

LEGISLATIVE COUNCIL BRIEF

Proposed Non-in-situ Land Exchange for the Preservation of No. 23 Coombe Road, Hong Kong

INTRODUCTION

At the meeting of the Executive Council on 27 March 2018, the Council ADVISED and the Chief Executive (“CE”) ORDERED that a non-in-situ land exchange be carried out with the owner of Rural Building Lot No. 731 (the “Existing Lot”) so that the owner will surrender the Existing Lot to the Government for preservation and revitalisation of the privately-owned Grade 1 historic building (commonly known as “Carrick”) at No. 23 Coombe Road (the “Building”) thereon while the Government will grant simultaneously a lot opposite to the Building (to be known as Rural Building Lot No. 1207) (the “New Lot”) to the owner for private residential development, subject to the basic terms and conditions set out in paragraph 11 below as well as payment of full market value premium. The Existing Lot is shown edged blue and the New Lot coloured pink on the plan at **Annex A**.

JUSTIFICATIONS

Heritage Value of the Building

2. Built in 1887 with gross floor area (“GFA”) of about 561 square metres, the Building is a private residence (photos at **Annex B**) with its first owner being John Joseph FRANCIS (1839-1901), who was prominent in civic affairs in a number of respects, in particular his efforts in investigating the issue of *mui-tsai* (妹仔) and in drawing up the rules for enacting the formation of Po Leung Kuk Incorporation Ordinance to offer protection of women and girls. Though John Joseph FRANCIS had

lived at a number of places in Hong Kong, the Building is the only remaining building in which he lived. Moreover, the Building is one of the oldest surviving European houses on the Peak. It was built using coolies' labour, as the Peak Tramway was not yet opened at that time. Based on the heritage value of the Building, it was accorded Grade 1 status on 23 November 2011 by the Antiquities Advisory Board ("AAB"). By definition, a Grade 1 historic building refers to a building of outstanding merit, which every effort should be made to preserve if possible.

Need for Economic Incentives

3. Under the heritage conservation policy announced in the 2007 Policy Address, the Government recognises the need for economic incentives in order to encourage and facilitate private owners to preserve historic buildings in their ownership. In implementing this policy, we aim to strike a proper balance between preservation of historic buildings and respect for private property rights. Given the unique circumstances of individual historic buildings, the needed economic incentives to achieve the policy objective would have to be considered on a case-by-case basis.

4. In formulating the appropriate economic incentives, factors to be taken into account generally include the heritage value of the historic building concerned, the development potential and value of the site where the building is located, the space provided by the site from the planning perspective, the wish of the owner, the land and financial implications on the Government, as well as the anticipated public reaction. As far as the offer of land exchange is concerned, under the prevailing policy, it is applicable to both monuments and Grade 1 historic buildings.

5. Despite the approval of the general building plans in October 2010 and the demolition plan in December 2011, the owner has been willing to explore preservation-cum-development options with the Government. After several rounds of discussion, the Government has reached an understanding with the owner on a preservation option. Under the proposed arrangement, the owner will surrender the Existing Lot with the Building to the Government for preservation and revitalisation, while

the Government in exchange will grant a nearby site of the same size as the Existing Lot to the owner for new residential development. The New Lot to be granted to the owner is a piece of government land opposite to the Existing Lot across Coombe Road to the south. Photomontage and layout plan of the proposed development at the New Lot are at **Annex C**. Where applicable, the New Lot will be subject to similar development parameters as specified on The Peak Area Outline Zoning Plan (“OZP”) for the Existing Lot (i.e. a maximum plot ratio of 0.5¹ and also a maximum building height of two storeys including carports and 260 metres above Principal Datum). The owner plans to construct a residential house on the New Lot within the permissible plot ratio. As the New Lot is subject to similar development restrictions as those applicable to the Existing Lot, the proposed residential development will not adversely affect the density and traffic load of the area. The owner has also proposed mitigation measures to minimise the potential adverse impact on the landscape and greenery of the area, or the vista of the neighbourhood.

6. The Existing Lot will be surrendered to the Government at the same time as the grant of the New Lot under the proposed non-in-situ land exchange. In order to preserve the Building, the owner signed an undertaking on 11 October 2016 that the Existing Lot will be surrendered to the Government together with the Building in a condition satisfactory to the Antiquities and Monuments Office upon completion of the land exchange process.

Town Planning Process

7. Following discussions with the Government, and to pave way for the proposed land exchange, the owner submitted an application under section 12A of the Town Planning Ordinance (Cap. 131) (“TPO”) to rezone the New Lot from “Green Belt” (“GB”) to “Residential (Group

¹ In June 2015, the owner submitted a planning application (Application No. Y/H14/4) under section 12A of the Town Planning Ordinance (Cap. 131) to rezone the New Lot from “Green Belt” to “Residential (Group C)6”, in which the owner applied for a maximum plot ratio of 0.51. The owner explained that the proposed maximum plot ratio was calculated based on the approved building plans dated 31 May 1947 and certified by a chartered surveyor. In November 2015, the Metro Planning Committee of the Town Planning Board agreed that the maximum plot ratio should be 0.5 instead of 0.51 to tally with the plot ratio restriction of the other residential sites along Coombe Road, which are zoned “Residential (Group C)2” (“R(C)2”).

C)6” (“R(C)6”) to facilitate residential development. On 6 November 2015, the Metro Planning Committee (“MPC”) of the Town Planning Board (“TPB”) partially agreed to the application to rezone the New Lot to “R(C)6” with the development restrictions set out in paragraph 5 above. The relevant amendment was incorporated in the draft The Peak Area OZP, which was subsequently renumbered as No. S/H14/12, and released for public inspection under section 5 of the TPO on 29 April 2016 for two months.

8. Upon the completion of the two-month statutory plan exhibition period, a total of 1 638 valid representations were received, of which one was in support of and the rest were opposing the zoning amendment (mainly on the grounds of not in line with the planning intention of “GB” zone and the Government’s heritage conservation policy, inadequate considerations for the rezoning, inadequate planning control to preserve the Building, undesirable precedent, lack of transparency in the land exchange negotiation process and lack of public engagement). Upon publication of the representations, 40 valid comments on the representations (“comments”) were received. TPB considered the representations and comments on 25 January 2017 and decided not to uphold the adverse representations on 10 March 2017. The draft The Peak Area OZP was approved by the CE in Council on 27 March 2018.

Land Exchange Process

9. Following the approval of the proposed non-in-situ land exchange, the Lands Department (“LandsD”) will continue to take forward the land exchange process, including formal assessment of full market value premium payable by the owner.

10. As for the Existing Lot to be surrendered to the Government, we plan to revitalise the Building and put it to adaptive re-use for the public. It could be implemented through the Revitalising Historic Buildings Through Partnership Scheme (“Revitalisation Scheme”)².

² Launched in 2008, the Revitalisation Scheme aims to preserve and put government-owned historic buildings into good and innovative use; to transform historic buildings into unique cultural landmarks; to promote active public participation in the conservation of historic buildings; and to

Details of the Proposed Non-in-situ Land Exchange

11. We propose to carry out a non-in-situ land exchange with the owner of the Building, subject to the following basic terms and conditions —

Existing Lot to be surrendered to Government

Lease term:	Government Lease dated 16 January 1965 for a term of 150 years commencing from 23 March 1886
Area:	11 840 square feet (i.e. about 1 100 square metres)
Major lease conditions:	(a) one private dwelling house of not more than two storeys; and (b) private residential purposes only.

New Lot to be granted to the owner

Lease term:	50 years from the date of Agreement
Area:	About 1 100 square metres
Premium:	Full market value premium (to be assessed)
Building covenant:	Building to be completed and made fit for occupation within 54 months from the date of Agreement
Major lease conditions:	(a) private residential purposes and for a single family residence only;

create job opportunities, in particular at the district level. Under the Scheme, non-profit-making organisations are invited to submit proposals to revitalise selected government-owned historic buildings in the form of social enterprises.

- (b) total GFA of building not less than 329.99 square metres and not exceeding 549.98 square metres;
- (c) building not exceeding two storeys and 260 metres above Principal Datum;
- (d) possession of the New Lot subject to compliance with the conditions on surrendering of the Building and the Existing Lot; and
- (e) landscaping requirement.

12. Lease condition (b) for the New Lot reflects the maximum development potential of a plot ratio of 0.5 in accordance with the plot ratio restriction under the draft OZP, while condition (d) ensures that the Existing Lot with the Building will be surrendered to the Government satisfactorily.

13. Full market value premium payable for the proposed non-in-situ land exchange will be assessed by LandsD in accordance with the established policy and practices. The New Lot to be granted to the owner is previously zoned “GB”. The proposed non-in-situ land exchange through the grant of this New Lot is justified as a measure to facilitate the preservation of the Building.

OTHER OPTIONS

14. We have considered a range of economic incentives, starting with the easier options first, but these other options are found to be infeasible —

- (a) *in-situ land exchange* — one of the options explored with the owner was to replace the lower ground floor area of the Building, where the headroom is substandard for modern living, with an additional floor above, but it was found technically

infeasible. Another option considered was to add a new house at the back of the Building within the Existing Lot³ (as shown edged green on the plan at **Annex D**), but it was also undesirable as the new house would undermine the heritage ambiance (including blocking one of the façades, which is also the main entrance of the Building) and threaten the structural integrity of the Building;

- (b) ***transfer of unused development rights*** — the option of transferring the permitted plot ratio to another lot owned by the owner was also explored, but again it was found infeasible as the owner has no other landholding in the area with potential unutilised GFA to absorb the permitted GFA from the Existing Lot;
- (c) ***non-in-situ land exchange for a site north of the Existing Lot***⁴ (as shown edged blue on the plan at **Annex D**) — the site to the north of the Existing Lot would seriously affect the visual amenity and existing woodland and there are difficulties to connect to the sewer at Coombe Road due to level difference. The required access would also reduce the public car park area; and
- (d) ***purchasing the Building with public funds*** — pursuant to the recommendation of the AAB under the Policy Review on

³ Similar proposal was raised by the Aberdeen Country Park Concern Group (“ACPCG”) in its planning application no. Y/H14/5 to rezone the Existing Lot from “R(C)2” to “Other Specified Uses” (“OU”) annotated “Historic Building Preservation and Residential Development” to facilitate in-situ preservation of the Building while allowing the owner to erect next to it an additional house, which was considered by the MPC of the TPB in November 2015 together with the application submitted by the owner of the Building. This option was rejected by the MPC as it failed to demonstrate that the proposed development within the same site would not affect the structural stability of the Building therein, would not undermine the setting and environment of the historic building, and its heritage value, and would not have significant adverse technical impacts.

⁴ Similar proposal was raised by the ACPCG in its planning application no. Y/H14/5 to rezone the Existing Lot from “R(C)2” to “OU” annotated “Historic Building Preservation” for heritage conservation only and rezone the site to the north of the Existing Lot from “GB” to “R(C)2” as the new lot for land exchange with the owner. This option was rejected by the MPC of the TPB in November 2015 as it failed to demonstrate that the impacts on the existing trees on the new lot would not be unacceptable and would not have significant adverse technical impacts. This option had also been discussed in a case conference of the Legislative Council cum a site visit on 5 July 2016, which noted the potential adverse effect on the visual amenity and existing woodland and the technical difficulties to connect to the sewer at Coombe Road due to level difference for developing the site to the north of the Existing Lot.

Conservation of Built Heritage completed in December 2014, public money should not be used directly to purchase privately-owned historic buildings. The Government was recommended to provide more attractive economic incentives such as financial assistance, relaxation of plot ratio and land exchange, or to facilitate private owners to carry out timely maintenance works and protect historic buildings.

15. After considering various options, which were all found infeasible, the owner eventually informed the Government that the only viable preservation option would be land exchange. The owner had considered a couple of replacement sites following the Government's principle that the replacement site for non-in-situ land exchange should be in proximity to the heritage site such that they would be of similar value or development potential. Subsequently, the owner proposed to pursue a non-in-situ land exchange by surrendering the Existing Lot to the Government for conservation in exchange for the New Lot.

16. If we do not offer any economic incentives, the owner, who has obtained approval for the demolition of the Building but suspended the redevelopment process since 2011, indicated that it would withdraw from the on-going heritage conservation process and exercise its right to redevelop the Building. An important built heritage would then be lost.

IMPLICATIONS OF THE PROPOSAL

17. This proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not have any civil service, economic, competition, family or gender implications. The proposal has financial, environmental and sustainability implications, as set out at **Annex E**.

PUBLIC CONSULTATION

18. The relevant draft The Peak Area OZP incorporating the zoning amendments in relation to the proposed non-in-situ land exchange has

been published for public inspection and undergone the town planning process in accordance with the provisions of the TPO. Comments from the public have also been invited at various stages of the town planning process. The Wan Chai District Council was consulted regarding the proposed non-in-situ land exchange on 11 March 2014 and the proposed amendments on the relevant draft The Peak Area OZP on 17 May 2016.

PUBLICITY

19. A press release was issued on 27 March 2018 on the proposed non-in-situ land exchange, and a spokesperson will be available to answer media and public enquiries.

BACKGROUND

Historic Background of the Building

20. Built in 1887, the Building, with John Joseph FRANCIS as its first owner, is a private luxury house used for residential purpose. In 1878, Governor Sir J.P. HENNESSY appointed a committee of four, including John Joseph FRANCIS to investigate the issue of *mui-tsai*. This committee recommended the constitution of a Chinese association for the protection of women and girls. As a leading barrister and Queen's Counsel, John Joseph FRANCIS is remembered in the history of Hong Kong for drawing up the rules for enacting the formation of such association through the Po Leung Kuk Incorporation Ordinance (subsequently repealed and replaced by the Po Leung Kuk Ordinance). Po Leung Kuk was set up in 1878 and is still active in Hong Kong today. The Building has changed hands a number of times in the past, with its current owner being Juli May Limited.

21. The Building is one of the oldest surviving European houses on the Peak. At the time when it was built, there were hardly more than a few houses on the Peak and the Peak Tramway was not yet opened. The Building bears witness to a historic period when coolies' labour was much needed in the construction of buildings in Hong Kong. In 1889,

two years after the completion of the Building, the Governor Sir George William DES VOEUX described the building of houses on the Peak in these words: “every brick, stone, timber, and other article used in construction, as well as the furniture on completion, requires to be carried on coolies’ shoulders for distances varying from one to two miles to a height of 1 100 to 1 600 feet”.

Precedent Cases of Land Exchange

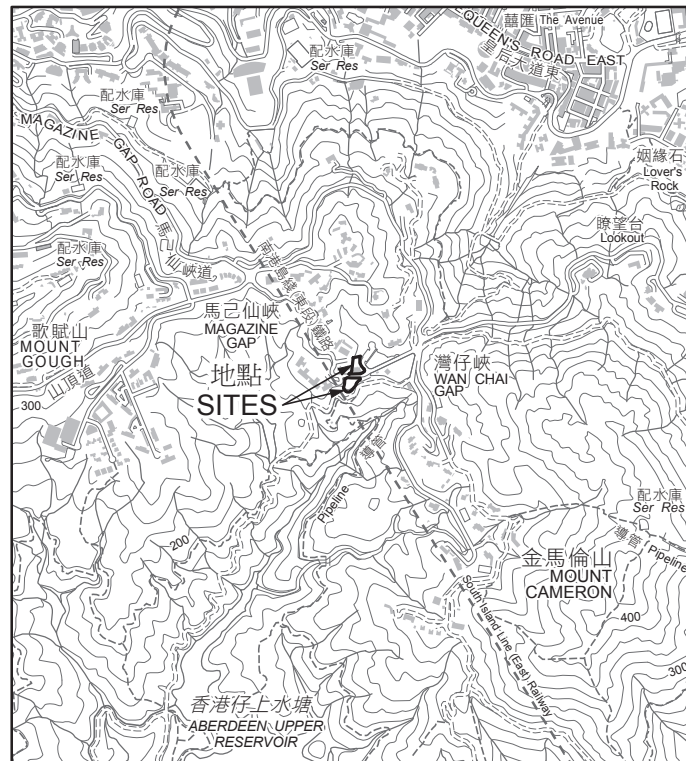
22. Since the promulgation of the heritage conservation policy in 2007, the first case for non-in-situ land exchange on built heritage endorsed by the CE in Council on 2 December 2008 was for the preservation of King Yin Lei, which was declared as a monument in July 2008. In an attempt to preserve Ho Tung Gardens, a Grade 1 historic building and later proposed monument, the owner was presented a land-exchange proposal, in which two adjacent “GB” sites were amalgamated with part of the Ho Tung Gardens, and the new lot would be given similar development parameters. Unfortunately the owner of Ho Tung Gardens did not accept the land exchange proposal.

ENQUIRIES

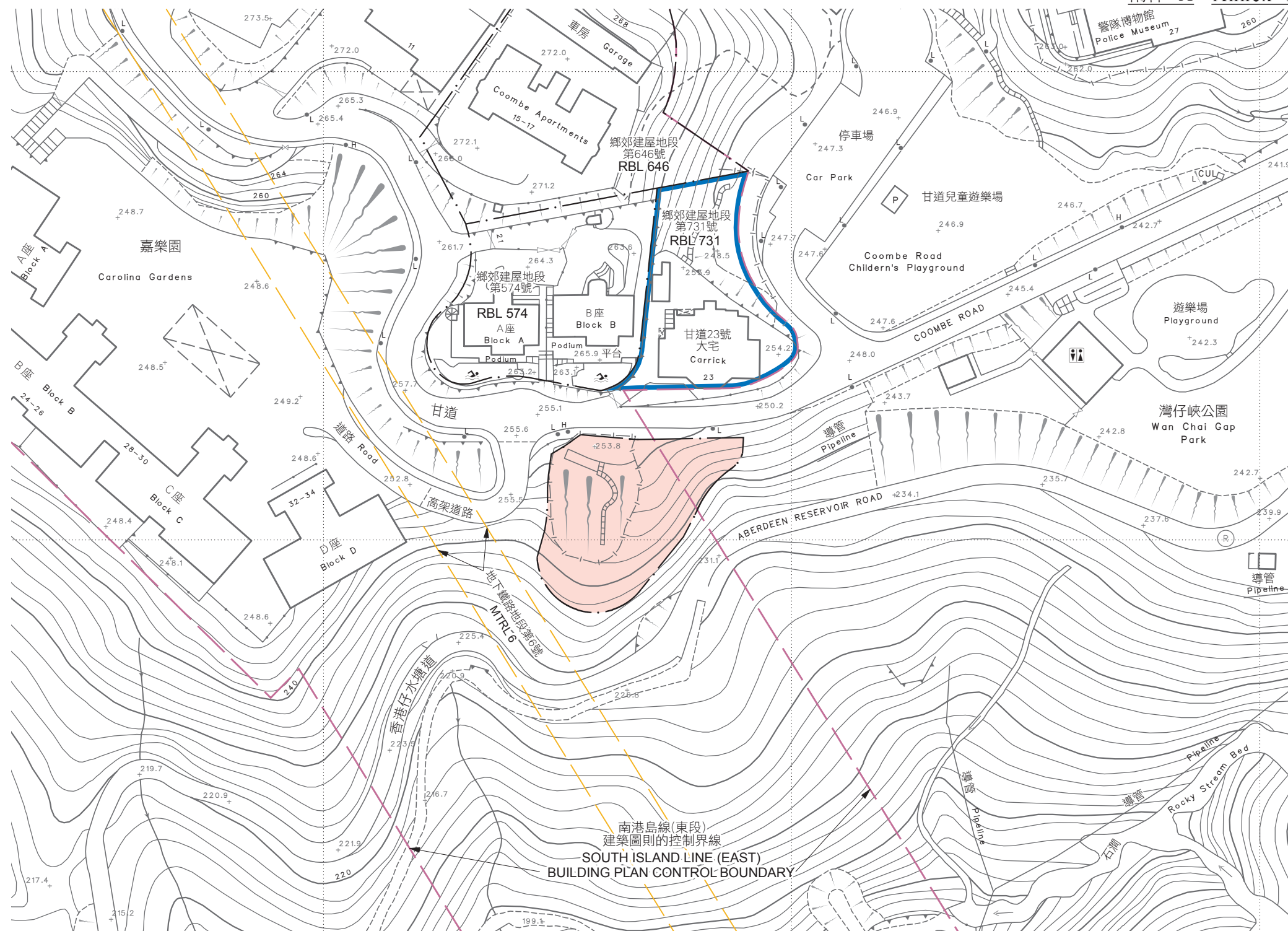
23. For any enquiries on this brief, please contact Mr. José Yam, Commissioner for Heritage, at 3509 8270.

Development Bureau
March 2018

位置 LOCATION



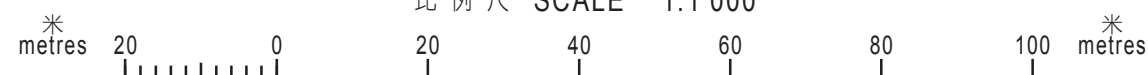
比例 SCALE 1:20 000



舊地段以藍色邊線標示的面積約為 11 840 平方呎或 1 100 平方米
 新地段以粉紅色標示的面積約為 1 100 平方米

OLD LOT EDGED BLUE AREA 11 840 SQUARE FEET OR 1 100 SQUARE METRES (ABOUT)
 NEW LOT COLOURED PINK AREA 1 100 SQUARE METRES (ABOUT)

比例尺 SCALE 1:1 000



只作識別用 FOR IDENTIFICATION PURPOSES ONLY

地政總署 港島東區地政處
 District Lands Office, Hong Kong East
 Lands Department

圖則由港島測量處繪製
 Plan Prepared by District Survey Office, Hong Kong
 © 香港特別行政區政府 版權所有 Copyright reserved - Hong Kong SAR Government

建議換地
 (將稱為鄉郊建屋地段第1207號)

PROPOSED LAND EXCHANGE

(TO BE KNOWN AS RURAL BUILDING LOT No. 1207)

檔案編號 File No. DLO/HE L/M 6/EHLT/2016 & DSO/HK W2482

測量圖編號 Survey Sheet No. 11-SW-19B

發展藍圖編號 Layout Plan No. --

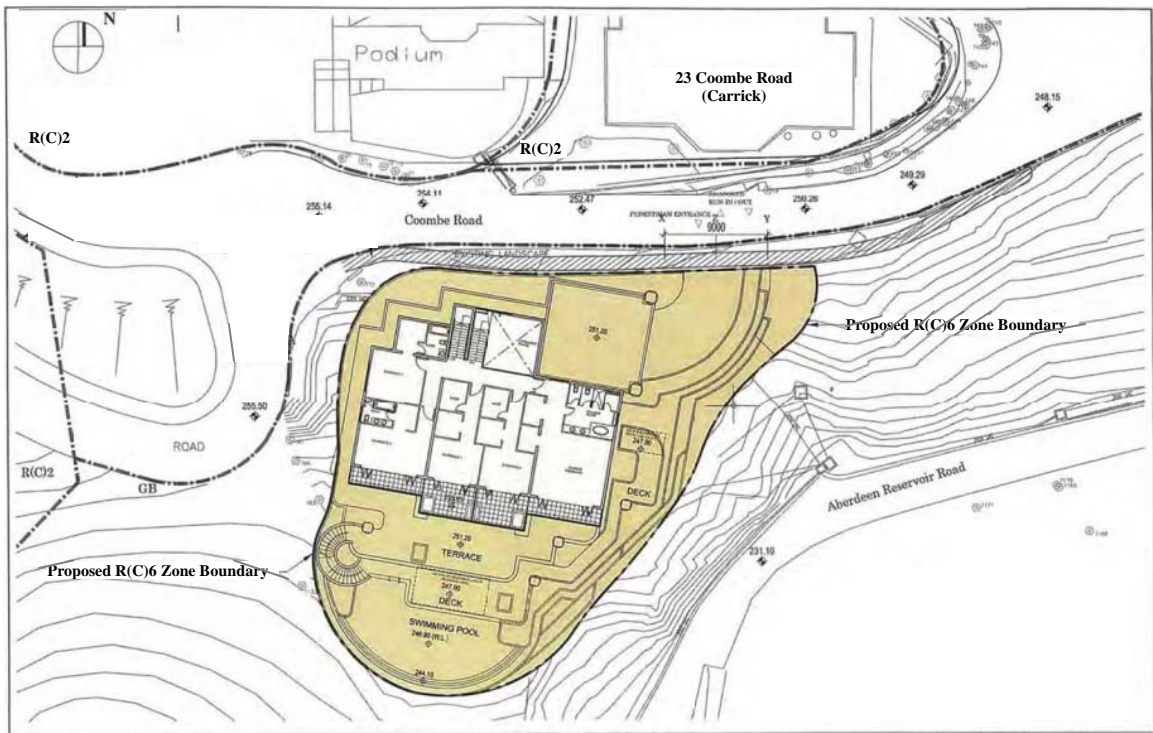
參考圖編號 Reference Plan No. --

圖則編號 PLAN No. HKM10024-X

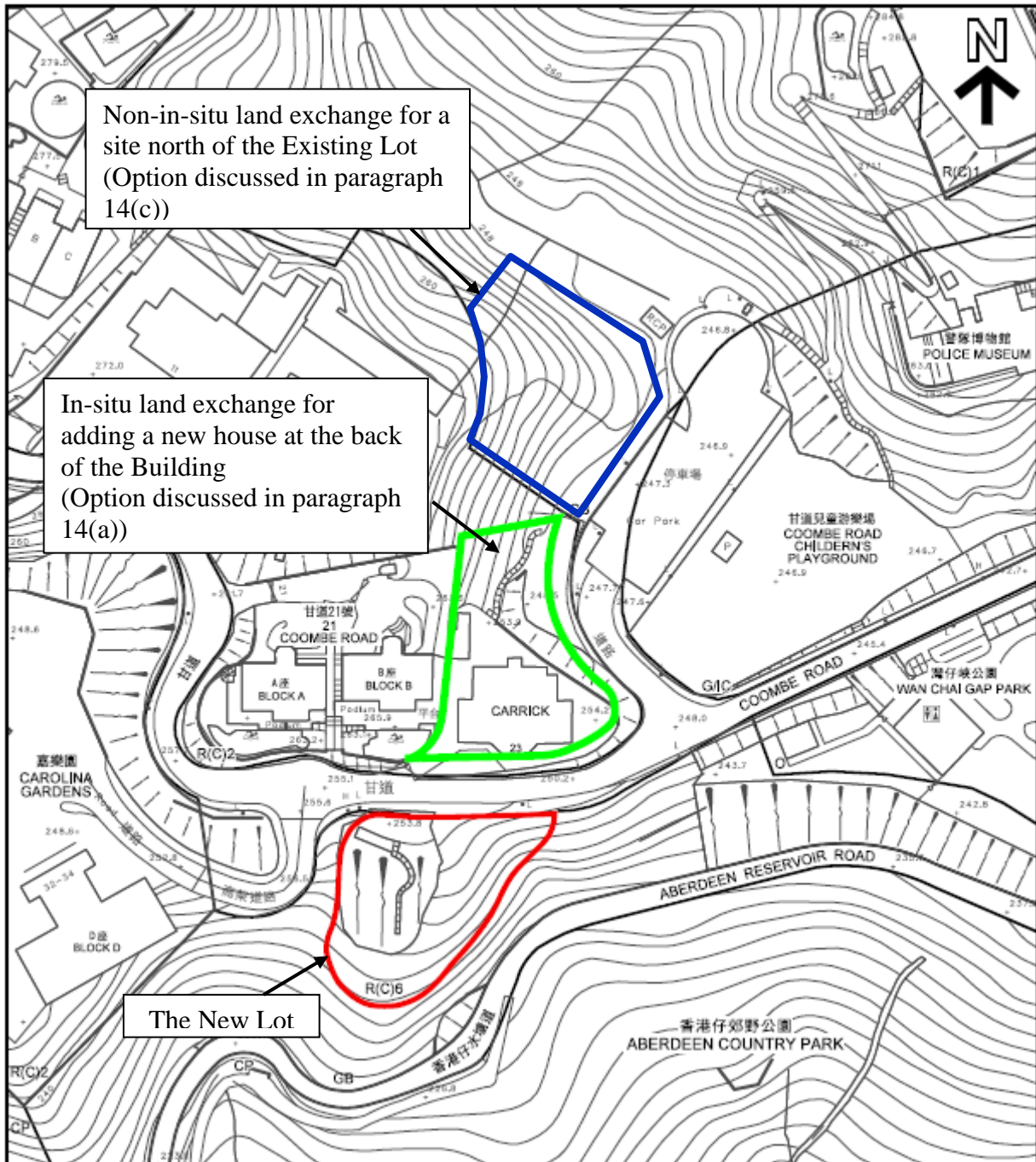
Photos of the Building



**Photomontage and Layout Plan
of the Proposed Development at the New Lot**



Plan Showing Other Options Considered and Found Infeasible



Implications of the Proposal

As far as financial implications are concerned, full market value premium (representing the difference in land values between the Existing Lot and the New Lot) and administrative fee will be charged on the owner for the proposed non-in-situ land exchange in accordance with the established policy and practices. The revitalisation of the Building for adaptive re-use may or may not involve additional capital works expenditure of the Government depending on the mode of operation. In the case of a commercialisation mode (in which a private sector operator would be selected through competitive bidding), the successful bidder would probably be required to undertake the necessary capital works. If the revitalisation is implemented through the Revitalisation Scheme, there will be provisions to cover the capital costs of the project in part or in full as per the established mechanism in seeking the resources. Where justified, there will be an one-off grant capped at \$5 million to meet the starting costs and cover operating deficits, if any, of the social enterprises for the first two years of operation. Nominal rental will be offered. Recurrent expenditure may be incurred by the Government for structural maintenance of the project under the Revitalisation Scheme and, if required, will be sought as per the established mechanism.

2. As for environmental implications, the proposed non-in-situ land exchange will not cause insurmountable environmental impacts. In formulating the boundary of the New Lot, there is a strip of GB zone and Aberdeen Reservoir Road between the New Lot and the Aberdeen Country Park. The buffer has a width of about 10 to 20 metres from the Aberdeen Country Park. As for tree preservation, the owner has indicated that two existing trees would be retained, 23 would be transplanted and 33 would be felled mainly due to their poor form and a low predicted transplantation survival rate. The tree loss will be compensated at a compensatory planting ratio of 1:1. Vertical greening and some tree planting along the site boundary would be provided to screen the proposed development at the New Lot, mitigating its visual impact to the surroundings.

3. The proposal is in line with the sustainability principle of protecting and enhancing the vibrancy of Hong Kong's historical and architectural assets.