cannot even have a reduced heritage curtilage for our buildings. At least, if earlier actions are taken, we still have the boundary to preserve* (PP2)". Again, one of the issues discussed earlier in this chapter, and highlighted in this section, pertains to the implementation of the existing *National Heritage Act* 2005 (GA1, GA2, GA4, KLLA2, KLLA3, KLLA4, PP1, PP2, PP3 and PP4). For participants, if these issues were not tackled, that would cause difficulty in implementing this concept in Malaysia. The participants believed that policy makers should be given exposure to the collective conservation of heritage and curtilage (GA3, PP2, PP3 and PP4). Thus, the policies thereafter introduced will be more responsive and easily implemented because they can be produced by knowledgeable individuals (PP2 and PP3). Such is the aim because "heritage curtilage is not mutually exclusive" but can be established to suit the culture and local needs (Heritage Office, 1996,p. 1).

As experienced in Malaysia, problems relating to the future of heritage buildings and the establishment of heritage curtilage are also experienced by other countries. Again, the problem faced usually stems from a threat to a nearby area. Thus, if the gazetted heritage buildings are exposed to the threats, the area surrounding may face bigger issues (Heritage Office, 1996,p. 1; National Trusts in Australia, 2007, para. 9). The establishment of heritage curtilage is certainly needed because the participants perceived that it will help to "retain the setting or the building context" at the same time as protecting the building and its context from "demolition, subdivision or development of new buildings" (Helms & Schmeder, 2009, p. 24).

There are a few exemplars where listed heritage buildings were threatened by the new developments and had to sacrifice their original curtilages. One example is the Old Admiralty House in Darwin, Northern Territory (NT), Australia. This House was listed on the NT Heritage Register in 1994 because of its social and architectural significance. In its history, this building had survived war bombings and cyclones, but today it has been listed under *Heritage@Risk* because of uncontrolled development nearby. Located on an "outstanding example of a tropical garden in Darwin" with a total area of 4070m^2, the size of the listed heritage curtilage has been reduced to 1890m^2 (National Trusts in Australia, 2007) (Figure 7.20).
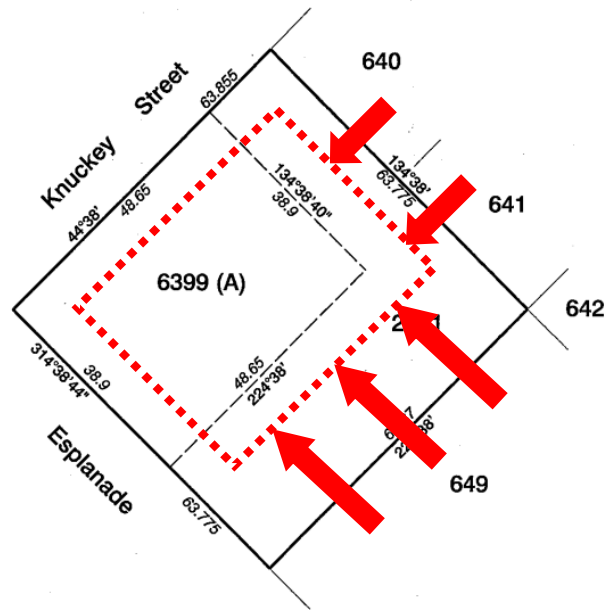
Figure 7.20: Locality Plan of the Old Admiralty House. The size of listed heritage curtilage has reduced from 4070 square metres to 1890 square metres.
Source: Image retrieved from (Northern Territory Government, 2009).

Due to this action, the reduction of curtilage has exposed the House to threats caused by a new development nearby, and the aspects feared most by the National Trust have already happened:

> Old Admiralty House has been gutted and rebadged as a steak restaurant, complete with tacky advertising pennants, while adjacent to it, a new 15-storey tower, resembling a vast toilet cistern in brownish stone, finished off by unattractive facade detailing, soars heavenwards (Rothwell, 2007, para. 16).

This example demonstrates a "lack of consideration for appropriate curtilage and site lines" which will impact the future of the building and its curtilage (Rothwell, 2007, para. 18). However, there are also buildings that have successfully been conserved together with their curtilages. Among these is the Old Parliament House, located in Canberra, Australian Capital Territory (ACT), Australia. These gazetted buildings include "about 2.5ha, King George Terrace, Parkes, comprising the area bounded by the centre lines of King George Terrace, Queen Victoria Terrace and Parliament Square, and including all Section 39, 42, 43 and 50 Parkes" (Commonwealth of Australia, 2007, p. 1) (Figure 7.21). The decision to include the area mentioned as part of the building curtilage was made because each of these spaces had contributed to the history of the building and had been a significant scene of "numerous events, gatherings, protests and demonstrations" (Commonwealth of Australia, 2007, p. 3). The nomination demonstrates "a high degree

of achievement in combining built features into a designed landscape to achieve an aesthetic purpose" (Commonwealth of Australia, 2007, p. 7).

Figure 7.21: The Listed Place of the "Old Parliament House and its Curtilage" forms a central feature of the area.
Source: Image retrieved from (Heritage Division, 2006, p. 13).

7.6   Conclusion

Throughout the discussion in this Chapter, it can be concluded that the application of heritage curtilage in Malaysia can be implemented if there is a real collaboration between government as the policy makers and professional heritage expertise. Through knowledge transfer between these two parties, the existing heritage *Act* – the *National Heritage Act 2005* (Act 645) – could be amended to be more comprehensive and responsive in addressing the issue of curtilage in heritage conservation in Malaysia generally (Yusoff et al., 2011, p. 185). However, "the implementation of the conservation Act is not easy" (Weiler, 1984, p. 28). This usually happens when local communities do not have knowledge of how conservation works should be carried out and as a result, they started to reject the policies introduced as they perceived that it only benefited one party, the government. Here, the role of government and expertise is importance. As

individuals who are knowledgeable and involved in the formulation of legislation, they should be able to convince the community about the value of heritage conservation to the culture of the local community (Shipley & Kovacs, 2005, p. 4). Through these approaches, it is quite clear that the involvement of government as the primary party, together with the collaboration of heritage expertise will help to enable the implementation of this Act (Fram & Weiler, 1984, pp. xii - xv).

Once an understanding of heritage conservation is improved, then the introduction of curtilage will be easier. The parties involved have to realise that "not only must the existing building be respected, but the necessary additions must themselves command respect" (Fram & Weiler, 1984, pp. xvi - xix). Because conservation always seeks "to protect what is valuable", the implementation of curtilage is more "excessive" as it involves a "legal connection between a structure, which carries and transmits the cultural value which architectural heritage legislation attempts to protect, and the land and property on which it stands" (Fram & Weiler, 1984, p. 3; Urban Development Institute of Australia NSW, 2005, p. 28). Thus, noting previous Malaysian examples, heritage curtilages are needed to ensure that heritage buildings and their surroundings are not threatened by new developments. At least, with the "*implementation of heritage curtilage, these heritage buildings will be managed as a group, as one big area…and not as a compartment"* (PP3). Most importantly, "*the thinking of conservation among Malaysians will become greater because you're not only concerned about the individual building, but you are also concerned about the impact of other individual buildings on the rest of the area"* (PP3).

8.1   Introduction

This final chapter presents conclusions of the research having regard to the overall research objectives (ROs) and research questions (RQs). The discussion includes the exploration of heritage conservation concepts around the world (Section 8.2) that responds to RO1 and RQ1. Next, the discussion continues to section 8.3 to identify the concept and theories of heritage curtilage implemented by the United States of America, the United Kingdom and Australia that are aligned with RO2 and RQ2.

Section 8.4, 8.5 and 8.6 involve discussions on the establishment of Malaysia's heritage curtilage. Section 8.4 summarises the findings for the consideration of the alignment of Malaysia's existing legislation to the conservation of heritage curtilage (RO3 and RQ3). Section 8.5 reviews the roles of stakeholders involved in implementing the law on heritage curtilage conservation (RO4 & RQ4). Lastly, section 8.6 includes suggestions as to the possible criteria for recognising the heritage curtilage conservation in the context of Malaysia's built heritage.

Overall, this research has provided valuable information and insights as to the effect of curtilage that contributes to the protection of a heritage item. The findings were drawn from examining the relationship between reviewed literature and real experiences, as well as knowledge from selected participants interviewed or consulted via the questionnaires. The results of the research are also discussed with regard to the objectives of the thesis, as stated in Chapter 01: Introduction to the Research.

8.2   Heritage Conservation from the Monument to Space

Research Objective I: To explore the concept of heritage conservation around the world and how well these heritage items and spaces have been treated using the relevant legislation or criteria.

The first objective of this research was to review the literature that discusses and explains the concepts of heritage conservation. The discussion on this research objective has been thoroughly reviewed in Chapter 03. The review commenced with an understanding of the terms that relate to heritage, cultural heritage and thereupon the conservation of monuments, groups of buildings and sites. The literature also included urban conservation linked to case studies conducted in Kuala Lumpur, Malaysia. Hence, understanding of terms is crucial before considering the bigger scope of the discussion because this provides key insights into the interpretation of conservation.

From the literature analysis, it would appear that scholars were very concerned about space and area for conservation instead of a single monument (Akagawa, 2015, p. 59; Orbasli, 2008, p. 19). Conservation movements that have sought to protect areas were also agreed by the international organisations and local authorities as being a requirement (Council of Europe, 1985, p. 6; Historic England, 2015, p. 44; ICOMOS, 1964, p. 4; UNESCO, 1976, p. 2).The findings from this literature informed the development of a theoretical framework that guided the data collection in the case study. This theoretical framework was developed to have regard to underlying terminologies and approaches in heritage space and urban conservation.

At this stage, the researcher explored and developed an understanding of the concepts, perspectives and the adaptations of area conservation and its relation to the safeguarding of elements and the heritage significant to sites. The implementation of space or site conservation has various influences on monuments and buildings. These include historic, aesthetic and social impacts that help to enhance the value of an area. Hence, this growing awareness brings many advantages to current and future conservation movements.

In the Malaysian context, understandings of 'heritage' and 'heritage building' were the earliest questions tested amongst the selected participants. This process sought to obtain a basic understanding of the terms before proceeding to the next level of questions. This process is linked to the research objectives for this study. The findings from these questions were thoroughly discussed under subtopic 7.2 Heritage Awareness in Malaysia and 7.3.1 Recognition of Heritage Buildings.

8.3   Heritage Curtilage Conservation Theories, Concepts and Legal Legislations

Research Objective II: To identify relevant theories or concepts of heritage curtilages implemented by selected countries (United States of America, United Kingdom, and Australia) and organisations and generate analysis out of these theories or concepts.

The second objective of this research was to explore theories and concepts of the heritage curtilage conservation having regard to countries that included the United States of America (USA), the United Kingdom (UK), and Australia. For a thorough analysis, the review also considered stands and approaches of international organisations including UNESCO, ICOMOS, and Australia ICOMOS. The discussions were based on legal and or policy approaches practiced by these countries and organisations relating to the conservation of heritage curtilage. The analysis and findings of this research objective were discussed in Chapter 04: Theories of Heritage Curtilage. The analysis concluded that all terms were applied by countries and heritage organisations in referring to the concept of heritage curtilage. It shows that even with different terminologies, the approach of conserving the same realm to protect a heritage property from the threat of future developments is consistently occurring. The findings as highlighted in this chapter generated the framework for the following sections.

The process identified under this objective is crucial for the researcher to relate to the next theme proposed in the questionnaires; heritage curtilage in Malaysia. The findings had been discussed in section 7.3 Appreciation towards the Importance of Heritage Buildings and its Curtilages. The results from the interviews demonstrated that the lack of expertise in conservation fields had affected conservation efforts in Malaysia. Hence, many participants urged the need to find a solution to the issue before continued works further negatively impacted heritage spaces and site conservation.

8.4   Existing Legal Documents and Heritage Curtilage Conservation in Malaysia

Research Objective III: To identify the legal documents and heritage curtilages conservation in Malaysia

The third objective of this research was to investigate the existing *Acts* and guidelines in Malaysia which relate to heritage conservation. The aim of this objective was to explore the

suitability and the effectiveness of current legislation to protect heritage buildings and spaces in Malaysia. This objective was reviewed under Chapter 05: Heritage Curtilage Conservation in Malaysia. The findings show that the current heritage *Act*, the *National Heritage Act 2005 (Act 645)* is comprehensively implemented in Malaysia amongst selected State Authorities and the Federal Territory. However, there were recommendations from scholars to amend the *Act* when dealing with current issues in Malaysia (Idid & Ossen, 2013, p. 301; Yusoff, Dollah, & Kechot, 2013, p. 76; Zuraidi, Akasah, & Rahman, 2011, p. 7). The documentation prepared for the Penang and Melaka nomination for the World Heritage List, such as the Conservation Management Plan (CMP) and Heritage Impact Assessment (HIA), are good examples of formative efforts to conserve heritage curtilage in Malaysia.

This objective also considered the findings from the interviews on heritage management (Acts and regulations). The questions sought to obtain knowledge and experiences from the participants on dealings with the current heritage *Act* and regulations in Malaysia. The feedback resulting from the questions was analysed in 7.4: Implementation of Laws on Conservation of Heritage Buildings and its Curtilages. The analysis revealed that criteria implemented by Malaysian authorities were biased towards building conservation. However, most participants agreed that the definition of "site" as implemented under *Act 645* is the closest definition of a curtilage when discussing their efforts to manage buildings and their surroundings. Moreover, the definition of a site also covers most of the terms commonly used by authorities, the professionals or non-government organisations during the interviews which include "area," "place," and "zone."

8.5 The Role of the Government, Local Authorities, and NGOs in developing future Conservation Plans

Research Objective IV: To test whether these heritage curtilages are valid according to the relevant legislations and criteria applied in Malaysia.

This objective sought perceptions of participants to obtain ideas about current practices of heritage conservation in Malaysia. The findings are discussed in 7.4.2: Expectation of Future Management of Heritage Buildings and its Curtilages. From the analysis, more that 80% of the participants believed that there is still room for improvements to the current heritage *Act*(*Act 645*). As highlighted by non-government organisations and the professional practitioners, adding more details about 'what,' 'how' and 'why' on *Act 645* will help

conservation efforts in Malaysia. Hence, with following a review of research and references by international legislations, it is possible that Malaysia will produce in the near future a robust and comprehensive heritage *Act* (Yusoff, Dollah, & Kechot, 2011, p. 185).

Above all, all parties were aware of the threats faced by heritage buildings and sites around the world. Various programs have been carried out to overcome this issue. Thus, the answers to all these efforts rely heavily on roles played by the public community together with help from conservationists and governments (Adishakti, 1997 in Adishakti, 2009, p. 7). Through this strong bonding, it will indirectly educate all parties involved about the importance of their role in conserving the heritage as they are the "guardian of heritage." Within this, heritage could be well conserved and "strong legal aspect and law enforcement" will be possible to achieve (Adishakti, 2010, p. 20).

8.6 Criteria for Heritage Curtilage Conservation in Malaysia

Research Objective V: To propose a set of criteria for appropriately conserving this local curtilage heritage.

The fifth research objective was to develop the criteria for identifying the heritage curtilage. The criteria were tested through a set of questions in tracking the implementation of this concept in the Malaysian context. The assessments on the criteria are based on understanding the concept that has been discussed in 7.3.3: Understanding of the Heritage Buildings and the Curtilages in Malaysia. This stage also involved validation of each criterion obtained from the findings of the main case study. This process is vital to establish and support the development of the set of criteria on identifying an appropriate heritage curtilage for a building. Nineteen participants were in involved in this process. The purpose was to gain their feedback on the implementation of this concept in local heritage. The criteria tests addressed:

i)   the connections between heritage buildings and its site or surrounding;
ii)   visual catchment or visual sightlines of the building;
iii)   buffer area; and
iv)   setting.

The results demonstrate that all the elements are valid in the context of establishing a heritage curtilage of Malaysia's heritage building.

8.6.1 Development of the Criteria

The most critical stage of identifying an appropriate heritage curtilage is the historical study of the selected area. A heritage study is crucial in ensuring that the proposed curtilage contains all elements that contribute to the heritage significance of the area. Hence, the development of criteria commenced with research on the history of Kuala Lumpur. Through the literature, it revealed that elements and spaces between heritage buildings play an important role in the history of Kuala Lumpur. These elements contribute to the foundation of early Kuala Lumpur. However, the results from the current actions, especially in the enforcement of laws, have overlooked some of these items. Literature about the history of Kuala Lumpur is the evidence for the trustworthiness of the data. The literature is the indicator on 'what' and 'why' the selected heritage significance needs to be conserved.

The Old Town of Kuala Lumpur was chosen as the test because it is the location where the majority of the gazetted heritage buildings in Malaysia are located. From the exploratory study, using the same criteria tested on the participants, the researcher found that all these elements are interrelated. Negligence to these criteria may negatively impact the current gazetted buildings. Hence, curtilage is crucially needed in Kuala Lumpur to protect and conserve heritage significance in this area.

The validation of the main data was tested by conducting interviews with selected participants. Data gained from participants was used to assess the credibility and reliability of the qualitative data. This process was also used to refine the criteria of heritage curtilage. It was through the process of obtaining the experts' feedback on the application of the criteria as a method for identifying an appropriate curtilage than the concept could lead to a well-conserved heritage building curtilage in Malaysia.

The feedback gained from selected participants also involved considerations of the literature as evidence for the validity of the data. The data was analysed and it revealed that all the criteria identified in the literature are valid due to the following points:

i. All criteria are important as they reflect the current situation of heritage conservation in Malaysia;

ii. All criteria highlighted can guide the identification of appropriate curtilage. Participants realised that criteria were required as each criterion is proposed to consider the actual situation of the local heritage. They also agreed that these criteria were more comprehensive and have considered the elements surrounding the buildings;

iii.   All criteria are mutually dependent upon each other in producing an appropriate curtilage that could ensure the identity and characteristics of a building so that these buildings are well conserved; and

iv.   This result is significant as the basis of knowledge for stakeholders, state and local authorities, and heritage practitioners. The criteria guided and determined the elements and heritage significance that had been overlooked during the designation of a heritage building. With the highest attention given to these criteria, it provides guidelines for conserving and protecting the heritage curtilage and its host heritage building.

The findings from Chapter 07 suggest that for each heritage building, there is always an element that contributes to the historical value of the building and its area. Therefore, it is important to identify these elements as they "protect the heritage significance of a building, place or area" (State Government of Victoria, 2012, p. 14). Hence, specific criteria were needed to ensure that these heritage elements may not be neglected and were taken into consideration for any new development. A summary of the proposed criteria that could potentially identify the heritage curtilage is illustrated in Figure 8.1.
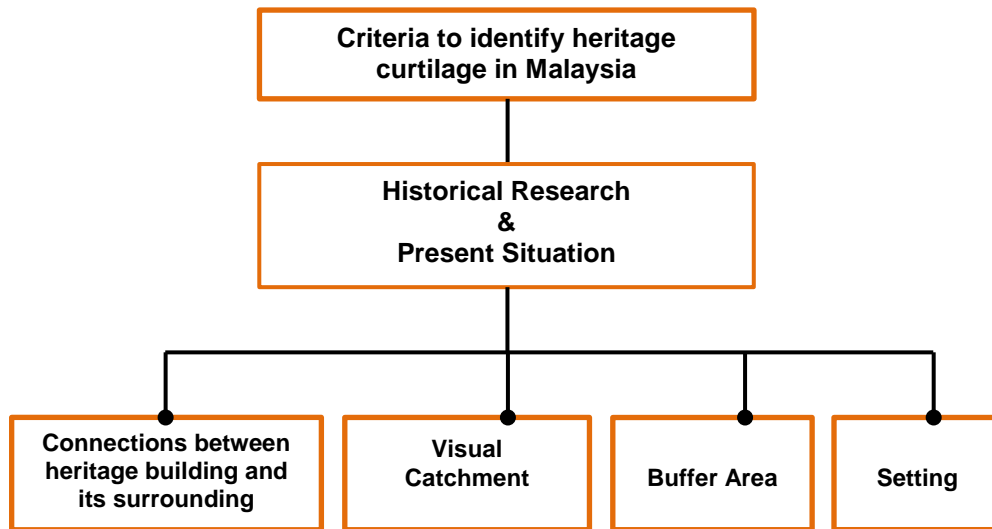

Figure 8.1: Proposed criteria for heritage curtilage in Malaysia

8.6.1.1 Historical Research and Present Situation

Identifying an appropriate heritage curtilage commences with thorough and comprehensive historical research. As mentioned earlier in 8.6.1, this research is to certify all significant items are defined and bounded in the curtilage. Most importantly, this is to ensure that no elements are overlooked. Historical data is the evidence of the existence of heritage elements. Further, most of the original characteristics, the layout, and the setting may have been changed from previous times. Hence, the criteria have been reviewed in Chapter 02 and correlated with Chapter 03. Data obtained from experts also agreed that those historical sources are reliable in restoring the originality of the area and in defining curtilage.

In addition to the historical research, the present conditions are also crucial in linking the 'old' and current situations. Data obtained from the current situation gives ideas on what changes have been made since the building was built. The original layout may be lost between new rows of shophouses or amended. These situations must be understood through the current actions taken by the parties involved. The biggest challenge is to conserve what is left. A review about what has happened around the world, and the present law enforcement and implementation are aspects that are needed to be considered in defining local curtilage. These issues have been reviewed in Chapters 03 and 04. Chapter 05 connected the discussions to the Malaysian context.

8.6.1.2 Connections between a Heritage Building and its Surroundings

To establish a heritage curtilage, the relationship between a building and its environs is one of the integral parts of the assessment that needs to be considered. To develop this connection, it is important that there be sufficient research undertaken about the heritage building and the areas involved. The literature reviewed from other countries proved that most of these buildings were designated because of the history of the building itself. However, these buildings existed in specific locations that once strengthened the historical and aesthetic character of the building. This issue has been defined under Chapter 04 on how important it is to include surroundings in the recognition process. For Malaysia, it was agreed by participants that most buildings being gazetted only concentrated on the building itself. Space that bounded the building was always disregarded. For participants, this criterion was important as it bonded the historical and cultural aspects of the area. Thus, curtilage should be expanded to comprise all elements. This argument has been reviewed under *Section 6.3.3.*

8.6.1.3 Visual Catchment

The relationship between a building and its visual sightlines is also important in heritage curtilage conservation as it enhances an area and contributes to the contextual history of the place. Hence, this criterion has been discussed from the legal point of view and related to the process of identifying the curtilage of the area. Documents highlighting the criterion were considered from an international context to obtain sufficient data about the concept and its application. This criterion was reviewed in Chapter 04. In the Malaysian context, this criterion has been informed by the participants understanding and the Malaysian legal context. This discussion is included in Chapters 05 and 07. From the analysis, this criterion is significant in identifying an appropriate curtilage for a heritage building.

8.6.1.4 Buffer Area

The establishment of a buffer area for a heritage building or areas is not only for aesthetic purposes but also "to screen the heritage item from visually unsympathetic development or to provide protection from vibration, traffic, noise, pollution and vandalism" (Heritage Office, 1996, p. 10). This concept has been widely implemented by international organisations including UNESCO. The importance of this criterion, on safeguarding the heritage significance of a site, has been reviewed under Chapter 04. For participants in Malaysia, the declaration of George Town and Melaka as a World Heritage Site in 2008 has acted as an eye-opener about the importance of having an appropriate buffer area for protecting a heritage building or an area. Thus, this is discussed in Chapter 07. The analysis shows that buffer areas need to be considered together with heritage buildings. Hence, this criterion contributes in the process of defining a heritage curtilage.

8.6.1.5 Setting

From a review of the literature, the setting is the most applicable concept in conservation. This concept is applied by Australia ICOMOS, UNESCO and ICOMOS through various documents. Regarding curtilage, this criterion helps to define a reliable boundary for heritage. The topic was explained in Chapter 07. In Malaysia, the understanding of this concept amongst participants sought to ensure that knowledge could be shared and transferred between all levels in a conservation management area. This will help to develop an appropriate curtilage for a heritage building or an area. The analysis showed that all participants agreed this criterion would need to be acknowledged in the process of establishing a heritage curtilage for a building. A discussion is included in Chapter 07.

8.7 Future Research

This research has presented detailed understandings, regarding the realm of heritage, theories of heritage curtilage, and the implementation of heritage curtilage in the Malaysian context. Further exploration and continuous improvements are needed to seek possible methods in testing criteria of heritage curtilage from monuments to natural heritage. Due to the scope and limitations of this study, continual research is necessary for further improvements. This section provides several recommendations for future studies.

Regarding implementation of a local heritage curtilage, an increase in the sample size would allow a more diverse collection of feedback from the qualitative methodology. This study only covers a total of 19 participants who are involved in heritage conservation works and have knowledge of heritage regulations in Malaysia. It would also have been interesting if the demographic selection had included participants from local residents, thus providing different insights as to what this research has presented.

Research in the phenomenology of heritage curtilage could be expanded further from the context of heritage buildings to a monument or natural heritage. Heritage curtilage within a monument or natural heritage are often more complex and extensive, and could potentially contribute to a better understanding regarding the establishment of a heritage curtilage.

In the future establishment of heritage curtilage, there are several examples that can be learnt from the guidelines provided by the New South Wales Heritage Office. Other criteria and elements could be added for defining a heritage curtilage. These criteria are potentially valuable if such could be tested in a different area allowing more variability in establishing a heritage curtilage based upon local context.

8.8 Conclusion

Heritage buildings cannot stand on their own. A heritage building needs curtilage to protect it as a shield from future encroachment. Research on heritage curtilage is a new concept in Malaysia, and thus these research findings should be presented to different disciplines to inform them. This research has shown that to suggest criteria establish a local heritage curtilage, such would initially require a theoretical understanding of various disciplines including heritage expertise, legislators, authorities, and stakeholders.

This research proposes a way to identify and select a suitable evaluation method for establishing a heritage curtilage based upon the constructivism informed by a phenomenological approach. A phenomenological approach was used as it yielded data or resources from the knowledge and experiences of participants, together with their opinions, and situated actions. The issues and potential topics addressed through this research were captured and transformed on selected criteria.

The findings in this thesis can also contribute empirical knowledge in qualitative approaches to conserving and enabling the implementation of heritage curtilage in a local context. Heritage and laws are complex entities, and so their replication in defining a heritage curtilage comes with unique challenges. The focus on heritage curtilage criteria gave results that can be evident and planned for optimization to support decisions for the designation process and also to improve current legislation. Additionally, the analysis of the literature review amongst scholars and the results from the case study indicate that the criteria proposed are the main factors that influence the establishment of local heritage curtilage. It is hoped that future research can lead to a better criteria to establish local heritage curtilage. Hence, future generations can better appreciate their local heritage curtilage aligned with enriched contextual understanding.

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APPENDIX A: ETHICS APPLICATION

PROJECT NO: **H/**

THE UNIVERSITY OF ADELAIDE HUMAN RESEARCH ETHICS COMMITTEE
ETHICS APPLICATION COVER SHEET

SUMMARISING THE PROTOCOL AND INCLUDING INVESTIGATORS' SIGNATURES

COVER SHEET AND APPLICATIONS MUST BE TYPED

Applications will be considered according to requirements of the National Statement on Ethical Conduct in Human Research (2007).

An application should include: (1) this **cover sheet**; (2) the proposal addressing the **list of headings**; (3) participant **information sheet**; (4) participant **consent form**, and (5) **independent complaints procedure statement** (please access these online at http://www.adelaide.edu.au/ethics/human/guidelines/applications/).

Submit **ELEVEN** copies of the application to the Secretary, Human Research Ethics Committee, Research Ethics and Compliance Unit, Research Branch, Level 7, 115 Grenfell Street, The University of Adelaide SA 5005 Ph. (08) 8303 6028, Fax (08) 8303 7325, email sabine.schreiber@adelaide.edu.au

Please attach this to the front of the application.

APPLICANT Name include title Professor/Dr/Ms/Mr **and Position**   **Associate Professor David Jones**   **Director of Landscape Architecture Program**   If this is a student project the principal supervisor is to be the applicant.
DEPARTMENT including campus/institution contact address   **School of Architecture, Landscape Architecture and Urban Design, North Terrace Campus**
Phone No and email address   Ph: **+61 8 8303 4589**   E-mail: **david.jones@adelaide.edu.au**
OTHERS INVOLVED   **Nadiyanti Mat Nayan, PhD Candidate**   **School of Architecture, Landscape Architecture and Urban Design**   If this is a student project please indicate name/department/candidature
PROJECT TITLE   **Conservation of Heritage Curtilages around Malaysia's Heritage Buildings**
LOCATION OF RESEARCH   **Malaysia**   **DATE PROJECT TO BEGIN**   **3rd November 2008**   **ESTIMATED DURATION OF PROJECT**   **12 months**   **SOURCE OF FUNDING**   **- None -**

AIMS OF PROJECT please give concise description in lay terms

To conduct a *standard structured interview* (open-ended questions) with the authorities that involve in the conservation of heritage buildings in Malaysia. Target population are the persons in the authorities who can contribute background information on the specific issue regarding the conservation of heritage buildings and heritage curtilages in Malaysia.

PLAN/DESIGN OF PROJECT brief description in lay terms

Once approval has been given by the Committee, letters will be sent to the proposed participations with the *Information Sheet, Consent Form* and *Independent Complaints Procedure*.
This will be followed up with a personal phone call or an e-mail to the proposed participations for time arrangement. The interview will be recorded and a summary transcript will be provided to the participant to confirm the data.

PARTICIPANTS

• Source: **Head of Departments and employees of Public Works Department; Head of Departments and employees of Federal Territory; Head of Departments and employees of State Authorities; and members of government and non-government organisation in heritage trust.**

• Age range: **Approximately 30 to 60 + years old.**

• Selection criteria: **Participations that relevant to contribute any background information for this research.**

• Exclusion criteria: **- NIL -**

ETHICAL IMPLICATIONS OF PROJECT

- NIL -

DRUGS

Will drugs be administered to participants?	~~YES~~ / **NO**

- If so give name of drug(s)
- Dosage:
- Method of administration

Is the administration for therapeutic purposes?	~~YES~~ / **NO**

Will the project be conducted under the

Clinical Trials Notification (CTN) Scheme?	~~YES~~ / **NO**
Clinical Trials Exemption (CTX) Scheme?	~~YES~~ / **NO**

Is Commonwealth Department of Health permission required?	~~YES~~ / **NO**
If so, has permission been obtained?	~~YES / NO~~ **(N/A)**

SIGNATURE OF ALL INVESTIGATORS NAMED IN THE PROTOCOL

Supervisor:

Researcher:

Date   **17 July 2008**

THE UNIVERSITY OF ADELAIDE HUMAN RESEARCH ETHICS COMMITTEE
LIST OF HEADINGS APPLYING TO ALL APPLICATIONS

Guidance information for completion of this form is notated in (*italics)* under each heading. Please complete all headings.

APPLICATIONS MUST BE TYPED

1. TITLE
   "Conservation of Heritage Curtilages around Malaysia's Heritage Buildings"

2. INVESTIGATORS & QUALIFICATIONS
   (Also provide brief details of the researchers' previous experience with the specific research techniques that will be used in this study.)
   Associate Professor David Jones
   PhD (Penn), MLArch (Melb)

   Nadiyanti Mat Nayan
   BSc. Housing, Building and Planning (Interior Design) (Malaysia), MSc. Landscape Architecture (Malaysia)

3. PURPOSE OF THE STUDY
   - Aims (*What research hypothesis is being investigated? What benefits does the study aim to produce?)*
     To conduct a *standard structured interview* (open-ended questions) with the authorities that involve in the conservation of heritage buildings in Malaysia. Target population are the persons in the authorities (federal and state) who can contribute background information on the specific issue regarding the conservation of heritage buildings and heritage curtilages in Malaysia.

   - Rationale *(Explain your research methodology and its appropriateness to achieving the study aims. Provide evidence that the sample size is adequate to establish a valid research result.)*
     This type of interview will give more data to be collected and easy to analyse because the answer will be more consistent and more efficient to conduct. At the same time it will encourage the participants to provide more information.

4. BACKGROUND
   Heritage is very important in our life because its helps us to know about our self, history and identity of our community and our nation. Heritage is usually exist in a form of 'things' such as a landscapes, building, or place either they are tangible or intangible and they could create their own identity and history. That is why it is really worth conserving it for our future generation.
   In Malaysia, the evolution and interest in conserving Malaysia's cultural heritage was started more than twenty years ago since the formation of the Heritage of Malaysia Trust in 1993. Since then, conservation activities especially for heritage buildings have become very important in creating a conservation-friendly environment and as a reflection of Malaysia's national identity. However, in conserving the heritage buildings, scholars usually missed the curtilage or space that surrounds the buildings. In fact, in the National Heritage Act 2005 (Act 645) that has been gazetted by the Parliament of Malaysia in 2005 do not has any specific term for 'curtilage' and this act only include protection for the heritage area and site.
   Even though the curtilage is only an area around the heritage building, it also contributes to place making and a part of the identity of the built heritage. That is why, it is very important to include curtilage as part of heritage because there is very little attention has been given to conserving and protecting this area.

Therefore, the interviews with the proposed participants that involved with the conservation works for the heritage buildings in Malaysia are intended to gain valuable insight and information for this research.

5.   PARTICIPANTS
   - Source: **Head of Departments and employees of Public Works Department; Head of Departments and employees of Federal Territory; Head of Departments and employees of State Authorities; and members of government and non-government organisation in heritage trust.**

   - Number: **up to 40, but some interviews may lead to other participants.**

   - Age range: **Approximately 30 to 60 + years old.**

   - Selection & exclusion criteria *(How and by whom will screening be conducted?)* **– NIL -**

6.   PARTICIPANT RECRUITMENT
   - Procedures *(Please explain how you will recruit volunteers onto the study. How will people be approached and asked if they are willing to participate? How and by whom will names and contact details be accessed?)* - **Not applicable -**

   - Material *(Provide a copy of any advertisements, flyers or other material to be used.)* - **Not applicable -**

   - Payment *(Provide details of and the rationale for any payment or reimbursement to participants.)* - **Not applicable –**

7.   PRELIMINARY STUDY (if any)
      - **None -**

8.   STUDY PLAN & DESIGN
      (Include a detailed description of all planned interactions between researchers and study participants.
      Include a copy of any questionnaires or interview schedules to be used.)
      Once approval has been given by the Committee, letters will be sent to the proposed participations with the *Information Sheet, Consent Form* and *Independent Complaints Procedure*.
      This will be followed up with a personal phone call or an e-mail to the proposed participations for time arrangement.
      The interview will be recorded and a summary transcript will be provided to the participant to confirm the data.

9.   DRUGS
      - **Not applicable -**

10.   EFFICACY
      (What is known from previous studies regarding the safety and effectiveness of the proposed intervention?)
      The desired outcome is to obtain their informed consent to be interviewed and for the information obtained to be used in the PhD thesis.

11.   DATE OF PROPOSED COMMENCEMENT
      3rd **November 2008**

12.   ETHICAL CONSIDERATIONS

(Provide a clear description of any potential risks to participants (including physical, emotional, social or legal) and the steps that will be taken to address these risks.
Outline the protocol that will be followed in the eventuality of any adverse event(s).
Provide details of procedures to maintain participant confidentiality during data collection and reporting of results.
Describe how you will you provide detailed information about the study to people and how and when consent will be obtained.
Include a participant information sheet and a consent form. Information and consent guidelines plus a consent form template can be downloaded from http://www.adelaide.edu.au/ethics/human/guidelines/applications/)

The participants will give their informed consent to be interviewed and for the information obtained to be used in the PhD thesis.

13. SAFETY & ECOLOGICAL CONSIDERATIONS

- Radiation, toxicity, biodegradability *(Where radiation exposure is an aspect of the proposal, researchers must comply with the Code of Practice for the Exposure of Humans to Ionizing Radiation for Research Purposes (2005) http://www.arpansa.gov.au/pubs/rps/rps8.pdf and provide specific information set out in Clause 2.1 of the above Code.)*

  - Not applicable -

- Researcher safety *(Is there any possible risk to the health or safety of the researcher(s)? If so, what precautionary measures will be taken?)*

  - Not applicable -

14. RESEARCH DATA RECORDING & STORAGE
(Provide details of how the data will be recorded, eg audiotape, videotape, or written notes. Describe how, where and for how long the data will be stored.)
Research data will be recorded using an audiotape and also in a form of written note. The data gathered during the interviews will be kept by the researcher.

15. ANALYSIS & REPORTING OF RESULTS
(Describe how the data will be analysed and who will have access to the research data and results. How will the results be published? Will participants receive the results?)
A summary transcript from the interview will be provided to the participant to confirm the data. For the thesis, the information obtained will be codified and collapsed into threads. It will be included, as appropriate, in the thesis.

16. OTHER RELEVANT INFORMATION
- None -

17. OTHER ETHICS COMMITTEES TO WHICH PROTOCOL HAS BEEN SUBMITTED
(If the project involves research conducted overseas, give details of any local ethics clearance procedures that apply to it.)
- None -

18. PROPOSED FUNDING SOURCE
(If researchers will receive any personal payment for conducting the study, this must be disclosed to the Committee. If the study has a commercial sponsor, this must be mentioned on the participant information sheet.)
No funding required.

19. REFERENCES

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APPENDIX B: ETHICS APPROVAL

THE UNIVERSITY
OF ADELAIDE
AUSTRALIA

RESEARCH BRANCH
RESEARCH ETHICS AND COMPLIANCE UNIT

SABINE SCHREIBER
SECRETARY
HUMAN RESEARCH ETHICS COMMITTEE

THE UNIVERSITY OF ADELAIDE
SA 5005
AUSTRALIA

TELEPHONE   +61 8 8303 6028
FACSIMILE   +61 8 8303 7325
email: sabine.schreiber@adelaide.edu.au
CRICOS Provider Number 00123M

14 August 2008

Associate Professor DS Jones

Architecture, Landscape Architecture and Urban Design

Dear   Associate Professor Jones

PROJECT NO: *Conservation of heritage curtilages around Malaysia's heritage buildings*
H-104-2008

I write to advise you that I have approved the above project on behalf of the the Human Research Ethics Committee. Please refer to the enclosed endorsement sheet for further details and conditions that may be applicable to this approval.

Approval is current for one year. The expiry date for this project is: 31 August 2009

Where possible, participants taking part in the study should be given a copy of the Information Sheet and the signed Consent Form to retain.

Please note that any changes to the project which might affect its continued ethical acceptability will invalidate the project's approval. In such cases an amended protocol must be submitted to the Committee for further approval. It is a condition of approval that you immediately report anything which might warrant review of ethical approval including (a) serious or unexpected adverse effects on participants (b) proposed changes in the protocol; and (c) unforeseen events that might affect continued ethical acceptability of the project. It is also a condition of approval that you inform the Committee, giving reasons, if the project is discontinued before the expected date of completion.

A reporting form is available from the Committee's website. This may be used to renew ethical approval or report on project status including completion.

Yours sincerely

Professor Garrett Cullity
Convenor
Human Research Ethics Committee

INFORMATION SHEET

Dear Sir/ Madam,

Topic: Conservation of Heritage Curtilages around Malaysia's Heritage Buildings

The purpose of this study is to identify the heritage curtilages around selected Malaysia's heritage buildings and to test either these heritage curtilages area are valid according to the legislation and criteria used in Malaysia.

To gain more background information about this research, an interview session will be conducted with you and it will take approximately an hour and a half. With this letter, there is a set of questions for you to refer to before the interview session. The interviews will be an important part of the research leading to the thesis that will be submitted for the degree of Doctor of Philosophy.

During the interview session, all data will be recorded using an audio tape and also in a form of written note. A summary of the interview will be provided to you for you to confirm the accuracy of the transcription. Any special editorial requests from you will be given due regarded. The information will be part of the thesis and be appropriately referenced, but the confidentiality of information provided in confidence will be respected.

Besides the interview session, it might very helpfully if you could relate this topic with your collection of the relevant maps, photos and layout plan of the selected heritage buildings and its sites, and what have been done (planning, development, etc.) to these selected site.

The information obtained from this interview may be discussed with other post-graduate students and the staff, particularly the researcher's Supervisors, at the School of Architecture, Landscape Architecture, and Urban Design.

Information about the Independent Complaints Procedure and the role of the Human Ethics Committee is provided on a separate sheet.

You may withdraw from the interview whenever you desire by simply advising the researcher of your intention to do so.

For any further information, please not hesitate to e-mail or call these persons:

Associate Professor David Jones   Nadiyanti Mat Nayan
(Director of Landscape Architecture Program and Supervisor)   (Researcher)

                                                              E-mail:
nadiyanti.matnayan@adelaide.edu.au

I'm looking forward to receive your positive reply and I really appreciate your help.

Thank you.

Yours faithfully,

_____

Nadiyanti Mat Nayan
(Researcher)

THE UNIVERSITY OF ADELAIDE HUMAN RESEARCH ETHICS COMMITTEE

**STANDARD CONSENT FORM
FOR PEOPLE WHO ARE PARTICIPANTS IN A RESEARCH PROJECT**

---

1. I, …………………………………………………………… *(please print name)*

   consent to take part in the research project entitled: **"Conservation of Heritage Curtilages around Malaysia's Heritage Buildings".**

2. I acknowledge that I have read the attached Information Sheet entitled: **"Conservation of Heritage Curtilages around Malaysia's Heritage Buildings".**

3. I have had the project, so far as it affects me, fully explained to my satisfaction by the research worker. My consent is given freely.

4. I have been given the opportunity to have a member of my family or a friend present while the project was explained to me.

5. I have been informed that the information gained during the study may be published as part of the PhD thesis.

6. I understand that I am free to withdraw from the project at any time.

7. I am aware that I should retain a copy of this Consent Form, when completed, and the attached Information Sheet.

   ………………………………………………………………………………………...
        (signature)   *(date)*

WITNESS

I have described to …………………………………………….. *(name of participant)*

the nature of the research to be carried out. In my opinion she/he understood the explanation.

Status in Project**: Researcher – PhD Candidate**

Name: **Nadiyanti Mat Nayan**

………………………………………………………………………………………...
(signature)   *(date)*

APPENDIX E: INDEPENDENT COMPLAINTS PROCEDURE

THE UNIVERSITY OF ADELAIDE
HUMAN RESEARCH ETHICS COMMITTEE

Document for people who are participants in a research project

CONTACTS FOR INFORMATION ON PROJECT AND INDEPENDENT COMPLAINTS
PROCEDURE

The Human Research Ethics Committee is obliged to monitor approved research projects. In conjunction with other forms of monitoring it is necessary to provide an independent and confidential reporting mechanism to assure quality assurance of the institutional ethics committee system. This is done by providing research participants with an additional avenue for raising concerns regarding the conduct of any research in which they are involved.

The following study has been reviewed and approved by the University of Adelaide Human Research Ethics Committee:

Project title: "**Conservation of Heritage Curtilages around Malaysia's Heritage Buildings".**

1. If you have questions or problems associated with the practical aspects of your participation in the project, or wish to raise a concern or complaint about the project, then you should consult the project co-ordinator:

   Name: **Associate Professor David Jones**

   Telephone: **+61 8 8303 4589**

2. If you wish to discuss with an independent person matters related to
   - making a complaint, or
   - raising concerns on the conduct of the project, or
   - the University policy on research involving human participants, or
   - your rights as a participant

   contact the Human Research Ethics Committee's Secretary on phone (08) 8303 6028

CONSERVATION OF HERITAGE CURTILAGES AROUND MALAYSIA'S HERITAGE BUILDINGS

In Malaysia, the evolution and interest in conserving Malaysia's cultural heritage began more than twenty years ago. Since then, conservation activities especially for heritage buildings have been very important in creating a conservation environment and as a reflection of Malaysia's national identity. However, in conserving the heritage buildings, scholars sometimes overlook the **curtilage** or space that surrounds the buildings.

Curtilage is not only about the area that surrounds the building, but it also relates to function of the building itself. In order to move towards this goal, in 1996, the New South Wales (NSW) Heritage Office did provide a definition for the "**heritage curtilage**" as:

> *the area of land (including land covered by water) surrounding an item or area of heritage significance which is essential for retaining and interpreting its heritage significance. It can apply either:*
>
> - *land which is integral to the heritage significance of items of the built heritage; or*
> - *a precinct which includes buildings, works, relics, trees or places and their setting.*
>
> *(Refer **Appendix A** for diagrams and further explanation on heritage curtilages).*

Besides creating a space around the built heritage, it also contributes to place making and a part of the identity of the built heritage. That is why, it is very important to include curtilage as part of heritage because there is very little attention has been given to conserving and protecting this area.

Thus, by employing an innovative, qualitative methodology with analysis of the conservation of heritage curtilage in Malaysia, hopefully this research study will act as a catalyst for conservation activities in Malaysia and to ensure that this heritage curtilage at a site of a building remains valuable and retains its identity and *genius loci* of the place for future generations.

Themes and questions for the proposed participants:

1. Heritage in Malaysia

    i.   What do you know about heritage in Malaysia?

ii.   Are there any campaign/s or program/s by the institution/government/authority/territory to create awareness about the importance of heritage to Malaysian culture? If yes, is it successful?

iii.   Is heritage important in identity-making for Malaysia?

2. Heritage Building/s and Heritage Curtilage/s
(*limited to building/s in Kuala Lumpur*)

2.1 Heritage Building/s

i.   Is there any building/s selected as a heritage building/s by this institution?

ii.   Who was involved in the process of selecting this/these heritage building/s?

iii.   Why was this/these building/s selected as a heritage building/s for this state/territory?

iv.   What the value of this/these heritage building/s to the country/state/territory?

v.   Why do you consider it worthy of conservation?

vi.   Have there been any changes to the building/s since it was originally built?

vii.   What are the main constraints for maintaining this/these heritage building/s?

viii. Besides this/these heritage building/s (conserved by the institution) and Listed Heritage Building under National Heritage Act *(Refer **Appendix B)**,* are there any other building/s or minor structures of features in the same area that you think should also be included in as a heritage building/s? Is yes, why?

2.2 Heritage Curtilage/s

i.   Have you heard about the heritage curtilage/s term before?

    a.   If yes, what is your understanding of this term?

    b.   If no, what is your opinion of this concept?

ii.   For the selected heritage building/s, is there any important connections or associations to the site or surrounding? If yes, are these worth conserving? Why?

iii.   Do you consider the setting of this building as being integral to its heritage communication and presentation? If yes, is it well maintained?

iv.   Is the visual catchment of the building or particular visual sightlines from major viewing points to and from the heritage building important in its heritage significance?

v.   Should landscape or built buffers be required for this heritage building to screen it from the visually unsympathetic adjacent development?

vi.   Should buffer areas be required for this heritage building to protect it from vibration, traffic noise, pollution, vandalism, etc.?

vii.   Is the building itself important or is it the symbology of the space due building is positioned within?

3. Heritage Building/s and Curtilage/s

i.   Is there any 'monitoring mechanism'/policy applied to this site/s to reduce the impact / to control any future development to this site?

ii.   Is the institution going to produce any annually report on the impact of any development at this site/s?

iii.   Does this institution has a Conservation Management Plan (CMP) to conserve this heritage site? If not, what kind of conservation plan has been used?

iv.   What kind of approach/es has been used by the institution to maintain the integrity of this site/s?

v.   So far, are there any problem/s faced by the institution to sustain this site/s, for example from uncontrolled urban development, illegal renovation to the building facade or threatened by new roads and building?

4. Heritage Management (Acts and Regulations)

i.   What are the main Act/s and regulation/s that relate to heritage management in Malaysia to retain the heritage value?

ii.   So far, have these acts and regulations been implemented by your institution? Is it successful?

iii.   Do you think that Malaysia needs another act, or an amended Act, to cater for the better heritage management for the heritage buildings and their curtilages?

iv.   Do you know of other country/countries that have better acts or guidelines in heritage management (building and curtilage) than Malaysia? If yes, do you think that their approach has been more successful than in this context? Why?

v.   What is/are the main constraints in implementing this act/s and guideline/s for your institution?

vi.   Are there other ways to ensure that this act/s and guideline/s can be successfully implemented by the institution?

vii.   Is there any an adequate regulatory framework used by the institution to conserve this site?
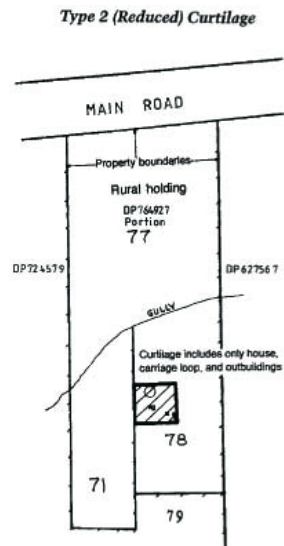
5. Issues in heritage conservation in Malaysia

i.   What are the latest issues or dilemmas in heritage conservation (building and curtilage) in Malaysia?

ii.   Do you think that these issues are related to the current act/s or guideline/s used for managing and conserving the heritage building and curtilage?

iii.   What are your suggestions/opinions regarding these issues as it relates to the concept of curtilage?

iv.   In your opinion, how well are these heritage buildings and their curtilages (under the institution or government) being conserved?
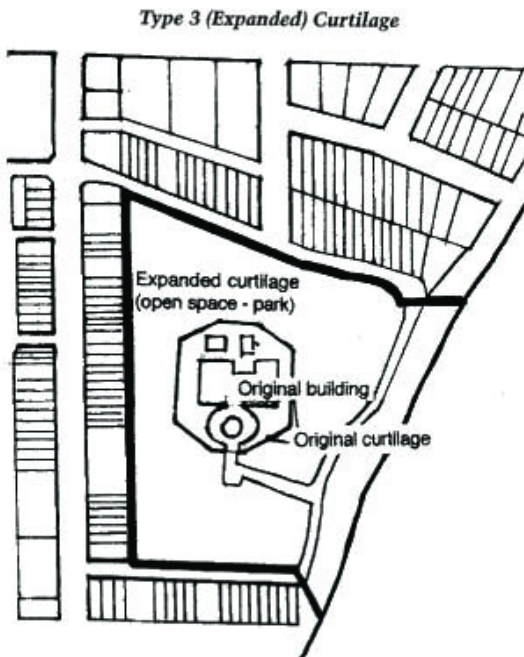
APPENDIX A
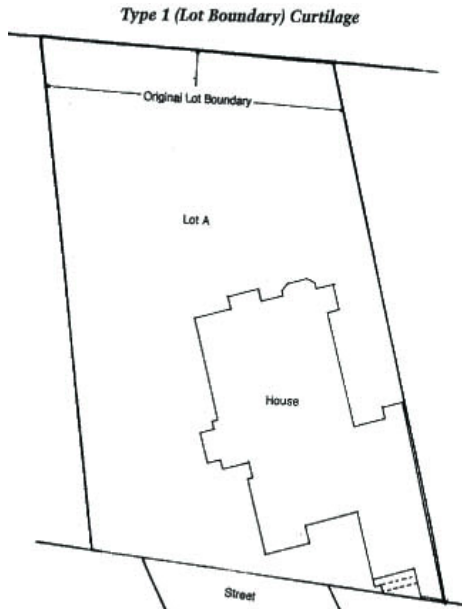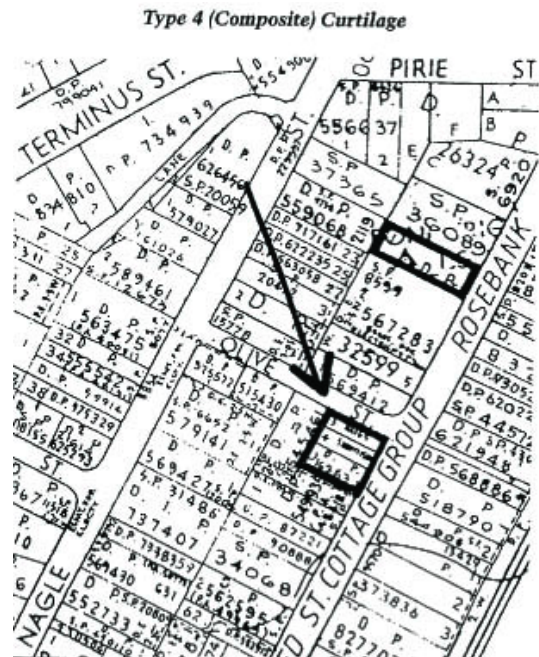
Type 1 (Lot Boundary) Curtilage

- Comprises the boundary of the property containing the heritage items
- May be desirable to provide a heritage curtilage which maintains the link between the two.

Type 2 (Reduced) Curtilage

- Significance of an item may not relate to total lot, but to a lesser area.
- Less than the lot boundary of the property.

Type 3 (Expanded) Curtilage

- Required to protect the landscape setting or visual catchment of a heritage item.

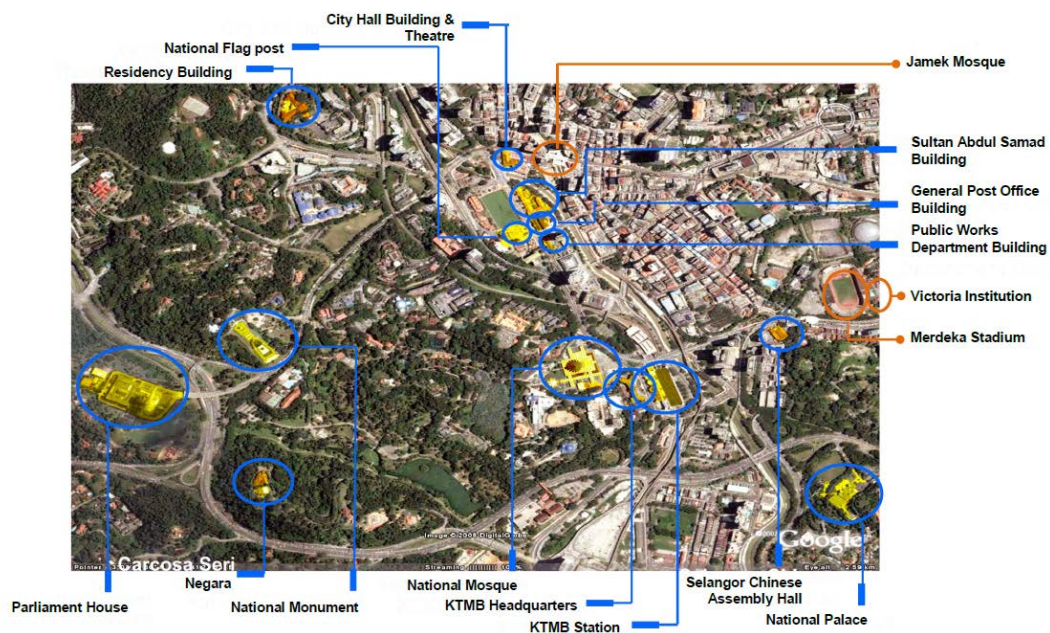**Type 4 (Composite) Curtilage**

- Applies to heritage conservation areas: historic district, village, suburban precinct.
- Encompass heritage items which have a distinctive homogenous character.

APPENDIX B

	Buildings listed as National Heritage (**2007 & 2008**) (Source: National Heritage Agency)
1.	Bangunan Parlimen, Kuala Lumpur
2.	Istana Negara, Kuala Lumpur
3.	Tapak Tiang Bendera Malaya, Dinaikan Buat Pertama Kali Dataran Merdeka, Kuala Lumpur
4.	Bangunan Sultan Abdul Samad
5.	Bangunan Dewan Bandaraya & Panggung Bandaraya
6.	Bangunan Stesen Keretapi Kuala Lumpur
7.	Bangunan Ibu Pejabat Keretapi Tanah Melayu, Kuala Lumpur
8.	Bangunan Pejabat Pos Besar (GPO), Jalan Raja, Kuala Lumpur
9.	Bangunan Jabatan Kerja Raya (PWD), Jalan Sultan Hishamuddin, Kuala Lumpur
10.	Bangunan Residensi Jalan Dato' Onn, Kuala Lumpur
11.	Masjid Negara dan Makam Pahlawan
12.	Carcosa Seri Negara
13.	Dewan Perhimpunan Cina Selangor

	Buildings listed as National Heritage (**2009**) (Source: National Heritage Agency)
1.	Sekolah Menengah Kebangsaan Victoria (Victoria Institution), Kuala Lumpur
2.	Universiti Malaya, Kuala Lumpur i. Dewan Tunku Canselor dan Panggung Eksperimen; dan ii. Bangunan Canselori
3.	Masjid Jamek, Kuala Lumpur
4.	Stadium Merdeka

CONSERVATION OF HERITAGE CURTILAGES AROUND MALAYSIA'S HERITAGE BUILDINGS

In Malaysia, the evolution and interest in conserving Malaysia's cultural heritage began more than twenty years ago. Since then, conservation activities especially for heritage buildings have been very important in creating a conservation environment and as a reflection of Malaysia's national identity. However, in conserving the heritage buildings, scholars sometimes overlook the **curtilage** or space that surrounds the buildings.

Curtilage is not only about the area that surrounds the building, but it also relates to function of the building itself. In order to move towards this goal, in 1996, the New South Wales (NSW) Heritage Office did provide a definition for the "**heritage curtilage**" as:

> *the area of land (including land covered by water) surrounding an item or area of heritage significance which is essential for retaining and interpreting its heritage significance. It can apply either:*
>
> - *land which is integral to the heritage significance of items of the built heritage; or*
> - *a precinct which includes buildings, works, relics, trees or places and their setting.*
>
> *(Refer **Appendix A** for diagrams and further explanation on heritage curtilages).*

Besides creating a space around the built heritage, it also contributes to place making and a part of the identity of the built heritage. That is why, it is very important to include curtilage as part of heritage because there is very little attention has been given to conserving and protecting this area.

Thus, by employing an innovative, qualitative methodology with analysis of the conservation of heritage curtilage in Malaysia, hopefully this research study will act as a catalyst for conservation activities in Malaysia and to ensure that this heritage curtilage at a site of a building remains valuable and retains its identity and *genius loci* of the place for future generations.

Themes and questions for the proposed participants (Penang and Malacca)

1. **Heritage in Malaysia**

i.   What do you know about heritage in Malaysia?

ii.   Is heritage important in identity-making for Malaysia?

iii.   Is there any campaign/s or program/s by the government/authority/territory to create awareness about the importance of heritage to Malaysian culture? If yes, is it successful?

2. **Heritage Building/s and Heritage Curtilage/s Management**
   (Before being listed as UNESCO's World Heritage Site)

   2.1 Heritage Building/s

   i.   Is there any building/s selected as a heritage building/s for this state/territory?

   ii.   Why was this/these building/s selected as a heritage building/s for this state/territory?

   iii.   What the significance value of this heritage building/s to the country/state/territory?

   iv.   Why do you consider it worthy of conservation?

   v.   Have there been any changes to the building since it was originally built?

   vi.   What are the main constraints for maintaining this heritage building/s?

   vii.   Besides this heritage building/s, is there any other building/s or minor structures of features in the same area that you think should also be included in as a heritage building/s? Is yes, why?

   2.2 Heritage Curtilage/s

   i.   Have you heard about the heritage curtilage/s term before?

   a.   If yes, what is your understanding of this term?

   b.   If no, the definition of heritage curtilage used by Heritage Office, Department of Urban Affairs and Planning in New South Wales (NSW) is:

   the area of land (including land covered by water) surrounding an item or area of heritage significance which is essential for retaining and interpreting its heritage significance. It can apply either:

   - *land which is integral to the heritage significance of items of the built heritage; or*

   - *a precinct which includes buildings, works, relics, trees or places and their setting.*

   What is your opinion of this concept?

   ii.   For the selected heritage building/s, is there any important connections or associations to the site or surrounding? If yes, are these worth conserving? Why?

   iii. Do you consider the setting of this building as being integral to its heritage communication and presentation? If yes, is it well maintained?

   iv.   Is the visual catchment of the building or particular visual sightlines from major viewing points to and from the heritage building important in its heritage significance?

    v.   Should landscape or built buffers be required for this heritage building to screen it from the visually unsympathetic adjacent development?

    vi.   Should buffer areas be required for this heritage building to protect it from vibration, traffic noise, pollution, vandalism, etc.?

    vii.   Is the building itself important or is it the symbology of the space due building is positioned within?

3. **Heritage Building/s and Curtilage/s (Heritage Site)**
   (After being listed as UNESCO's World Heritage Site)

i.   Is there any 'monitoring mechanism' / policy apply to this World Heritage sites to reduce the impact / to control any future development to this heritage site?

ii.   Is there any reinforced monitoring to ensure that development plans underway did not have a negative impact on the values for which the historic town was inscribed?

iii.   Is the authority going to produce any annually report on the impact of any development at this site?

iv.   Conservation Management Plan (CMP) has been used in Australia as a mechanism that provides a guide to future care and use, including any new development. It also sets out what is significant in a place and what policies are appropriate to enable that significant to be retained in its future use and development (K, James. (2001). *The conservation plan.* Sydney: National Trust NSW).

       Does this authority have this kind of plan to conserve this heritage site? If not, what kind of conservation plan has been used?

v.   The authority has proposed a buffer zone as a 'protection' to the heritage site, do you think it is enough to control / minimize visual impact at this site?

vi.   What kind of approach/es has been used by the authority to maintain the integrity of Penang / Malacca traditional urban fabric?

vii.   So far, is there any problem/s faced by the authority to sustain the site, for examples from the uncontrolled urban development, illegal renovation to the building facade or threatened by new roads and building?

4. **Heritage Management (Acts and Regulations)**

i.   What is/are the latest regulations have been implemented by the authority since Penang/ Malacca has been announced as one of the World Heritage List by the UNESCO?

ii.   What are the main Act/s and regulation/s that relate to heritage management in Penang and Malacca to retain the heritage value?

iii.   So far, have these acts and regulations have been implemented by your authority? Is it successful?

iv.   Do you think that Penang and Malacca needs another act, or an amended Act, to cater for the better heritage management as one of the UNESCO's World Heritage List?

v.   Do you know of other country/countries that have better acts or guidelines in heritage management (building and curtilage) than Malaysia? If yes, do you think that their approach has been more successful than us? Why?

vi.   What is/are the main constraint in implementing this act/s and guideline/s for your state/territory?

vii.   Are there other ways to enable that this act/s and guideline/s can be successfully implemented by the authority?
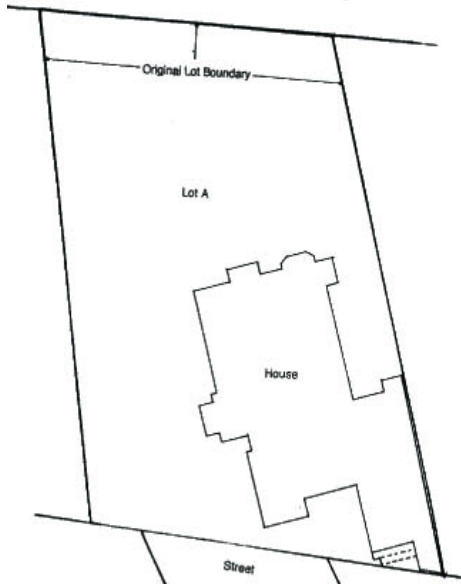
viii.   So far, is there any Act/s and regulation/s from the UNESCO that have been implemented to this Heritage Site?

ix.   Is there any an adequate regulatory framework used by the authority to conserve this site?

5.   Issues in heritage conservation in Malaysia

i.   What are the latest issues or dilemmas in heritage conservation (building and curtilage) in Malaysia?

ii.   Do you think that these issues are most probably related to the current act/s or guideline/s used for managing and conserving the heritage building and curtilage?

iii.   What are your suggestions/opinions regarding these issues as it relates to the concept of curtilage?

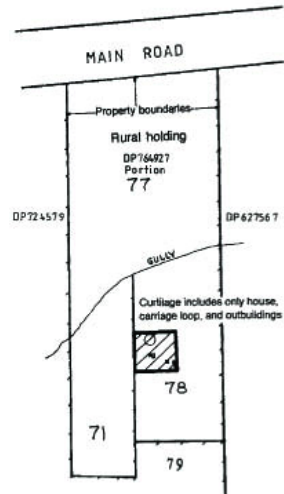iv.   In your opinion, how well are these heritage buildings and their curtilages being conserved?

APPENDIX A

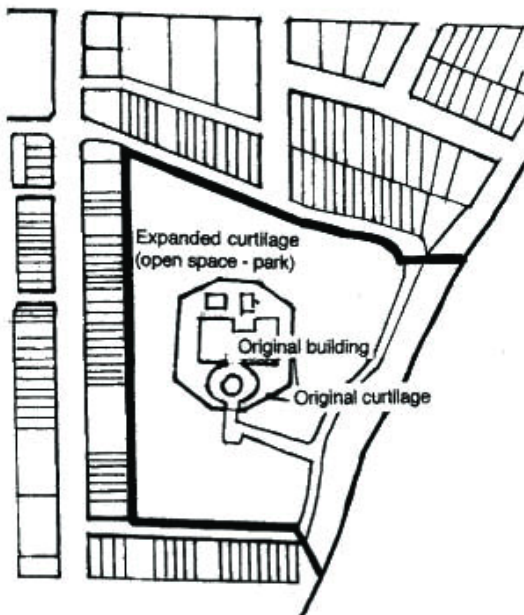### Type 1 (Lot Boundary) Curtilage

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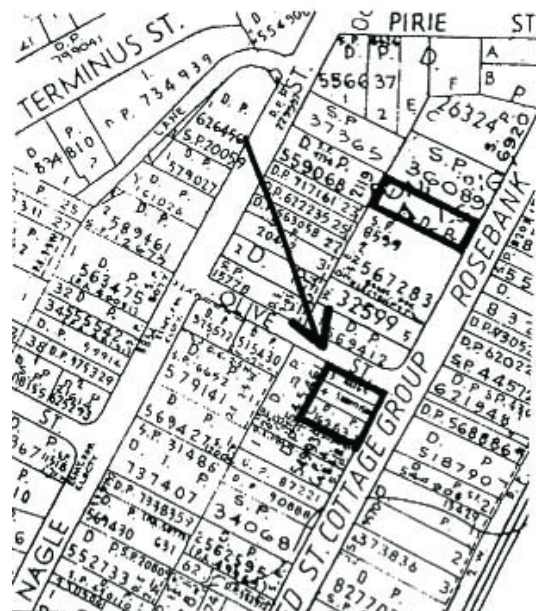
Type 2 (Reduced) Curtilage

- Significance of an item may not relate to total lot, but to a lesser area.
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Type 3 (Expanded) Curtilage

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- Applies to heritage conservation areas: historic district, village, suburban precinct.
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