

**Minutes of the 1133rd Meeting of the
Town Planning Board held on 25.1.2017**

Present

Permanent Secretary for Development
(Planning and Lands)

Mr Michael W.L. Wong

Chairman

Professor S.C. Wong

Vice-Chairman

Mr Lincoln L.H. Huang

Mr Sunny L.K. Ho

Mr Dominic K.K. Lam

Ms Christina M. Lee

Mr H.F. Leung

Mr Stephen H.B. Yau

Dr F.C. Chan

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Deputy Director, Environmental Protection Department
Mr C.W. Tse

Deputy Director (General), Lands Department
Ms Karen P.Y. Chan (a.m. only)

Assistant Director (Regional 3), Lands Department
Mr Edwin W.K. Chan (p.m. only)

Chief Engineer (Works), Home Affairs Department
Mr Paul Y.K. Au

Director of Planning
Mr Raymond K.W. Lee

Deputy Director of Planning/District
Ms Jacinta K.C. Woo

Secretary

Absent with Apologies

Mr H.W. Cheung

Professor K.C. Chau

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Ms Janice W.M. Lai

Mr Patrick H.T. Lau

Mr David Y.T. Lui

Dr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Dr C.H. Hau

Mr Stephen L.H. Liu

Principal Assistant Secretary (Transport 3)

Transport and Housing Bureau

Mr Andy S.H. Lam

In Attendance

Assistant Director of Planning/Board

Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board

Ms Sally S.Y. Fong (a.m.)

Mr Kepler S.Y. Yuen (p.m.)

Senior Town Planner/Town Planning Board

Mr T.C. Cheng (a.m.)

Mr Raymond H.F. Au (p.m.)

Hong Kong District

Agenda Item 1

[Open Meeting]

Consideration of Representations and Comments in respect of Draft The Peak Area Outline Zoning Plan No. S/H14/12

(TPB Paper No. 10243)

[The meeting was conducted in English and Cantonese]

1. The Secretary reported that the following Members had declared interests on the item for having affiliation/being acquainted with the representers/commenters or their representatives including Cheung Kong Hutchison Holdings Limited (CKHH), being the mother company of Juli May Limited (R1/C1), LWK & Partners (HK) Limited (LWK) (R1/C1's representative), World Wide Fund for Nature of Hong Kong (WWF)(R5/C32), Hong Kong Bird Watching Society (HKBWS)(R6), Designing Hong Kong Limited (DHK)(R8) and Mary Mulvihill (R12/C40) :

Mr Ivan C.S. Fu - having current business dealings with CKHH and being a Director of LWK

Mr Patrick H.T. Lau - having current business dealings with CKHH

Mr Stephen L.H. Liu - having current business dealings with CKHH and LWK

Dr C.H. Hau - being a member of the Conservation Advisory Committee of WWF and a member of the HKBWS

Mr Thomas O.S. Ho - personally knowing the co-founder and Chief Executive Officer of DHK

Mr K.K. Cheung] their company hiring Mary Mulvihill on a contract
Mr Alex T.H. Lai] basis from time to time

2. Mr Ivan C.S. Fu, Mr Patrick H.T. Lau, Dr C.H. Hau and Mr Stephen L.H. Liu had tendered apologies for being unable to attend the meeting. Members noted that Mr Thomas O.S. Ho, Mr K.K. Cheung, and Mr Alex T.H. Lai had no discussion with the representer/commenter on the subject matter. Mr Dominic K.K. Lam, Dr Lawrence K.C. Li and Professor T.S. Liu also declared interests on the item as they also knew some of the representatives/commenters. Members agreed that their interests were indirect and should be allowed to stay in the meeting.

3. The Chairman said that reasonable notice had been given to the representatives and commenters inviting them to attend the hearing, but other than those who were present or had indicated that they would attend the hearing, the rest had either indicated not to attend or made no reply. As reasonable notice had been given to the representatives and commenters, Members agreed to proceed with the hearing of the representations and comments in their absence.

Presentation and Question Sessions

4. The following government representatives, representatives/commenters or their representative were invited to the meeting at this point :

Government representatives

Planning Department (PlanD)

Mr Louis K.H. Kau - District Planning Officer/Hong Kong (DPO/HK), PlanD

Mr Derek P.K. Tse - Senior Town Planner/Hong Kong 5 (STP/HK5), PlanD

Commissioner for Heritage's Office, Development Bureau (CHO, DEVB)

- Mr José H.S. Yam - Commissioner for Heritage (C for Heritage), DEVB
- Ms Leonie Lee Hoi-lun - Assistant Secretary (Heritage Conservation) 3, (AS(HC)3), DEVB
- Mr William Lo Wai-kin - Engineer (Heritage Conservation) (E(HC)), DEVB

Leisure and Cultural Services Department (LCSD)

- Ms Susanna L.K. Siu - Executive Secretary (Antiquities & Monuments) (Ex Secy (A&M)), LCSD
- Ms Fiona Y.C. Tsang - Curator (Historical Buildings) 1 (C(HB)1), LCSD

Agriculture, Fisheries and Conservation Department (AFCD)

- Ms Ho Ching Yee - Senior Nature Conservation Officer (South) (SNCO(S)), AFCD

Representers/Commenters or their representatives

R1/C1 – Juli May Limited (JML)

- Juli May Limited :]
- Mr Dennis Chien]
- Ms Jennifer Chiong] Representer/Commenter and
- Pro Plan Asia Limited :] Representer's/Commenter's
- Mr Phill Black] representatives
- Ms Veronica Luk]

Scenic Landscape Studio]
Limited :]
Mr Christopher Foot]

R3 – Wong Wang Tai (Wan Chai District Council Member)

Mr Wong Wang Tai - Representer and Representer's
Mr Paul Siu representative

R5/C32 – World Wide Fund for Nature Hong Kong

Mr Lau Shiu Keung, Tobi - Representer's/Commenter's
representative

R6 – The Hong Kong Bird Watching Society

Mr Woo Ming Chuan - Representer's representative

R9/C29 – Alliance for a Beautiful Hong Kong

R19 – Central & Western Concern Group

R224 – Leong Ka Tai, Timothy

Ms Katty Law - Representers'/Commenter's
representative

R10 – Aberdeen Country Park Concern Group

R31 – Tseung Seung Yan, Paul

R54 – Alastair Wu

R55 – Sofia Wu

R56 – Lucian Wu

R118 – Marianne Lee

R203 – Caroline To

R208 – Edith Wei

R335 – Leung Ng Kam Ping, Margaret

R365 – Lee Ching Ching

R373 – Leung Mui Fong

R802 – Linda Chow

Ms Leung Sai Ling, Grace] Representers/Commenters and
Mr Poon Fu Kit, Benson] Representers'/Commenters'
Mr Cheung Ka Wing, Fredo] representatives
Mr Chih Ming Yuen, Eric]

Mr Roger Clive Kendrick]
Mr Henry Chan]
Mr Lo Wing Sang, Vincent]
Ms Marianne Lee]
Ms Wong Oi Chu, Anna]
Ms Cristi Lee]
Ms Liza Lee]

R12/C40 – Mary Mulvihill

Ms Mary Mulvihill - Representer/Commenter

R13/C3 – Ruy Barretto

Mr Ruy Barretto - Representer/Commenter

R14/C4 – Leo A. Barretto

Mr Leo A. Barretto - Representer/Commenter

R15 – Yuen Ka Sin, Claudia

Ms Yuen Ka Sin, Claudia - Representer

R20/C5 – Cheung Ka Wing, Fredo

R222/C8 – Leong Mo Ling

Mr Cheung Ka Wing, Fredo - Representer/Commenter and
Representer's/Commenter's
representative

R24 – Michael Arnold

Mr Michael Arnold - Representer

R45 – Hu Shuang, Karen

Ms Hu Shuang, Karen - Representer

R57 – Cristi Lee

Ms Cristi Lee - Representer

R90/C18 – Leung Sai Ling, Grace

Ms Leung Sai Ling, Grace - Representer/Commenter

R173 – Wong Kei Fu

Mr Wong Fei Fu - Representer

R221/C7 – Lo Wing Sang, Vincent

R251 Woo Chun Wai

R253 – Lo Man Ping, Rita

R1247 – 李秋華

R1636 – T.L. Yang

Mr Lo Wing Sang, Vincent - Representer/Commenter and
Representers' representative

R289 – B.W.H. Stoneman

Mr B.W.H. Stoneman - Representer

R342 – Isabel Julia Winter

Ms Isabel Julia Winter - Representer

R846 – Abbie Cheng

R1432 – Peter Cheng Kar Shing

Ms Chan Hui Hui, Jacqueline - Representers' representative

5. The Chairman extended a welcome and briefly explained the procedures of the hearing. He then invited government representatives to brief Members on the background to the representations and comments and the heritage conservation considerations.

6. With the aid of a PowerPoint presentation, Mr Louis K.H. Kau, DPO/HK, Mr José Yam Ho-san, C for Heritage, DEVB and Ms Susanna L.K. Siu, Ex Secy (A&M), LCSD briefed Members on the representations and comments, including their views and

proposals, the Government's Heritage Conservation Policy, the heritage value of No. 23 Coombe Road (Carrick) and PlanD's views as detailed in TPB Paper No. 10243.

[Mr Alex T.H. Lai and Mr Franklin Yu arrived to join the meeting at this point.]

7. The Chairman then invited the representers/commenters or their representatives to elaborate on their representations/comments.

R1/C1 – Juli May Limited

8. With the aid of a PowerPoint presentation, Mr Phil Black made the following main points :

- (a) the owner of Carrick suspended the redevelopment process in 2011 with a view to preserving Carrick for public use. The owner had considered various development options with different merits, but considered that the most appropriate means to respect the owner's development right was to transfer the development potential of Carrick to a like-for-like site, i.e. the representation site. A s.12A application (No. Y/H14/4) was thus submitted for the rezoning of the representation site;
- (b) some representers/commenters had proposed other development options, i.e. adding a new house behind Carrick within the preservation site or transferring the development rights to another "Green Belt" ("GB") site adjacent to the Coombe Road public carpark and children's playground. Their proposals were similar to the s.12A application No. Y/H14/5 submitted by the Aberdeen Country Park Concern Group (ACPCG), which had already been considered by the Metro Planning Committee (MPC) on 6.11.2015, together with application No. Y/H14/4. The MPC agreed that the rezoning of the representation site from "GB" to "Residential (Group C) 6" ("R(C)6") was the preferred option which had struck a balance between land use, visual, landscape, heritage

conservation, public interest and respect for private development rights;
and

- (c) if the rezoning of the representation site was not successful, the owner would withdraw the on-going heritage conservation process and exercise his right to redevelop Carrick.

R5/C32 – World Wide Fund for Nature Hong Kong (WWF)

9. With the aid of a PowerPoint presentation, Mr Lau Shiu Keung, Tobi made the following main points :

- (a) WWF objected to the rezoning of the representation site for residential development in exchange for the preservation of Carrick. Land zoned for residential use should be selected for the land exchange on a like-for-like basis. The use of the representation site for residential development was not in line with the planning intention of “GB” zone;
- (b) the representation site was well-vegetated. Rezoning the site to “R(C)6” for residential development would result in felling of about 130 trees, divide the “GB” zone into two portions and affect the function of the “GB” as a buffer, which would have adverse impact on the Aberdeen Country Park (ACP). Although a 10m wide “GB” strip would remain, it was too narrow to function as a buffer;
- (c) although eight *Artocarpus hypargyreus*, which were included in the International Union for Conservation of Nature Red List of Threatened Species, would be retained, their roots would be affected by the extensive site formation works of the future development. With the construction of an extensive platform at the site, the woodland habitat would unlikely be retained. Moreover, the visual amenity along Aberdeen Reservoir Road would be affected by the stilted structure supporting the platform of the proposed residential development;

- (d) the Town Planning Board (the Board) had rejected an application (No. Z/H14/4) for rezoning a site in the Peak Area in 2005 for school development on the grounds that the original “GB” zone was appropriate to safeguard the area from encroachment by urban type development, extensive tree felling and clearance of natural vegetation was considered not acceptable, insufficient information to demonstrate that the proposal was the only viable/practical alternative, and setting of an undesirable precedent. These rejection reasons were also applicable to the rezoning of the representation site which should also be rejected; and
- (e) alternative development options were available to compensate for the preservation of Carrick. However, there was no explanation why these options were not acceptable to the owner.

R6 – The Hong Kong Bird Watching Society (HKBWS)

10. With the aid of a PowerPoint presentation, Ms Woo Ming Chuan made the following main points :

- (a) the HKBWS objected to the rezoning of the representation site from “GB” to “R(C)6”. Sites within residential zones should be selected for the land exchange on a like-for-like basis;
- (b) according to the plant survey submitted by the owner of Carrick in the s.12A application No. Y/H14/4, the representation site was a well-vegetated, unfragmented naturally regenerated secondary woodland of moderate diversity in species richness, and was of moderate ecological value. As such, the “GB” zoning of the site should be retained to define the limit of urban and sub-urban development and to act as a buffer;

- (c) the rezoning would have adverse ecological impact as the future residential development would involve extensive site formation and massive vegetation clearance, which would reduce the ecological value and affect the quality of the habitat;
- (d) the Magazine Gap area was the largest roosting place for the Black Kite in Hong Kong as well as in southern China. Over 1,000 Black Kites were recorded. There was concern that the rezoning would set an undesirable precedent for rezoning more “GB” sites for development, the cumulative impact of which would diminish the function of the “GB” as a buffer and result in a loss of habitat for the Black Kite;
- (e) the rezoning of the representation site for residential development was not in line with the Policy Address as the site was not de-vegetated, deserted and formed. It was also contradictory to the presumption against development within the “GB” zone; and
- (f) it was doubtful why the environment should be sacrificed for heritage preservation when other options existed. There was no information on how the land exchange sites were selected and why the representation site was better than the other potential land exchange sites. Rezoning of the representation site would put the public enjoyment of the area at stake in that the ecological, landscape and recreational value of the representation site would be lost to a single private house development and it would also encourage other similar private developments to follow suit.

R9/C29 – Alliance for a Beautiful Hong Kong

R19 – Central & Western Concern Group

R224 – Leong Ka Tai, Timothy

11. Ms Katty Law made the following main points :

- (a) while agreeing that Carrick should be preserved, there was objection to the rezoning of the representation site which was located next to a country park and had good ecological value;
- (b) the owner had clearly indicated that he would proceed with the original plan to demolish Carrick and redevelop the site if the rezoning and land exchange proposal was not successful. The Government or the Board should not give in to the ‘blackmail’ of the owner and sacrifice a “GB” site for development;
- (c) the development at the land exchange site for the preservation of King Yin Lei had adversely affected the environment and visual amenity of Bowen Road. Development at the representation site in exchange for preservation of Carrick should be considered more carefully;
- (d) the proposed hotel development at 27 Lugard Road was abandoned due to strong public objection. The owner had recently proposed to upgrade the site to a Grade 1 historic building hoping that a higher heritage grading would give him advantage in negotiating land exchange with the Government. Approving the rezoning and land exchange for Carrick would set an undesirable precedent for owners of other heritage buildings to apply for non in-situ land exchange for better and more valuable land, possibly land in “GB” zone or in Country Park;
- (e) the Government should exercise its power and duties to protect the public interest in safeguarding heritage buildings and “GB” sites by rezoning Carrick for heritage preservation, whereby prohibiting the demolition of Carrick and redevelopment of the site, before negotiating with the owner for a suitable land exchange site with low ecological value; and
- (f) in the urban renewal process, local residents were offered compensation equivalent to the cost of acquiring properties of 7 years old in the same

district. They could not request rehousing to any specific building as they wished. Based on the same logic, the owner of Carrick should only be permitted to choose from those land exchange sites offered but not any other site he wanted.

R3 – Wong Wang Tai (Wan Chai District Council Member)

12. Mr Wong Wang Tai made the following main points :

- (a) Wan Chai District Council (WCDC) was consulted several times on the proposed rezoning of the representation site for land exchange but did not lend support to the rezoning as their queries could not be addressed satisfactorily. Notwithstanding WCDC's objection, the representation site was rezoned. While DC was not a statutory body, its views should be respected and PlanD should undertake more consultation with a view to resolving issues raised by WCDC;
- (b) residential use of the representation site was incompatible with the surrounding areas. Due to steep terrain of the representation site, extensive site formation and structural works to support the new house on a platform would be required which would result in massive vegetation clearance and adverse impact on the "GB";
- (c) there was no reason for the Government to use public money to carry out road widening at Coombe Road to facilitate private development for a single house;
- (d) local residents would suffer from the nuisance caused by construction works at the representation site for a considerable period. They might also suffer from financial loss due to such nuisance and no compensation would be given. Redevelopment of Carrick or adding a new house within the Carrick site might be better alternatives as there would be less disturbances to the neighbours.

[The meeting was adjourned for a short break of 5 minutes.]

R10 – Aberdeen Country Park Concern Group

R31 – Tseung Seung Yan, Paul

R54 – Alastair Wu

R55 – Sofia Wu

R56 – Lucian Wu

R118 – Marianne Lee

R203 – Caroline To

R208 – Edith Wei

R335 – Leung Ng Kam Ping, Margaret

R365 – Lee Ching Ching

R373 – Leung Mui Fong

R802 – Linda Chow

13. Ms Leung Sai Ling, Grace gave a brief introduction on the outline of ACPCG's presentation and played a video on the proposed land exchange regarding Carrick and the representation site. She then invited other representatives of ACPCG to give oral submissions on various aspects.

14. With the aid of a PowerPoint presentation, Mr Poon Fu Kit, Benson made the following main points :

- (a) ACPCG objected to the "R(C)6" zone for the representation site and considered that the OZP amendment could not achieve the heritage preservation intention. Although the s.12A application (No. Y/H14/4) for rezoning the representation site was approved by the MPC, the Board should consider the zoning amendment to the OZP afresh under the plan-making process by considering all representations and comments. According to the judgment handed down by the Court of Final Appeal in the case of Leighton Property Co. Ltd. Vs Town Planning Board, the Board should balance the private interest of the developer as well as the interest of the public in considering representations. Also, the Government had adopted the Hong Kong Biodiversity Strategy and Action Plan to protect ecological resources such as buffer areas and country park enclaves;

- (b) as indicated in Annex IX of the paper, a majority of the government departments had no significant adverse comment on the alternative options proposed by ACPCG. For example, AFCD considered ACPCG's options had the least impact on the surroundings while the adverse comments from the Landscape Unit, PlanD and Civil Engineering and Development Department were technical in nature and could be resolved. The main objection was from CHO on the basis that both options were not acceptable to the owner. The owner's choice of not accepting ACPCG's proposals should not be a factor in considering what the best for the society was. Over 1,600 members of the public had submitted representations to object the rezoning. PlanD had not assessed the departmental comments fairly;

[Mr Paul Y.K. Au arrived to join the meeting at this point.]

- (c) the purpose of rezoning the representation site for land exchange was to preserve Carrick. However, the Carrick site was not rezoned simultaneously for heritage preservation purpose, as in the case of King Yin Lei. Rezoning the Carrick site for heritage preservation could provide certainty for its preservation. Flexibility on the future use of Carrick could be achieved through the planning permission system;
- (d) as an alternative to the land exchange, ACPCG proposed to retain the "GB" zoning for the representation site and to rezone the Carrick site to "Other Specified Uses" ("OU") annotated "Historical Building Preservation and Residential Development" for the preservation of Carrick (Option 1). Under this option, any demolition, addition, alteration and/or modification to Carrick would require planning permission. A new house with a total gross floor area (GFA) of 549.98m², in addition to the existing GFA of Carrick would be permitted on the proposed "Residential (Group C)2" ("R(C)2") zoning. The conceptual design demonstrated that separate access and boundary fencing could be provided to Carrick as well as the new building.

There would be a 10m separation between the new building and Carrick and the view towards the northern and eastern façades of Carrick would not be obstructed. The proposed Option 1 was feasible, requiring only lease modification, and could meet the heritage preservation objectives by providing adequate incentive for the landowner. From the public interest's perspective, Option 1 was better than rezoning the representation site in terms of environmental and visual impacts, public enjoyment and amenities;

- (e) if Option 1 was not acceptable, ACPCG proposed a land exchange site located to the north of the Carrick site (Option 2). Under Option 2, the "GB" zoning of the representation site could be retained, the Carrick site would be rezoned to "OU" annotated "Historic Building Preservation" and the land exchange site would be rezoned to "R(C)2" with the same permissible development intensity as the Carrick site. From public interest's perspective, this was also considered a better option than rezoning the representation site; and
- (f) according to the Buildings Department (BD), a set of demolition plans and a set of hoarding plans were approved in December 2011. However, application for consent of commencement of the demolition works had not been submitted. BD would have the right to refuse the application for consent to commence works should the Carrick site be rezoned for heritage preservation with relevant prohibition clause restricting its demolition. MPC's was misled by incorrect information that the owner of Carrick had the right to demolish Carrick for redevelopment when approving the proposed rezoning of the representation site.

Demolition Approval for Carrick and Representer's Proposals

15. Mr Chih Ming Yuen, Eric made the following main points :

- (a) the control of demolition works in Hong Kong followed a two-step process, i.e. the approval of prescribed plans under the Buildings Ordinance and obtaining the consent to commence works. The Building Authority (BA) would examine the approved demolition plans when consent was applied for and might refuse to give his consent to the commencement of any demolition works where a period exceeding 2 years had lapsed since the approval of the prescribed plans in respect of the building works. In essence, if the Carrick site was rezoned for heritage preservation with a demolition prohibition clause on the OZP, BA would not give the consent to commence works and the owner would not be able to demolish Carrick;

- (b) Option 1 – a 4-storey new building with a plot ratio (PR) of 0.5 was proposed to be built on the lower platform located to the north of Carrick. The upper platform on which Carrick was situated would not be affected. The proposed new building would be compatible with Carrick in height due to the lower site level. While a larger floor plate was proposed for the ground floor, the upper floors would have smaller floor plate and set back from Carrick by 10m. Hence, the northern façade of Carrick as viewed from the public car park at Coombe Road would not be affected. In essence, with careful design and disposition, the new building under Option 1 would not interfere with Carrick including its built platform and would not affect the heritage setting of Carrick; and

- (c) Option 2 – a site within the “GB” zone to the north of Carrick was identified for land exchange and proposed for rezoning to “R(C)2” as it would have minimum traffic, geotechnical and environmental impacts. A 3-storey building was proposed near the public car park at Coombe Road where the site was relatively flat and minimal site formation works would be required. The defunct refuse collection point on site would be demolished under the proposal.

Heritage Preservation

16. Mr Cheung Ka Wing, Fredo made the following main points :
- (a) Carrick was initially a Grade 3 historic building and was redesignated to Grade 1 on 23.11.2011. The grading of historic buildings was based on an assessment system derived from systems and principles adopted in overseas countries as well as the established international documents on heritage preservation, including Venice Charter, Burra Charter and principles for the preservation of heritage sites in China;
 - (b) under the Burra Charter (the Australian ICOMOS Charter for the Conservation of Places of Cultural Significance), the heritage value of a building should be assessed in terms of its setting, i.e. a geographically defined area, including its immediate and extended environment and setting which contributed to the cultural significance of that place;
 - (c) the Aberdeen Country Park was a heritage in itself as it covered the declared monuments and graded buildings (i.e. bridge, dam, valve/pump house etc) within the Aberdeen Upper and Lower Reservoirs, as well as war relics. The Aberdeen Country Park and its associated green belt area, which contributed to Carrick's cultural significance, should be protected;
 - (d) Carrick was built and designed to capture the views of the Aberdeen Country Park and to take advantage of the sub-tropical climatic condition of Hong Kong. It was also the only surviving example of a 19th Century bungalow in the Peak District. The southern and eastern elevations, with the south facing veranda towards Aberdeen Country Park and their high visibility from Coombe Road, were of higher significance, whereas the northern and western elevations were of moderate significance due to the alteration works carried out over time. While the Antiquities and Monuments Office (AMO) had only defined

the heritage value of Carrick by its association with J.J. Francis, it failed to assess the architectural significance of Carrick and its relationship with the green belt and Aberdeen Country Park;

- (e) building a new house at the representation site in front of Carrick would destroy the heritage setting/context which Carrick was designed to respond to 130 years ago. The proposed new building at the representation site would be about the same height as Carrick, totally blocking the view of Carrick towards the Aberdeen Country Park, which was not in the best interest of heritage preservation; and
- (f) the rezoning was based on a flawed rationale, incomplete understanding of the heritage building in question and deliberately misleading information. The significance of the Grade 1 heritage building would be compromised and the natural landscape would be destroyed. Disproportional emphasis was given to private property right as against public interest of protecting the green belt and the heritage setting of Carrick, which were public asset.

Landscape and Ecological Impacts

17. Mr Roger Clive Kendrick made the following main points :

- (a) comparing with the development of the representation site, both Options 1 and 2 of the presenter's proposal had less impact in terms of tree loss – a total of 17 trees would be affected for adding a new building in the Carrick site under Option 1 and none of them was protected species. Trees near the eastern boundary of the site would likely be affected by the necessary works as required to comply with the Dangerous Hillside Order. For development at the northern site under Option 2, 12 trees would be felled, 4 trees requiring trimming and 3 transplanting;

- (b) on the other hand, developing the representation site would affect 143 trees including felling 40 trees and transplanting 20, another 83 trees would be detrimentally affected due to changes in the soil conditions during construction and occupation. The remaining “GB” strip to the south of the representation site would be less than 10m wide, and not 10m to 20m as claimed. The narrow width of the “GB” strip would unlikely be able to serve its buffer function due to the edge effect, i.e. exposure to wind, humidity, increased sunlight and temperature extremes, water run-off and slope erosion etc. Those trees located downslope of the future platform structure at the representation site would be under stress and die eventually. As a result, the stilt structure supporting the platform of the future development at the representation site would be highly visible to visitors to the Country Park along Aberdeen Reservoir Road. Its visual impact was underestimated. Hence, the proposal to retain a 10m wide “GB” buffer was technically infeasible and not sustainable in the long term;
- (c) there was no explanation in the TPB Paper on why TPB PG-No. 10 was not applicable to the amendment of the OZP;
- (d) AFCD agreed that Option 1 would have the least impact on the surrounding natural environment. The Chief Town Planner/Urban Design & Landscape (CTP/UD&L), PlanD’s comments on ACPCG’s proposed options were not based on ecological criteria; and
- (e) the function of “GB” was to provide buffer to conserve the ecological function of country parks. Removing the “GB” would open up country parks to ecological impact and a thin strip of “GB” would not be enough. Hong Kong needed to develop a more holistic and integrated approach for wildlife conservation in Hong Kong and to integrate biodiversity in urban planning for the benefit of human and wildlife.

Geotechnical Aspect

18. Mr Henry Chan made the following main points :
- (a) the sites under Options 1 and 2 were relatively flat and easily accessible by construction traffic. There was only one registered slope adjacent to the Carrick site under Option 1 but none within the northern site under Option 2. However, the representation site under JML's proposal comprised natural and man-made slopes which would make construction works on such sloping site difficult and complicated;
 - (b) based on the past findings of bore holes drilled at a site adjacent to Carrick, the soil conditions in the locality were firm with high bedrock. As such, it was anticipated that there would not be any difficulties in adding a new building behind Carrick under Option 1;
 - (c) the portion of the northern site where a new house was proposed to be built under Option 2 was relatively flat. Under the current building plan submission regime, the safety hazard of the natural slope to the north of the site would be studied at the building plan submission stage as required under various geotechnical guidelines. As that slope was located uphill of the proposed development, it was anticipated that there would not be any insurmountable geotechnical problems regarding slope safety. The natural stream course flowing through the site would be diverted; and
 - (d) on the contrary, the representation site was situated on top of a steep slope. Given the similar soil conditions for the three sites, the topography of the sites would be the major consideration in terms of geotechnical aspect. As the representation site had the steepest topography, it was the most difficult site for development and would have the greatest geotechnical impact.

Insufficient Protection of Carrick

19. Mr Lo Wing Sang, Vincent made the following main points :
- (a) rezoning the representation site to facilitate land exchange without simultaneously rezoning the Carrick site for heritage preservation could not protect Carrick from demolition. An undertaking to surrender the Carrick site was not a substitute for a heritage preservation zoning as Carrick could be sold and the new owner would not be bound by the undertaking;
 - (b) if the Carrick site was not rezoned for heritage preservation, there was no strong planning justification to rezone the representation site and the latter would not meet the spirit, intention and protection required under the Heritage Conservation Policy (HCP);
 - (c) the Board's decision to approve the rezoning of the representation site was based on misleading information that rezoning the Carrick site for heritage preservation would not allow flexibility in its future use and that the owner had the right to demolish Carrick notwithstanding the rezoning of Carrick for heritage preservation. In fact, the heritage preservation zoning would prohibit the demolition of Carrick as consent to commence work would not be automatically given since the demolition plans were approved more than 2 years ago. Appropriate uses could be included in the Notes of the OZP and the use of Carrick could be flexibly dealt with through the planning permission system; and
 - (d) the rezoning of the representation site was only favourable to JML, which violated the "Proportionality Principle" in the judgment of the Court of Final Appeal (CFA) of previous cases in balancing the private developer's rights and societal benefit. ACPCG had demonstrated that rezoning the representation site for development would have adverse impact on the green belt and the surrounding environment. Alternative

development options were provided by ACPCG, including in-situ land exchange to allow development within the Carrick site which was the preferred approach in line with the HCP.

20. In conclusion, Mr Poon Fu Kit, Benson recapitulated ACPCG's proposals and their concerns on the rezoning of the representation site with the following main points :

- (a) ACPCG's proposed alternative options :
 - (i) Option 1 – the representation site could be retained as “GB” and the Carrick site be rezoned to “OU (Historic Building Preservation and Residential Development)”, with preservation and setback requirements;
 - (ii) Option 2 – the representation site could be retained as “GB” and the Carrick site be rezoned to “OU (Historic Building Preservation)” while the northern site be rezoned to “R(C)2” for residential development;
- (b) their responses to comments on the alternative options :
 - (i) Option 1 – the heritage ambiance and the structural integrity of Carrick would not be affected, the façade of Carrick would not be blocked and detailed foundation design was not required;
 - (ii) Option 2 – the proposed development in the northern site was not incompatible with the surrounding developments and there would be minimal impact on the woodland. There was sufficient public sewer capacity and there would be no adverse environmental impact. The site boundary could be adjusted to avoid affecting the public car park;

- (iii) no insurmountable technical problems were identified in the preliminary feasibility assessments for the two options. The assessments were of similar level of details to that submitted in JML's proposal. The alternative options were easier to implement than that proposed by JML;
 - (iv) both Options 1 and 2 would result in the loss of fewer number of trees than developing the representation site;
 - (v) the majority of government departments supported or had no adverse comment on the two options proposed by ACPCG;
- (c) their objection to rezoning the representation site :
- (i) there was no strong planning and heritage preservation grounds to compensate the owner of Carrick with the representation site if the Carrick site was not protected by a heritage preservation zoning;
 - (ii) the rezoning of the representation site was not in accordance with the HCP as exceptional status was not identified;
 - (iii) the rezoning of the representation site would set a bad precedent for other privately owned Grade 1 heritage buildings to request land exchange for sites within "GB" zone;
 - (iv) inequality of treatment by MPC on rezoning applications made by JML and ACPCG;
 - (v) the "Proportionality Principle" of balancing private rights and societal benefits should apply. The societal benefits overwhelmed the owner's right in this case;

[Mr H.F. Leung left the meeting at this point.]

- (d) points for consideration by the Board :
 - (i) the alternative options were technically feasible and would protect the heritage value of Carrick and allow appropriate flexibility for future use;
 - (ii) the demolition threat of Carrick was not valid; and
 - (iii) private property rights and public welfare, heritage protection and nature conservation, and procedural fairness and legal manner had to be balanced.

[Ms Christina M. Lee left the meeting temporarily and Mr Stephen H.B. Yau left the meeting at this point.]

R12/C40 – Mary Mulvihill

21. Ms Mary Mulvihill made the following main points :

- (a) the amendment to the OZP arose from a planning application to amend the zoning of the representation site which was considered by MPC of the Board in 2015. Many issues discussed at that meeting was brought up again by the representers;
- (b) the minutes of the planning committee meetings used to give a summary of the public comments received. However, since December 2016, minutes of various planning committee meetings did not record the public comments but simply made reference to specific sections of the Town Planning Board paper for details. However, the relevant papers were not attached to the minutes and readers would have no idea what those public comments were about. Minutes of meetings were relied upon by the public as well as Members of the Board as a reference to the

issues discussed. Such information was considered essential and should not be omitted from the minutes;

- (c) according to the Town Planning Board Practice and Procedure, the key points of discussion and decision of a meeting should be recorded in the relevant minutes to serve as official records of the meeting. As public comments were key points of discussion, they should be recorded accordingly. The omission of such information in the minutes was a breach of the rules and would constitute procedural unfairness; and
- (d) Town Planning Board papers should be made available for public inspection on-line. As planning was a lengthy process, such information should remain available to the public after a decision was made on the application by the Board.

R13/C3 – Ruy Barretto

22. Mr Ruy Barretto tabled his speaking notes at the meeting and enquired whether Members had a copy of his representation submitted on 22.6.2016. He said that his representation was not included in the Paper and was not adequately represented or summarised. The Secretary clarified that all representations were included in the Paper. Mr Barretto then referred to paragraph 7 of his submission made in 2016 and his speaking notes and made the following main points :

- (a) the Board failed to compare JML's proposal with the alternative options submitted by ACPCG in order to reach a balanced decision. Development at the representation site was the least sustainable option and the heritage context and setting of Carrick would be damaged. There were no public benefits and no development need, and it was not in the public interest to build a luxury house on the edge of the Country Park. The land exchange was not transparent and not a like-for-like arrangement. Development at a "GB" site was inappropriate and there was no exceptional merits for the present case;

- (b) ACPCG's proposals were the most flexible options as the Carrick site would be rezoned for heritage preservation to mitigate any threat of demolition. Options of building a new house within the Carrick site or at the northern site were proposed;
- (c) the Board's decision to approve the planning application to rezone the representation site to facilitate land exchange was based on incorrect information that there was a threat to demolish Carrick. If a heritage preservation zoning was not designated for the Carrick site as proposed by ACPCG to eliminate the demolition threat, it would seriously prejudice the future options for heritage preservation. The Board need to consider all options in a balanced manner;
- (d) according to the judgment on the Hysan case handed down by the CFA, the Board was required to consider the developer's private right as well as the public's benefit under the 'proportionality principle'.

23. With the aid of the visualiser, Mr Ruy Barretto showed a table comparing the pros and cons of JML's proposal and that of ACPCG's alternative options. He stated that the alternative options were better in conserving the ecological value of the green belt and the country park, preserving the heritage setting and the visual amenity of the area, and providing a like-for-like fair compensation to the developer. He said that PlanD had failed to compare those options in balancing the developer's private right against the public interest when making recommendation to the Board on the proposed rezoning of the representation site in 2015. Amongst the options available, rezoning the representation site would result in the loss of the most number of trees and adverse ecological, landscape, amenity and heritage impacts. A heritage preservation zoning should be designated for the Carrick site and ACPCG's proposals should be considered favourably.

24. With no objection from Mr Leo A Barretto (R14/C4), the Chairman invited Ms Yuen Ka Sin, Claudia (R15) to make her oral submission.

R15 – Yuen Ka Sin, Claudia

25. With the aid of a PowerPoint presentation, Ms Yuen Ka Sin, Claudia made the following main points:

- (a) there was objection to the rezoning of the representation site for private residential development as it would cause irreversible damage to the natural environment. The representation site was zoned “GB” serving as a buffer to the Aberdeen Country Park and to contain urban sprawl. The site was not suitable for residential development. In fact, the site should not be used for development under any circumstances;
- (b) rezoning of the representation site from “GB” to residential use was not in line with the government’s policy on green belt rezoning in that the representation site was a well vegetated area and the rezoning was for a private house development;
- (c) the rezoning would set a precedent for other developers to propose “GB” rezoning for development. JML should not be given the upper hand of choosing the land exchange site as they wished by threatening to demolish Carrick. Agreeing to the rezoning would create conflict between heritage preservation and nature conservation, and the public would lose if heritage preservation and nature conservation could not co-exist;
- (d) the land exchange should be on a like-for-like basis and the land value should not be assessed only in monetary terms through payment of land premium. Preservation of heritage building should not be a justification for rezoning the “GB” site for development;
- (e) it was the duty of the Government and the Board to safeguard the “GB” zone from urban encroachment. A holistic approach should be taken to

preserve the heritage building and conserve the natural environment for a win-win solution.

26. The meeting was adjourned for lunch break at 1:10 p.m

27. The meeting was resumed at 2:30 p.m.

28. The following Members and the Secretary were present at the resumed meeting:

Permanent Secretary for Development
(Planning and Lands)
Mr Michael W.L. Wong

Chairman

Professor S.C. Wong

Vice-chairman

Mr Lincoln L.H. Huang

Mr Dominic K.K. Lam

Ms Christina M. Lee

Mr Sunny L.K. Ho

Dr F.C. Chan

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Deputy Director of Environmental Protection (1)
Mr C.W. Tse

Assistant Director (Regional 3), Lands Department
Mr Edwin W.K. Chan

Chief Engineer (Works), Home Affairs Department
Mr Paul Y.K. Au

Director of Planning
Mr Raymond K.W. Lee

Agenda Item 1 (Continued)

[Open Meeting]

Presentation and Question Sessions (Continued)

29. The following government representatives, and representers/commenters or their representatives were invited to the meeting at this point:

Government representatives

Planning Department (PlanD)

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|-------------------|---|
| Mr Louis K.H. Kau | - District Planning Officer/Hong Kong (DPO/HK), PlanD |
| Mr Derek P.K. Tse | - Senior Town Planner/Hong Kong 5 (STP/HK5), PlanD |

Commissioner for Heritage's Office, Development Bureau (CHO, DEVB)

- | | |
|--------------------|---|
| Mr José H.S. Yam | - Commissioner for Heritage (C for H), DEVB |
| Ms Leonie H.L. Lee | - Assistant Secretary (Heritage Conservation) 3 (AS(HC)3), DEVB |
| Mr William W.K. Lo | - Engineer (Heritage Conservation) (E(HC)), DEVB |

Leisure and Cultural Services Department (LCSD)

- | | |
|---------------------|--|
| Ms Susanna L.K. Siu | - Executive Secretary (Antiquities & Monuments)(Ex Secy (A&M)), LCSD |
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Ms Fiona Y.C. Tsang - Curator (Historical Buildings) 1
(C(HB)1), LCSD

Agriculture, Fisheries and Conservation Department (AFCD)

Ms C.Y. Ho - Senior Nature Conservation Officer
(South) (SNCO/S, AFCD)

Representers/Commenters or their representatives

R1/C1 – Juli May Limited (JML)

Juli May Limited :]
Mr Dennis Chien]
Ms Jennifer Chiong]
Pro Plan Asia Limited:] Representers'/Commenters'
Mr Phill Black] representatives
Ms Veronica Luk]
Scenic Landscape Studio Limited :]
Mr Christopher Foot]

R5/C32 – World Wide Fund for Nature Hong Kong

Mr Lau Shiu Keung, Tobi - Representers'/Commenters'
representative

R9/C29 – Alliance for a Beautiful Hong Kong

R19 – Central & Western Concern Group

R224 – Leong Ka Tai, Timothy

Ms Katty Law - Representers'/Commenters'
representative

R10 – Aberdeen Country Park Concern Group (ACPCG)

R31 – Tseung Seung Yan, Paul

R54 – Alastair Wu

R55 – Sofia Wu

R56 – Lucian Wu

R118 – Marianne Lee

R203 – Caroline To

R208 – Edith Wei

R335 – Leung Ng Kam Ping, Margaret

R365 – Lee Ching Ching

R373 – Leung Mui Fong

R802 – Linda Chow

Mr Poon Fu Kit, Benson]	Representers/Commenter and
Mr Cheung Ka Wing, Fredo]	Representers'/Commenter's
Mr Chih Ming Yuen, Eric]	representatives
Mr Henry Chan]	
Mr Lo Wing Sang, Vincent]	
Ms Wong Oi Chu, Anna]	
Ms Liza Lee]	
Ms Marianne Lee]	

R12/C40 – Mary Mulvihill

Ms Mary Mulvihill	-	Representer/Commenter
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R13/C3 – Ruy Barretto

Mr Ruy Barretto	-	Representer/Commenter
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R14/C4 – Leo Barretto

Mr Leo Barretto	-	Representer/Commenter
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R20/C5 – Fredo Cheung

R222/C8 – Leong Mo Ling

Mr Cheung Ka Wing, Fredo	-	Representer/Commenter and Representer's/Commenter's representative
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R45 – Karen Hu

Ms Hu Shuang, Karen	-	Representer
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R57 – Cristi Lee

Ms Cristi Lee - Representer

R221/C7 – Vincent W.S. Lo

R251 - Woo Chun Wai

R253 – Rita Lo

R1247 – Lee Chow Wah

R1636 – T.L. Yang

Mr Lo Wing Sang, Vincent - Representer/Commenter and
Representers' representative

R289 – B.W.H. Stoneman

Mr B.W.H. Stoneman - Representer

R342 – Isabel Winter

Ms Isabel Julia Winter - Representer

30. The Chairman extended a welcome and invited the representers, commenters and their representatives to elaborate on their representations/comments.

R14 – Leo Barretto

31. Mr Leo Barretto made the following main points:

- (a) he was a regular visitor of the Aberdeen Country Park;
- (b) amongst the two options proposed by R10, Option 1 (i.e. in-situ preservation of Carrick cum development) was preferred as the setting of Carrick would not be adversely affected by the proposed new house. There were successful examples of placing new development adjacent to preserved historic structures worldwide. Provided that the matter was handled with sensitivity, the setting of the historic building would not be disturbed. Hence, Option 1 was achievable and justifiable;

- (c) given the preliminary nature of R10's study, it was unfair to question the technical feasibility of its proposed options. For Option 1, R10's representatives had explained that it was not technically difficult to carry out the required excavation for a new house adjacent to Carrick. There would also be sufficient control on the new house development by the Building Authority (BA). In any event, the owner of Carrick had to carry out works on the site in order to comply with the Dangerous Hillside Order. In contrast, the owner's proposal to develop a new house at the representation site would involve a more difficult technical solution;
- (d) as for Option 2, R10's representative had demonstrated that with sensible architectural design, the proposed new house at the Northern Site would avoid affecting most of the trees on site and have minimal slope cutting. The impacts on vegetation and the slope works involved would be much insignificant than those of the owner's proposal. In terms of site location, the Northern Site was a plausible and 'like-for-like' exchange for the Carrick site;
- (e) the heritage assessment conducted by R10 was thorough and insightful. It raised a number of issues in respect of the history and setting of Carrick in the wider context which the Government should examine further;
- (f) in terms of habitats and wildlife, R10 had demonstrated that both Options 1 and 2 were environmentally acceptable and would not result in permanent damage to local vegetation and wildlife as compared with the owner's proposal;
- (g) the MPC's decision on the section 12A application No. Y/H14/4 was made based on insufficient information. It was evident that the owner had to overcome a number of outstanding technical issues before the new house development could take place at the representation site;
- (h) until consent to commence demolition works was granted by the BA,

the owner could not demolish Carrick. As the owner might submit an application for such consent soon, the Board should amend the zoning of the Carrick site as soon as possible for in-situ preservation of Carrick cum residential development;

- (i) the community's dissatisfaction with the OZP amendment was illustrated by some 1,600 adverse representations submitted by non-governmental organisations and members of the general public. While R10 had conducted detailed assessments and proposed viable options as alternatives to the OZP amendment, none of R10's proposals had been taken on board by PlanD. There had also been no dialogue between the representers and PlanD throughout the representation process;
- (j) approving the OZP amendment would mean the Government was giving in to the 'blackmail' by the owner which had indicated that it would not consider any other site for residential development other than the representation site. The approval would also mean sacrificing "Green Belt" ("GB") sites for luxury housing development. Such approval would set an undesirable precedent for other similar cases to follow suit;
- (k) the OZP amendment was not a sustainable and responsible option. The Board should take the opportunity to revisit the decision for the betterment of Hong Kong; and
- (l) R10's comments on TPB Paper No. 10243 were tabled for Member's reference.

32. Mr Cheung Ka Wing, Fredo (R20/C5) requested to make his oral submission at a later stage. Noting that Mr Cheung could make his presentation in the capacity of commenter and as no objection was raised by other attendees, Members agreed to accede to his request.

R45 – Karen Hu

33. Ms Hu Shuang, Karen, made the following main points:

- (a) country parks in Hong Kong were unique and valuable especially those located in close proximity to the urban area. The country parks and their surrounding green belts should be protected by all means;
- (b) while the preservation of Carrick was supported, it should not be used as a condition for approving the proposed new house development which would spoil country parks and green belts;
- (c) the feasibility of preserving the eight *Artocarpus hypargyreus* and some 130 other trees in and surrounding the representation site was doubtful given that the proposed house development at the site would result in irrevocable damage to the trees. Although the owner undertook to provide compensatory planting on the site, it would take several decades, if at all possible, for those new trees to grow to the original natural state of the site;
- (d) there were over 1,600 representations against the OZP amendment. Moreover, not one Wan Chai District Council member had tendered support to the OZP amendment. Nonetheless, the opposing views of the general public had not been taken on board by PlanD. The public views should be seriously considered by the Board as the country parks were precious assets of Hong Kong people;
- (e) the OZP amendment was not in compliance with the Government's Policy Address to rezone "GB" sites for residential development. In fact, the future house development at the representation site would only be enjoyed by a few rich people;
- (f) the Government could still stop the owner from demolishing Carrick by rezoning the Carrick site to "Other Specified Uses" ("OU") annotated

“Historic Building Preservation”. That would also allow more time for the stakeholders to explore better options to preserve the building;

- (g) the proposed new house at the representation site would bring about adverse visual impact on the surrounding areas, particularly the nearby Aberdeen Country Park; and
- (h) she objected to the OZP amendment. The Board should seriously consider the public views and reject the recommendations of PlanD.

R57– Cristi Lee

34. Ms Cristi Lee made the following main points:

- (a) she had been a regular visitor of country parks since the 1970s;
- (b) country parks and green belts were precious assets and recreational outlets for the people of Hong Kong. It was sad to see that a “GB” site near Aberdeen Country Park would be lost for development due to the threat by a property developer;
- (c) the present case would set a bad example for other cases to follow suit. The incremental loss of country park and green belt areas would have significant impact in the future;
- (d) even her children would question whether the proposed luxury residential development at the representation site would bring about adverse noise, environmental and traffic impacts on the surrounding. It was disappointing that the views of the general public were not taken on board by PlanD; and
- (e) the over 1,600 objections submitted against the OZP amendment should be taken seriously by the Board.

R221 – Vincent W.S. Lo

R251- Woo Chun Wai

R253 – Rito Lo

R1247 – Lee Chow Wah

R1636 – T.L. Yang

35. Mr Vincent W.S. Lo made the following main points:

- (a) it was disappointed to learn that the land exchange process was led by the owner who determined the land exchange site and the conditions for exchange. The process should be governed by government policy;
- (b) the present case would create a precedent for other cases involving privately-owned Grade 1 historic buildings. If those owners had obtained approval for demolishing the historic building and been requested to surrender the site, the Government would be bound to negotiate with those owners for land exchange and made compromises; and
- (c) the Government should rezone the Carrick site to “OU” annotated “Historic Building Preservation” to avoid the demolition of Carrick. The Government could then decide on the implementation of its heritage conservation policy in respect of the historic building.

R289 – B.W.H. Stoneman

36. Mr B.W.H. Stoneman made the following main points:

- (a) King Yin Lei was an example of inadequately protected historic building. In that case, the developer acquired the historic building, allowed it to be vandalised and pressurised the Government for a land exchange. Upon the land exchange, the owner was granted a site for development of luxury housing and made huge profits, while the Government had to spend a significant amount of expenses on repairing,

renovating and maintaining King Yin Lei. Moreover, the building had been left vacant as the Government had failed to identify an after-use for it;

- (b) in the present case, it was envisaged that a significant amount of public money would have to be spent on the restoration and maintenance of Carrick, while the future income from the preserved building would be limited. Meanwhile, a “GB” site would be granted to the owner for development of luxury housing in exchange. It was apparent that the rezoning of the representation site for the land exchange would only be beneficial to the owner but not the general public;
- (c) there were some 160 other inadequately protected historic buildings in Hong Kong. Measures should be taken to ensure that other owners could not continue to make profit from the historic buildings at the expense of the community;
- (d) Option 1 proposed by R10 was supported for in-situ preservation of Carrick cum residential development by the owner; and
- (e) approving the land exchange proposal of the owner would not be a fair and balanced decision.

R342 – Isabel Winter

37. Ms Isabel Julia Winter made the following main points:

- (a) she had been residing in Hong Kong for over 30 years and was expressing views for those people who appreciated the greeneries and country parks of Hong Kong, especially those who accessed the Aberdeen Country Park from Coombe Road and Wan Chai Gap and who wanted to maintain the status quo;
- (b) arguments had been made by the representers about the appropriateness

and fairness of land exchange for Carrick encompassing different aspects including government policy regarding the use of green belts, the impact on environment, and the technicalities of adding a new building at the Carrick site and the proposed new sites. Valid objections had also been raised against the owner's proposal;

- (c) the sites involved in the land exchange proposal, i.e. the Carrick site and the representation site, were different in terms of quality and value and could not be regarded as 'like-for-like';
- (d) given its proximity to the vehicular access to the Carrick site, the proposed new vehicular access to the representation site was potentially dangerous. Moreover, Coombe Road was already very congested during peak hours as many school buses and tourist buses parked at the road entrance. The proposed new access would aggravate the existing traffic problem along Coombe Road;
- (e) the proposed development of a luxury housing development at Coombe Road was the first of its kind since 1977 and was not in line with the community aspiration and the prevailing government policy;
- (f) the sloping topography of the representation site was not suitable for house development for environmental, geotechnical and aesthetic reasons. The slope work involved would create significant noise pollution to the surrounding including the Aberdeen Country Park. The proposed new house with concrete structures would also result in a loss of visual amenity; and
- (g) the Board should avoid the damage to the public's quality of life and reconsider the OZP amendment with a common sense approach for the betterment of Hong Kong and its citizens.

38. As the representers or their representatives had finished their oral submissions, the Chairman invited the commenters or their representatives to make their oral submission.

C1 – Juli May Limited

39. With the aid of a PowerPoint presentation, Mr Dennis Chien made the following main points:

- (a) the accusation of blackmailing or threatening the Government by some representers in a public meeting was a serious one against his company and he needed to make clarifications;
- (b) it was only when there was demolition threat for Carrick in end 2011 that the Carrick was confirmed as a Grade 1 historic building. If not for preservation of Carrick, the owner would have demolished it for redevelopment. The owner had shown sincerity and patience for preserving Carrick by suspending the redevelopment process for about six years;
- (c) since 2012, there had been continuous dialogue between the owner and the Government to explore the possible solutions for preservation of Carrick. The option of non-in-situ land exchange was explored on the basis that the owner would not suffer loss arising from the preservation of Carrick. After considering a number of sites in the proximity to Carrick, the representation site was identified which was acceptable by the owner. To take forward the preservation proposal, the owner subsequently submitted a section 12A application to the Board in accordance with the normal practice. The land exchange proposal was neither led by the owner nor blackmailing the Government as described by some representers;
- (d) Option 2 proposed by R10 and the representation site were both zoned “GB”. Under Option 1, as the land available within the Carrick Site for new house development had a narrow view facing a road junction and a children playground, it was considered commercially less appealing as compared with the redevelopment of Carrick. Thus, if

the subject OZP amendment was not upheld by the Board, the owner had to resume the redevelopment process of the Carrick site; and

- (e) given that the demolition plans for Carrick had already been approved, it was envisaged that under normal circumstances, BA's consent to the commencement of demolition works would be granted within 2 to 3 months on application provided that adequate safety measures were proposed and other requirements stipulated in the Buildings Ordinance (Cap 123)(BO) were complied with.

40. With the aid of a PowerPoint presentation, Mr Phill Black made the following main points:

- (a) a list of ten potential alternative sites zoned "GB" on The Peak OZP was initially identified by the owner for exchange with the Carrick site. Taking into account the Government's prevailing practice that non-in-situ exchange sites should be located in proximity to the subject site with heritage buildings ("heritage site"), the list was subsequently reduced to three sites, including the representation site and the Northern Site;
- (b) upon detailed assessment, the Northern Site was found unacceptable for the land exchange as the new house thereon would directly front onto the adjoining public spaces including a public car park and children playground;
- (c) as for in-situ preservation of Carrick cum house development at the Carrick site, it was considered undesirable by both the owner, the CHO and the Antiquities and Monuments Office (AMO) as a new modern house in such proximity would have an adverse impact on the existing heritage ambience of Carrick; and
- (d) there was misunderstanding from some representers regarding the number of trees to be felled on the representation site and the blocking

of views of Carrick by the proposed new house development at the representation site.

C3 – Ruy Barretto

41. With the aid of the visualiser, Mr Ruy Barretto made the following main points:
- (a) a comparative analysis should be conducted for the various options of land exchange sites;
 - (b) the owner's proposal for house development at the representation site involved mass slab concreting, pillars and deck structure on slopes which would seriously affect the trees on and surrounding the site. Thus, some 60 trees would be lost or had to be transplanted, and 83 trees would likely be damaged or killed by the new building or building works. Such issue was raised in his written representation but had not been taken on board by PlanD;
 - (c) according to Development Bureau's Technical Circular (Works) No. 7/2015 on 'Tree Preservation', the proposals to retain or transplant trees should be properly planned and implemented at the planning stage and should reflect a balancing act taking into consideration a number of factors including changes in water table and water sources, change in exposure (excessive shading or wind load), functional requirements of the project such as site formation or excavation, availability of space for tree protection zone and vertical and horizontal tree growth in the future. While such principles and factors should be relevant to both public and private development projects including the proposed house development, they had not been assessed and addressed in the owner's proposal;
 - (d) the heritage conservation policy was ineffective. The best solution for the Board was to keep open the three options of development, i.e. the owner's proposal and Options 1 and 2 proposed by R10, for the Executive Council to consider. In the meantime, the Carrick site should be rezoned

to “OU” annotated “Heritage Building Preservation” to prevent the historic building from being demolished. Otherwise, the Government might be subject to further demands from the owner in the future;

- (e) it was acceptable for the Board to permit modern structures next to old structures. The Board had previously approved an application for a new glass structure next to the heritage building at 27 Lugard Road;
- (f) the Carrick site was also fronting onto a public road and a public car park. Based on the same consideration, it was unreasonable for the owner to consider that the Northern Site was unacceptable;
- (g) if the heritage policy was administered badly in the present case, it would set an undesirable precedent for other similar cases. It was worrying that those other “GB” sites identified by the owners as potential replacement sites for Carrick would also be rezoned for development in the future;
- (h) while the owner had been providing great pressure on the Government to rezone the representation site for house development, the Board should properly consider whether the rezoning was acceptable; and
- (i) no evidence had been provided by the owner against the representers’ arguments. On balance, the owner’s proposal was the worst option in terms of conservation and planning gains.

42. Mr Cheung Ka Wing, Fredo (C5), requested to make his oral submission at a later stage. Ms Mary Mulvihill (C40) agreed to swop with him and make her presentation first. As no objection to the proposed arrangement was raised by other attendees, Members agreed to accede to his request.

C40 – Mary Mulvihill

43. Ms Mary Mulvihill made the following main points:

- (a) the heritage value of the Carrick site was indisputable. The integrity and contribution of the original owner to the society was well documented;
- (b) there was ample scope for the owner to carry out non-in-situ land exchange and transfer the development potential of the site to other on-going projects of its mother companies;
- (c) according to the Legislative Council Brief on 'Heritage Conservation Policy', non-in-situ land exchange might be considered by surrendering the original site with historic building to Government in exchange for a new Government site with similar value or development potential. Proximity to the heritage site was not mentioned as a condition for land exchange;
- (d) the Carrick site was previously owned by the Hong Kong Electric Company Limited (HKE) and had been used as a rental accommodation for its staff. The ownership of HKE was later taken over by Hutchison and so was the site. It was envisaged that the investment put into Carrick by the current owner would be insignificant;
- (e) Hutchison had recently acquired the mobile telecommunications service in Ireland. It should seize the opportunity to preserving the historic building with strong Irish link;
- (f) the windows of Carrick had been kept open. It appeared that the owner was allowing the conditions of the historic building to deteriorate. The building should be properly protected and managed, or refurbished for rental purpose; and
- (g) Members of the Board should fulfill their obligations by checking the draft minutes of the current TPB meeting, identifying discrepancies and excluding irrelevancies so as to uphold public interest.

C29 – Alliance for a Beautiful Hong Kong

44. Ms Katty Law made the following main points:
- (a) country parks and green belts were for enjoyment by Hong Kong people. The representation site should not be used as a site for development in exchange for preservation of a historic building. It was sad to see that the Government had done nothing to prevent that from happening;
 - (b) historic buildings ought to be treasured by all members of the society. The owner should not take the heritage value of Carrick lightly, nor should it use the historic building as a bargaining chip to exchange for a “GB” site next to a country park for development;
 - (c) the Government had not done its job properly. It had given preferential treatment to the owner and ignored the schemes and options proposed by the representers. There should be other alternatives to preserve the historic building or better replacement sites for the land exchange;
 - (d) as presented by the citizens, concern groups and experts alike, rezoning the representation site for residential development was completely wrong. There was cogent evidence to illustrate that the proposed development would cause significant impact on the trees, noise pollution and damages to the country park;
 - (e) the Board was vested with the responsibility to protect the environment of Hong Kong and should not endorse the wrong doings of the Government;
and
 - (f) the Board should reject the OZP amendment. In order to preserve Carrick, the Carrick site should be rezoned for heritage preservation and demolition of the historic building should not be permitted. There was ample scope for the Government to identifying better alternative sites for the land exchange. The Board should not let the people of Hong

Kong disappointed.

45. Mr Cheung Ka Wing, Fredo (C5) indicated that he had nothing to say.

[The meeting was adjourned for a short break of 5 minutes.]

46. As the presentation from the government's representatives, and the representers/commenters and their representatives had been completed, the meeting proceeded to the Q&A session.

“GB” Zone

47. Some Members raised the following questions to DPO/ HK, PlanD:

- (a) whether the “Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of The Town Planning Ordinance” (TPB PG-No. 10) was relevant to the subject OZP amendment;
- (b) whether the maximum plot ratio (PR) of the proposed development within the “GB” zone should be capped to 0.4; and
- (c) the rationale for the boundary of the subject “GB” zone.

48. In response to Members' questions, Mr Louis K.H. Kau, DPO/HK, PlanD, made the following points with the aid of some PowerPoint slides:

- (a) TPB PG-No. 10 was applicable for considering section 16 planning applications within “GB” zone. Under that guidelines, applications for new development in a “GB” zone would only be approved in exceptional circumstances and should be justified with very strong planning grounds taking into account the planning intention of “GB” zone;
- (b) for the subject case, the OZP amendment was originated from a section

12A application. While TPB PG-No. 10 was not applicable to the consideration of OZP amendment or section 12A application, the subject proposal was considered to be of exceptional circumstances and supported by strong planning grounds as it would provide an alternative site for house development in exchange for the preservation of Carrick, a Grade 1 historic building. In terms of technical aspects, the concerned departments had no adverse comments on the proposed house development at the representation site;

- (c) while the owner claimed that the existing PR of Carrick was 0.51 in the section 12A application such claim could not be confirmed. The MPC therefore agreed to PlanD's recommendations to rezone the representation site to "R(C)6" with a maximum PR of 0.5 to tally with the PR restriction of other "R(C)" zones along Coombe Road; and
- (d) the subject "GB" zone was designated taking into account the site condition and existing/planned developments at that time and was intended primarily for conservation of the natural environment. For the area to the immediate west of the subject "GB" zone, it was occupied by a residential development and was zoned "R(C)". As for the area covered by the Aberdeen Country Park, it was zoned "GB" prior to its designation as "Country Park" on the OZP in 2001. The boundary of the "CP" zone had followed that of the country park designated under the Country Parks Ordinance (Cap 208).

Heritage Conservation

49. The Chairman and some Members raised the following questions to the Government's representatives:

- (a) apart from land exchange, whether there were other measures to preserve a historic building;
- (b) whether the declaration of monuments was under the purview of the

Secretary for Development (SDEV);

- (c) under the present system, whether developers could make profits from stocking up historic buildings of a lower grade in anticipation for a higher upgrading afterwards;
- (d) whether the Government would first declare a historic building as monument before determining its future land use;
- (e) the total number of Grade 1 historic buildings in Hong Kong;
- (f) whether there was any change to the status of the Carrick site as Grade 1 historic building since it was first graded, and whether there was scope to declare it as a monument;
- (g) whether there was precedent for declaration of a privately-owned property as monument by the Government unilaterally;
- (h) how and when did the negotiation between the Government and the owner of Carrick in respect of the preservation of the historic building commenced;
- (i) the relevant considerations of land exchange proposals for preservation of historic buildings, in particular on whether the land exchange site had to be in proximity to the original heritage site; and
- (j) the experience of the Ho Tung Gardens case.

50. In response, Mr José H.S. Yam, C for H, DEVB and Ms Susanna L.K. Siu, Ex Secy (A&M), LCSD, made the following points:

- (a) as per the Government's heritage conservation policy, in preserving privately-owned historic buildings, one of the measures was to offer appropriate economic incentives to compensate private owners for their loss

of development rights, with a view to encouraging or in exchange for private owners to conserve historic buildings in their ownership. The Government would proactively approach the private owners if there were proposals that had been brought to the Government's attention for redevelopment of historic buildings with a view to preserving the historic building;

- (b) in general, options which involved realising development potential within the site (through, for example, relaxation of restrictions on planning and land control) would first be examined for preservation of historic buildings to make up for the loss of development rights of the private owners. Then, options which involved transferring development rights to another site under the ownership of the same owner would be explored. It was not until those options which were found infeasible/undesirable that non-in-situ land exchange proposals would be considered. Under the prevailing policy, the offer of land exchange was only applicable to monuments and Grade 1 historic buildings;
- (c) in line with the prevailing policy to provide economic incentive and to compensate private owner's loss in development rights in preserving Carrick, the option to increase the PR of the Carrick site and to add a new house within the Carrick site was explored. However, that option was found undesirable as there was limited space available within the Carrick site for the new house which would undermine the heritage ambience of Carrick. Moreover, it was against the will of the owner. Other possible options for preservation of Carrick, such as transfer of development rights to another site under the ownership of the same owner, were explored. After further discussion with the owner and consideration of various other options, it was found that the only viable preservation option which the owner might consider was non-in-situ land exchange;
- (d) there were successful examples of providing economic incentives to private owners to compensate for their loss of development rights for preservation of historic buildings. For the shophouse at 179 Prince Edward Road West

which was a Grade 3 building, the MPC approved a section 16 application for a hotel and a minor relaxation of PR from 9 to 10.23 in March 2010 so as to preserve the front portion of the building. For Cheung Chau Theatre which was a Grade 3 historic building, it was preserved through a section 16 application for minor relaxation of PR and site coverage restrictions approved by the Rural and New Town Planning Committee of the Board in December 2013. For Jessville which was a Grade 3 historic building, the Chief Executive in Council approved that the Pok Fu Lam Moratorium be partially uplifted to facilitate the preservation-cum-development proposal. Other examples which involved the relaxation of PR and/or building height included the site of the China Light and Power Hong Kong Administration Building (Head Office Building), 47 Barker Road and 8 Pollock's Path;

- (e) according to the Antiquities and Monuments Ordinance (Cap 53), SDEV as the Antiquities Authority might, after consultation with the Antiquities Advisory Board (AAB) and with the approval of the Chief Executive, by notice in the Gazette, declare any building as monument. For privately-owned historic buildings, consensus would be reached with the owners before declaration of the buildings as monuments;
- (f) the grading system for historic buildings, which was administrative in nature, aimed to provide an objective basis for assessing the heritage value of historic buildings in Hong Kong, and hence their preservation need. The AAB was responsible for carrying out the grading exercise. AAB was a statutory body set up under the Antiquities and Monuments Ordinance to advise the Antiquities Authority on any matters relating to antiquities and monuments. It comprised members with expertise in various fields including architects, town planners and engineers. For historic buildings with their grading already confirmed, new information should be provided to the AMO to justify any proposed change in grading. The new information would be assessed by the independent Historic Buildings Assessment Panel which would make recommendations on the heritage value to the AAB for consideration. Upon endorsement by the AAB on the proposed revision in grading, a public consultation exercise

would be conducted on the proposed revision in grading;

- (g) the assessment of historic buildings was conducted based on objective criteria, which included historical interest, architectural merit, group value, social value and local interest, authenticity, and rarity. The grading would not be changed on the basis of the subjective wishes of the owner;
- (h) in declaring a historic building as monument, its future use was irrelevant. In considering the future use, relevant land use and planning control of the site would be taken into account;
- (i) there were a total of 152 Grade 1 historic buildings in Hong Kong including 57 owned by the Government and 95 privately-owned. A large proportion of those privately-owned historic buildings comprised churches, Chinese temples, ancestral halls and schools for which the risk of demolition for redevelopment was lower. The number of privately-owned shophouses and residential buildings was about 30. If their owners had the intention to demolish and redevelop their properties, the Government would be willing to discuss with them to explore feasible options under the preservation-cum-development approach. Options available would depend on the circumstances of each case;
- (j) the Carrick site was first accorded with a Grade 1 status by the AAB in November 2011 and there had been no change to its grading since then. As per the prevailing practice, the Antiquities Authority would actively consider whether a building in the pool of Grade 1 historic buildings had reached the high threshold of heritage value for the declaration of monument under the Antiquities and Monuments Ordinance. If those identified buildings were under government ownership, the concerned departments would be consulted. With regard to privately-owned buildings, there would be discussions with the owners with a view to exploring viable options for conservation while respecting their private property rights, bearing in mind that the restrictions on the development rights and the maintenance of a declared monument were very stringent

under the law. On the premise of respecting private property rights, the Government would not unilaterally declare a privately-owned building as monument without the consent of the owner;

- (k) the Government had established an internal mechanism to monitor any demolition of/alterations to declared monuments/proposed monuments or graded buildings/buildings proposed to be graded. Under the mechanism, the Buildings Department (BD), Lands Department (LandsD) and PlanD would alert CHO and AMO regarding any identified possible threat to those premises that had been brought to the departments' attention through applications and enquiries received. It was through such monitoring mechanism that CHO and AMO were made aware of the redevelopment plan for Carrick in end 2011/early 2012. CHO and AMO then proactively approached the owner of the Carrick site for discussions with a view to identifying feasible options to preserve Carrick;
- (l) as per the heritage conservation policy, the replacement site for non-in-situ land exchange should be of similar value or development potential. In practice, a replacement site in proximity to the heritage site would more likely to be of similar value or development potential. As such, the owner of Carrick was advised to identify potential replacement sites which were located in proximity to the Carrick site for the land exchange; and
- (m) Ho Tung Gardens was a Grade 1 historic building. As soon as the Government was made aware of the redevelopment plan for Ho Tung Gardens, the Government approached its owner for discussion with a view to preserving the historic building. Upon consultation with the AAB, Ho Tung Gardens was declared as a proposed monument for 12 months so as to allow more time for the Government and its owner to explore the possible preservation-cum-development options. Land exchange proposals involving "GB" sites in the vicinity of the heritage site had been considered during the discussion process. Since consensus could not be reached between the Government and the owner, the historic building at the end had been demolished for redevelopment.

51. In response to Members' questions regarding the Kom Tong Hall site at the Mid-levels, Ms Susanna L.K. Siu said that Kom Tong Hall was a declared monument. Considering its proximity to a number of places affiliated with the historical affairs of Dr Sun Yat-sen, Kom Tong Hall was acquired by the Government for conversion to the proposed Dr Sun Yat-sen Museum. Thus, the Kom Tong Hall site was not acquired on the ground of heritage conservation. Mr José H.S. Yam supplemented that the Kom Tong Hall site had been acquired before the heritage conservation policy came into place in 2007. At present, there was no policy to acquire privately-owned historic buildings with public money for heritage conservation. The issue of acquiring privately-owned historic buildings with government funds for heritage conservation had been examined by the AAB in the policy review on the conservation of built heritage completed in 2015. Upon detailed consideration by the AAB, such approach was not recommended in the light of the diverse public views. Instead, appropriate economic incentives, including the relaxation of development parameters, might be offered to the private owners in exchange for their consent to conserve historic buildings in their ownership.

52. In response to the Chairman's question regarding proposed monuments, Mr José H.S. Yam said that under the Antiquities and Monuments Ordinance, upon consultation with the AAB, the Government could unilaterally declare a historic building as a proposed monument for an effective period of 12 months. In the present case, the Government was empowered to declare Carrick as a proposed monument. That said, in the light that consensus between the Government and the owner on the current land exchange proposal was only reached after a lengthy discussion for about five years, and noting that the owner would have its own operational and commercial considerations, it might not be realistic for both parties to be able to agree on other alternative proposal within the 12-month effective period of a proposed monument.

53. In response to the Chairman and a Member's questions regarding the 'like-for-like' principle, Mr José H.S. Yam said that in practice, a common sense approach was applied in identifying government sites with similar value, development potential or parameters and locating in proximity to the original heritage site for non-in-situ land exchange. That said, the CHO would remain open towards any conservation proposals raised by the owners and the acceptability of such proposals would be assessed based on the circumstances

and merits of individual case. Expert advice from the relevant departments including LandsD and PlanD would be sought where appropriate.

54. In response to a Member's question, Mr Dennis Chien said that in preserving Carrick, the owner had already devoted substantial effort and resources to commission consultancy studies and conduct technical assessments. Such effort and resources would not be warranted if the owner had chosen to proceed with the in-situ redevelopment of Carrick.

[Ms Christina M. Lee, Dr F.C. Chan and Mr Alex T.H. Lai left the meeting at this point.]

Zoning Amendment for Heritage Conservation

55. Some Members raised the following questions to the Government's representatives:

- (a) the timing of zoning amendment for in-situ preservation or non-in-situ land exchange for preservation of historic building;
- (b) the King Yin Lei case as an example of land exchange for preservation of historic buildings, its grading and the zonings of King Yin Lei and its land exchange sites before and after implementation of the land exchange proposal; and
- (c) whether the Carrick site should be rezoned for heritage conservation at the current stage.

56. In responses, Mr José H.S. Yam and Mr Louis K.H. Kau made the following points:

- (a) the zoning amendments for the heritage site and the rezoning of a replacement site for land exchange would only be initiated after the Government and the owner had reached a consensus over the conservation proposal;

- (b) King Yin Lei which was a declared monument was the first case involving the preservation of historic building through non-in-situ land exchange. The King Yin Lei site and its land exchange site were originally zoned “R(C)1” and “GB” on the OZP respectively. The latter was rezoned to “R(C)5” subsequent to the agreement on the land exchange proposal between the owner and the Government. For the subject case, should the OZP amendment be approved by the Board and the land exchange arrangement be proceeded accordingly, the owner would surrender the Carrick site to the Government. The surrender of the Carrick site and the hand-over of the representation site to the owner would be carried out simultaneously to ensure the preservation of Carrick;
- (c) suitable adaptive reuse of Carrick could be identified under the ‘Revitalising Historic Buildings Through Partnership Scheme’ (Revitalisation Scheme) administered by CHO. Successful examples included Mei Ho House and Tai O Heritage Hotel. Under the Revitalisation Scheme, non-profit-making organisations would be invited to submit proposals to revitalise selected government-owned historic buildings;
- (d) in order to allow sufficient flexibility to cater for the future revitalisation proposals, rezoning of the Carrick site was not recommended at the current moment. Taking the Former Fanling Magistracy as an example, it was included in the Revitalisation Scheme for adaptive reuse by the Hong Kong Federation of Youth Groups as a leadership development institute. Given that the proposal involved hostel facilities for the participants, planning permission was sought to cater for the new uses; and
- (e) since the future use of the Carrick site was yet to be determined, it was considered not conducive to stipulate a specified zoning for the site at the current stage. Otherwise, another round of zoning amendment would be required if the future use was found not in line with the specified zoning. The zoning of the Carrick site would be reviewed at a later stage once the future use of the historic building was confirmed.

57. In response to a Member's question, Mr Phill Black said that a section 12A application for rezoning the Carrick site for heritage purpose and the representation site from "GB" to "R(C)" for non-in-situ land exchange was previously submitted by the owner in 2013. The application was subsequently withdrawn on the owner's accord mainly on the consideration that the commitment on the land exchange proposal between the owner and the Government had not yet been realised at that time. If the Board agreed to rezone only the Carrick site but not the replacement site, the land exchange arrangement could not proceed with. Mr Phill Black also opined that the Carrick site could be rezoned at a later stage to allow flexibility for determination of its future use.

58. In response to a Member's question, Mr Benson F.K. Poon and Ms Anna O.C. Wong said that the proposed "OU" zone for the Carrick site had already provided sufficient flexibility for cater for its future land use. There were provisions under the Town Planning Ordinance for consideration of applications for any change in use if so required in the future. Moreover, the owner's right would not be affected by the proposed "OU" zoning of the Carrick site as the land exchange proposal could still proceed.

Demolition of Carrick

59. Some Members raised the following questions to the Government's representatives:

- (a) whether the owner could demolish Carrick at any time;
- (b) the relevant considerations in assessing an application for consent to commence demolition works; and
- (c) if the Carrick site was rezoned for heritage conservation zoning, whether PlanD would object to the application for consent to commence demolition works and whether the owner could still proceed with the demolition of Carrick.

60. In response to Members' questions, Mr Louis K.H. Kau made the following

points with the aid of the visualiser:

- (a) as the owner had obtained a set of approved general building plans (GBPs) in 2010 and a demolition permit in 2011, they would have the right to proceed with the demolition of Carrick for redevelopment at any time subject to the BA's consent to commence demolition and building works. While the BO did not prescribe a validity period for approved plans, section 16(3)(d) of the BO provided the BA with the opportunity to review any plans that were approved more than two years ago upon application for consent to commence works. The BA would invoke section 16(3)(d) of the BO to refuse consent if the works shown on the approved plans did not comply with the current standards specified in the BO and allied regulations;
- (b) the consent to commence works for demolition of Carrick had not yet been issued by the BA. Applications for such consent would be considered in accordance with section 16(3) of the BO under the jurisdiction of BA. The owner had to demonstrate to the BA that the approved demolition plan was not in contravention with the current standards specified in the BO and related regulations. According to the practice of BD, PlanD would not be consulted on applications for consent to commence demolition works; and
- (c) as for the new building works on the Carrick site, since the GBPs for redeveloping Carrick had already been approved by the BA, the plans could be implemented even if the Board agreed to rezone the site for heritage conservation and to impose a clause in the Notes of the OZP restricting the demolition of Carrick unless there were major changes to the approved building plans such as involving a change of use or an increase in development intensity. Other than those major changes, PlanD would not recommend to BD to invoke section 16(1)(d) of the BO to reject the GBP. The relevant guidelines were stipulated in the Practice Note for Professional Persons No. 3/2001, titled "Processing of Amendments to Approved Building Plans in respect of Non-conforming Development Proposals".

61. A Member asked the representatives of JML (R1/C1) whether they were aware that the consent to commence the demolition works could be rejected by BD if section 16(3) of the BO was not complied with. In response, Mr Dennis Chien said that based on his understanding as an Authorised Person, in practice, section 16(3)(d) of the BO would only be applicable to GBPs for new building works for which approval had exceeded a period of two years. Under such circumstances, the proponent would be required to demonstrate to the BA that the proposed building works were in compliance with the extant building control. As for demolition works, since the applicable control was mainly related to safety aspect, the owner was confident that the consent to commence the demolition of Carrick could be obtained from BD when the required safety measures were put in place.

62. In response to the Chairman and a Member's questions, Mr Eric M.Y. Chih (representative of R10) said that the understanding of the owner's representative was basically correct as long as the Carrick site was zoned "R(C)". While the final decision on whether to give the consent was vested with the BA, PlanD should however be consulted during the process if the Carrick site was rezoned for heritage conservation and BA could refuse the owner's application for consent to commence demolition works.

Impacts on Trees and Environment

63. A Member raised the following questions to the Government's representatives:

- (a) the impact of the proposed house development on the trees in and surrounding the representation site; and
- (b) noting that there were previous planning applications rejected for reasons relating to adverse impacts on the existing trees, the relevant considerations in making such decision.

64. In response to Members' questions, Mr Louis K.H. Kau made the following points with the aid of some PowerPoint slides:

- (a) although there were some reservations from the Chief Town Planner/Urban Design and Landscape and the Director of Agriculture, Fisheries and

Conservation on the proposal from the landscape planning and tree preservation perspectives during the processing of the section 12A application No. Y/H14/4, a number of mitigation measures had been proposed by the owner to address the landscape impacts. They included transplanting 20 trees and retaining three existing trees and provision of compensatory planting in accordance with government's requirements. The eight *Artocarpus hypargyreus* located outside the representation site would not be adversely affected; and

- (b) in considering the landscape impact of a proposed development, the relevant considerations included the number and quality of trees to be affected as well as the landscape proposal and compensatory measures proposed by the project proponent.

65. In response to Members' questions regarding the *Artocarpus hypargyreus*, Ms C.Y. Ho, SNC/S, AFCDD, said that the department had reservation on the OZP amendment as the buffer function between the urban development and the country park would be compromised by the rezoning of the representation site for residential use. *Artocarpus hypargyreus* was widely distributed and commonly found in the natural woodlands in Hong Kong. Although the species was not protected by law in Hong Kong, it was included in the IUCN Red List of Threatened Species. In assessing the conservation value of specific species, consideration would not only be given to its local abundance and distribution, but also its conservation status at regional and international levels. It was envisaged that the proposed house development at the representation site could have indirect impact on the eight *Artocarpus hypargyreus* surrounding the site.

66. In response to a Member's question regarding the impact of the proposed house development on the Aberdeen Country Park, Ms Anna O.C. Wong (representative of R10) said that the main concern of the ACPCG was the design of the proposed building platform as it would destroy virtually all the trees on the representation site.

[Mr Paul Y.K. Au left the meeting at this point.]

Alternative Sites

67. The Vice-chairman and a Member raised the following questions to the representatives of JML (R1/C1):

- (a) the criteria for evaluating the suitability of the potential alternative sites identified by the owner for the purpose of land exchange, and the result of evaluation if the criteria were applied to the owner's proposal and other options;
- (b) whether the representation site was the only site considered acceptable by the owner for land exchange; and
- (c) whether Option 2 would be considered acceptable by the owner if some upward adjustments to the development parameters of the Northern Site were made.

68. In response, Mr Phill Black and Mr Dennis Chien made the following points with the aid of some PowerPoint slides:

- (a) after an extensive site search, a list of ten potential replacement sites on The Peak OZP had been identified by the owner in 2014 for exchange with the Carrick site. The site specific criteria were mainly related to planning and construction aspects as well as the likely extent of public objections. Commercial consideration was not one of those criteria;
- (b) the list was subsequently reduced to three sites as based on the 'like-for-like' principle, only those sites located in proximity to the Carrick site would be considered suitable for land exchange. With a view to identifying the most suitable replacement site, a weighting exercise had been undertaken by applying the sites to the said criteria, and more in-depth analysis involving preparation of schematic layouts and examination of the number of trees to be affected had been conducted for the three shortlisted sites;

- (c) it would be difficult to identify a “GB” site in The Peak OZP for replacement of the Carrick site based on the ‘like-for-like’ principle as no sites were exactly the same. A give-and-take approach had been taken and some compromises on the views of the building and the potential impact on landscape amenity had to be made. For the representation site, substantial effort had been devoted to adjusting the site boundary to minimise impact on the surrounding and the development parameters so as to make that site more comparable with the Carrick site to uphold the ‘like-for-like’ principle. It was the only site which was considered acceptable by the owner for non-in-situ land exchange; and

- (d) it had taken about five years for the Government and the owner to reach a consensus on the non-in-situ land exchange proposal regarding the representation site. If the Board did not agree to the OZP amendment and considered that the Government should further discuss with the owner to take the Northern Site as a replacement site, another round of negotiation and technical assessments would be required which might take a further two to three years to complete. From the perspective of a developer, the main consideration for accepting such proposal would be whether the relaxation of development parameters could compensate for the loss in time in financial term.

69. In response to the Vice-chairman’s question regarding the suitability of the Northern Site for residential development, Mr Louis K.H. Kau said that the site could be considered for rezoning for residential development upon resolution of all the technical issues.

70. A Member raised the following questions to the representatives of ACPCG (R10):

- (a) whether any assessment on construction cost had been conducted for Options 1 and 2 as compared with the owner’s proposal;

- (b) whether the development right of the owner had been considered in

ACPCG's proposals; and

- (c) whether any assessment on the land value had been conducted for the sites under different options.

71. In response, Mr Eric M.Y. Chih, Mr Benson F.K. Poon, Ms Anna O.C. Wong and Ms Marianne Lee made the following points:

- (a) while no assessment on construction cost had been conducted for the three proposals, by comparing the scale of site formation and slope works required for the three schemes, it was estimated that the owner's proposal would involve the highest construction cost followed by those for the Carrick site and the Northern Site;
- (b) amongst the three proposals, the owner's proposal would affect the largest number of trees and hence the cost involved in tree preservation and compensatory planting would also be the highest;
- (c) while the development right of the owner was respected, there should however be a proper balance between public interest and the owner's property right. In the present case, the public interest had not been taken care of. The non-in-situ the land exchange proposal involving the representation site was considered unfair and unbalanced. For instance, the impact on the buffer function of the subject "GB" zone to protect the Aberdeen Country Park had not been duly considered. Moreover, the essence of TPB PG-No. 10 to conserve the natural environment should be applicable to all kinds of applications;
- (d) the representation site was not a 'like-for-like' alternative and there were other sites which might be considered feasible including those identified by the owner in other parts of the Peak area. It was not a legal requirement to identify an alternative site in proximity to the original heritage site;

- (e) different alternatives and options were proposed by ACPCG with an aim to offer a balanced and 'win-win' solution to all parties concerned. For instance, under Option 2, the owner would retain the right to develop a house while the impact of the house development on the Aberdeen Country Park would be minimised and Carrick could be preserved; and
- (f) it was estimated that the land value of the representation site was much higher since it had direct views over the Aberdeen Country Park and the East Lamma Channel. The land value of the Carrick site and the Northern Site would be about the same.

72. In response to some Members' questions regarding land value, Mr Phill Black and Dennis Chein made the following points:

- (a) the developer should be in the best position to assess land and property values;
- (b) if the Northern Site was the preferred site, the project would be delayed for a further few years which would be a material consideration of the owner;
- (c) if the OZP amendment was approved, full market value premium to be assessed by LandsD would have to be paid by the private owner for any difference in land value between the Carrick site and the representation site; and
- (d) for redevelopment on the Carrick site, lease modification would be required to relax the building height restriction.

Dangerous Hillside Order

73. A Member asked the representatives of JML (R1/C1) whether the Dangerous Hillside Order pertaining to the Carrick site had been satisfactorily complied with. In response, Mr Dennis Chien said that the technical proposal for the slope stabilisation works

had already been approved by BD. As the carrying out of the works involved government land, permission from LandsD for entering the government land had been sought about three months ago and the result was pending.

Proposed House Development

74. Some Members raised the following questions to the representatives of JML (R1/C1) :

- (a) whether the proposed new house at the representation site would be endowed with better views than the redevelopment of Carrick;
- (b) whether there was scope to shift the proposed house development in the representation site further away from Coombe Road in order to minimise the blockage of views of Carrick; and
- (c) whether there would be further changes to the design of the proposed house development in the representation site.

75. In response to Members' questions, Mr Dennis Chien and Mr Phill Black made the following points with the aid of some PowerPoint slides:

- (a) as the vegetation surrounding the representation site was quite tall, it was envisaged that the south-facing view of the proposed two-storey house would be blocked by some trees against a more distant backdrop of the Aberdeen Reservoirs. As for the Carrick site, given that the site level was higher and the redeveloped house could be built to a maximum of four storeys, the absolute height of the building should be taller and hence the views towards the south should be better. Nevertheless, the owner was willing to accept a lower building height restriction at the representation site to show a good will to the Government to facilitate the preservation of the historic building and minimising the visual impact on Carrick;
- (b) based on the 'like-for-like' principle, the alternative site should be suitable

for residential development as of right. A detailed site assessment had been conducted for the representation site and the proposed new house development with an aim to minimising the blockage of south-facing views from Carrick. With the planting of new trees on the Carrick site, the visual impact of new house development from Carrick would not be significant. Shifting the position of the new house development would involve changes in the site boundary and zoning boundary and hence would trigger another round of assessment and consultation process;

- (c) if the proposed new house was to be moved southward to a lower level, the north-facing view would be against a retaining wall which was considered undesirable by the owner. As the vehicular access to the house would have to be shifted further eastward to meet the gradient requirement, more trees would be adversely affected. Moreover, as the house would become closer to Aberdeen Reservoir Road which was the access to the Aberdeen Country Park, the visual impact would also be more significant. After balancing the relevant considerations, the current scheme was considered most optimal for minimising impacts on the general public; and
- (d) the current scheme for the new house development was derived based on the zoning restrictions for the representation site and the requirements of the BO while minimising the potential impacts on the surrounding. While there might be further refinements to the current scheme at the detailed design stage, the necessary planning considerations should have already been reflected in the zoning restrictions.

[The Vice-chairman left the meeting at this point.]

76. In response to a Member's question regarding the widening of a section of Coombe Road abutting the representation site, Mr Dennis Chien said that the need for the road widening works was not arisen from the proposed new house development. Since it had been the intention of the Government to upgrade that section of Coombe Road adjacent to the representation site, the owner was willing to undertake such widening works as one of the conditions in the land exchange.

Public Consultation

77. A Member asked the representatives of ACPCG (R10) and JML (R1/C1) whether there had been discussion between the owner and ACPCG regarding the preservation of Carrick and the options of replacement sites. In response, Mr Benson F.K. Poon said that ACPCG had requested AMO for a meeting with regard to the preservation of Carrick but such request had been refused. Mr Leo Barretto supplemented that if there was a dialogue between ACPCG, the owner and the Government, all the concerned parties would be benefitted and a better proposal would be resulted.

[Mr Philip S.L. Kan left the meeting at this point.]

78. Mr Dennis Chien said that the owner had not received any request from ACPCG for meeting on the subject matter. The general public and the district council had been consulted on the matter in accordance with the normal procedure.

79. A Member asked the Government's representatives about the public consultation aspect of the land exchange proposal. In response, Mr José H.S. Yam said that there had been public consultation on the rezoning proposal during the section 12A application stage and the OZP amendment stage. The subject matter had also been brought to the attention of some members of LegCo and a site inspection and case conference on the matter had been held with them.

80. As Members had no further questions, the Chairman said that the hearing procedures had been completed. The Board would deliberate on the representations in the absence of all representers/commenters or their representatives and would inform them of the Board's decision in due course. The Chairman thanked the representers/commenters and their representatives and the Government's representatives for attending the hearing. They all left the meeting at this point.

81. Members noted that it was late in the day and agreed to hold the deliberation session on a later date.

82. The meeting was adjourned at 6:30 p.m.