

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM/537

- Applicants** : Top Fortune (China) Limited and Mr Kwan Kwok Wai represented by Vision Planning Consultants Limited
- Application Site** : Lots 501 and 533 in D.D. 131 and Adjoining Government Land, Tsing Shan Tsuen, Tuen Mun, New Territories
- Site Area** : 744m² (including about 551.6m² Government land (about 74%))
- Lease** : Lot No. 501 and 533 in D.D. 131
The Lots are building lots subject to the following salient conditions:
(a) No house shall be more than two storeys in height
(b) No veranda shall be constructed so as to project over Government land
(c) No grave shall be made on, nor shall any human remains be interred in, or deposited on the land sold either in earthenware jars or otherwise
- Plan** : Approved Tuen Mun Outline Zoning Plan (OZP) No. S/TM/35
- Zoning** : “Government, Institution or Community” (“G/IC”)
[*Restricted to a maximum building height of 3 storeys excluding basement floor(s)*]
- Application** : Columbarium use

1. The Proposal

- 1.1 The applicants seek planning permission for regularisation of the existing columbarium use at the application site (the Site) known as Sha Law Ching Shea (SLCS) (娑羅精舍). The Site falls within an area zoned “G/IC” on the approved Tuen Mun OZP No. S/TM/35 (**Plan A-1**). According to the Notes for the “G/IC” zone on the OZP, ‘Columbarium’ is under Column 2 which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by two permanent structures mainly for columbarium use without valid planning permission.
- 1.2 According to the applicants, there were a total of 1,000 niches (amongst which 300 had been sold and occupied for a period of over 15 years) and 48 memorial tablets in the main building before they took up the land ownership of SLCS in

2007. The building structures of SLCS were damaged by termites and required major renovation and improvement works between 2010 and 2013. After renovation, SLCS has 4,444 niches and 48 memorial tablet spaces, including the original 300 occupied niches and 48 memorial tablets.

- 1.3 The total gross floor area (GFA) of the columbarium development is 293.2m². The major development parameters are as follows:

Site Area	:	744m ² (including about 551.6m ² Government land (about 74%))
No. of Niches	:	4,444
No. of Memorial Tablets	:	48
Building Height	:	3m to 8.8m
No. of Storeys	:	1 - 2
Site Coverage	:	24.9% (about)
GFA	:	293.2m ²
No. of Structure	:	2 (one main building of two-storey for columbarium and one structure of one-storey for management office and toilet facilities)

- 1.4 The columbarium development involves two buildings including a one-storey building (3m to 3.9m in height) for management office and toilet; and a two-storey building (8.8m in height) to accommodate 4,444 niches, of which 2,388 niches would be placed in G/F and 2,056 niches would be placed in 1/F (**Drawings A-2 and A-3**)¹. The distribution of niches and memorial tablets in the two-storey building is provided below:

		G/F		1/F		Total
		Room A	Room B	Room C	Room D	
Columbarium Niches	Sold and Occupied [#]	89	76	72	63	300
	Vacant Not yet Sold	1,147	1,076	974	947	4,144*
	Total	1,236	1,152	1,046	1,010	4,444
Memorial Tablets	Total	0	48	0	0	48

[#] The niches were sold and occupied before 30.6.2017.

*200 unsold niches will be reserved for charity purposes.

- 1.5 The Site abuts an existing road shared with another columbarium development, namely Filial Park² (思親公園), which links to Yeung Tsing Road (**Drawing A-1 and Plan A-2**). Pedestrian access connecting to the Site from Yeung Tsing Road is currently through the adjacent private lot (**Plan A-2**). The proposed pedestrian access which is via the new main entrance and staircases is shown on **Drawing A-1 and Plan A-2**. No vehicular access and no parking will be provided within the Site. Visitors will be encouraged to visit the columbarium by public transport. The applicants proposed to provide loading/unloading spaces at the car park located to the south of the Site for picking up and setting down visitors (**Drawing A-4, Plans A-1b and A-2**). The applicants have submitted a Traffic Impact Assessment (TIA) in support of the application.

¹ According to the applicants, the columbarium comprises 3,500 single-urn niches and 944 double-urn niches.

² Approved columbarium development under Applications No. A/TM/373 and A/TM/527.

- 1.6 No burning of joss paper, offering and candle will be allowed inside and immediately outside the premises. To avoid overloading the junctions in the vicinity of the Site, the applicants will adopt a 'visit-by-appointment' arrangement and the columbarium will be closed during Ching Ming and Chung Yeung Festivals and their shadow periods (i.e. two weeks before and after festivals) in order to avoid worsening the traffic impact on the adjacent junctions during festival periods. The columbarium will operate between 8:00 and 17:00.
- 1.7 In support of the application, the applicants submitted the following documents:
- (a) Application Form received on 12.2.2019 **(Appendix I)**
 - (b) Planning Statement received on 12.2.2019 **(Appendix Ia)**
 - (c) Applicants' letter dated 11.2.2019 clarifying the name of the subject columbarium **(Appendix Ib)**
 - (d) Applicants' letter date 19.2.2019 clarifying background information of the application and providing a replacement page of the planning statement **(Appendix Ic)**
 - (e) Further information (FI) received on 12 and 13.6.2019 providing responses to departmental comments and revised TIA **(Appendices Id and Id(a))**
[The FI was accepted but not exempted from publication and recounting requirements.]
 - (f) FI received on 3.10.2019 providing responses to departmental comments and revised TIA **(Appendix Ie)**
[The FI was accepted but not exempted from publication and recounting requirements.]
 - (g) FI received on 15.11.2019 providing responses to comments of Transport Department (TD) and enclosing revised TIA **(Appendix If)**
[The FI was accepted but not exempted from publication and recounting requirements.]
 - (h) FI received on 2.3.2020 providing responses to comments of TD and enclosing revised TIA **(Appendix Ig)**
[The FI was accepted and exempted from publication and recounting requirements.]
 - (i) FI received on 7.4.2020 providing responses to comments of TD and enclosing revised TIA **(Appendix Ih)**
[The FI was accepted but not exempted from publication and recounting requirements.]

- (j) FI received on 11.5.2020 providing responses to comments of TD and enclosing revised TIA **(Appendix Ii)**
[The FI was accepted and exempted from publication and recounting requirements.]
- (k) FI received on 18.5.2020 providing responses to comments of TD and enclosing revised management plan **(Appendix Ij)**
[The FI was accepted and exempted from publication and recounting requirements.]
- (l) FI received on 21.5.2020 providing responses to comments of TD and enclosing revised TIA **(Appendix Ik)**
[The FI was accepted and exempted from publication and recounting requirements.]

1.8 On 12.4.2019, 2.8.2019 and 3.1.2020, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application as requested by the applicants. The applicants submitted FI from 12.6.2019 to 21.5.2020 (**Appendices Id to Ik**). The application is scheduled for consideration at this meeting.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in **Appendices Ia to Ik**. They can be summarised as follows:

- (a) The proposed development is in line with the Government Policy to implement a regulatory regime on private columbaria and to promote cremation over burial. There is an acute shortage in the provision of columbarium niches to meet the present and future demand. The columbarium niches in the application will not only represent a better utilisation of scarce land resources, but will definitely help to meet the high demand.
- (b) The Site is closely surrounded by various types of religious institutions, grave yards, Government institutions, schools and scattered village houses. Some of the existing religious institutions, such as Filial Park (思親公園), Shan Yuan (善緣) and Fat Yuen Ching Shea (佛緣精舍), have provided columbarium services. There are two light rail transit (LRT) stations and a west rail station offering great mobility to users of the facilities in the area (**Drawing A-5**). It is the most suitable location for columbarium facilities in this part of Tuen Mun. The columbarium will be closed during Ching Ming and Chung Yeung Festivals and their shadow periods (i.e. two weeks before and after festivals) in order to avoid worsening the traffic condition.
- (c) The Site falls within an area zoned “G/IC” on the OZP. The development is in line with the planning intention of the “G/IC” zone and ‘Columbarium’ is a Column 2 use, which is considered compatible and suitable land-use within this zone provided that technical problems are not insurmountable.

- (d) No compatibility problem is anticipated. The columbarium building has been renovated with an increase of niches within the building. The development parameters, such as building height, building footprint, number of buildings and number of storeys remain the same. Upon approval of the application, an Authorised Person (AP) will be appointed to rectify all building works for the approval of the Building Authority.
- (e) The columbarium has been serving the community since its establishment in 1930s by providing columbarium services for spinsters or un-married women who worked as amahs in the old days. The applicants are willing to reserve another 200 unsold niches for charity purposes in future. These niches are intended solely for families with financial difficulties. Upon approval of the application, the applicants will approach selected charity groups based in Tuen Mun District in order to assist families in need.
- (f) The columbarium will not cause any unacceptable or adverse impact on the local area with respect to traffic, drainage, sewerage and environmental aspects. All existing trees within the Site remain unaffected. To resolve the traffic impact concerns, the applicants propose administrative measures such as closing the columbarium during festival days and the shadow periods and adopting visit by appointment arrangements. Loading/unloading spaces will be provided at the car park located to the south of the Site for picking up and setting down visitors (**Drawing A-4, Plans A-1b and A-2**).
- (g) There are similar applications for columbarium use approved in the vicinity of the Site. Approval of the development will not set any undesirable precedent for other cases in the area.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are the sole ‘current land owners’ of the Site. Detailed information would be deposited at the meeting for Members’ inspection. As for the Government land, the ‘owner’s consent/ notification’ requirements are not applicable to the application.

4. Town Planning Board Guidelines

Town Planning Board Guidelines No. 16 for ‘Application for Development/Redevelopment within “G/IC” zone for uses other than Government, institution or community (GIC) Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 16) (**Appendix II**) is relevant to this application. The relevant criteria of the Guidelines are summarised as follows:

- (a) as a general rule, for sites zoned “G/IC”, a major portion of the proposed development should be dedicated to GIC and other uses including public open space. Otherwise, the proposed development is considered to constitute a significant departure from the planning intention of the “G/IC” zone and, unless with very strong justifications and under special circumstance, planning permission for such development would not be granted;

- (b) in general, sites zoned “G/IC” are intended to be developed or redeveloped solely for GIC uses unless it can be established that the provision of GIC facilities would not be jeopardized;
- (c) the proposed development should be compatible in land-use terms with the GIC uses on the site, if any, and with the surrounding areas. The scale and intensity of the proposed development should be in keeping with that of the adjacent area. The proposed scale and design should have regard to the character and massing of the buildings in the surrounding areas and should not cause significant adverse visual impact on the townscape of the area;
- (d) the proposed development should be sustainable in terms of the capacities of existing and planned infrastructure. There should be adequate provision of parking and loading/unloading facilities to serve the proposed development in accordance with the Hong Kong Planning Standards and Guidelines and to the satisfaction of the Transport Department (TD). Adequate vehicular access arrangements should be provided to the satisfaction of the TD; and
- (e) the proposed development should not cause, directly, or indirectly, the surrounding areas to be susceptible to adverse environmental impacts, otherwise adequate environmental mitigation, monitoring and audit measures must be provided.

5. **Background**

The Private Columbaria Ordinance

5.1 The Private Columbaria Ordinance (PCO), which regulates the operation of private columbaria through a licensing scheme, has come into operation from 30.6.2017. On 22.11.2017, two policy initiatives were announced by the Government to address the land premium and TIA issues of pre-cut-off columbaria (i.e. a columbarium which was in operation before 8:00 a.m. on 18.6.2014 with interred ashes in niches) seeking a licence. For the policy initiative relating to TIA, the Government has decided to use an empirical evidence approach as the basis for assessing traffic impacts in processing the licence application from a pre-cut-off columbarium whose operation only involves the number of niches sold before 30.6.2017. Operators of individual columbaria have the responsibility to provide practicable mitigation measures within their capability and submit a management plan setting out such measures during the licence application stage. The Government departments will reflect to the Private Columbaria Licensing Board their views on suitable mitigation measures that should be followed up by individual cases.

Tsing Shan Tsuen Cluster (Plan A-1b)

5.2 The Site falls within an area zoned “G/IC” on the OZP. According to the information provided by the Food and Environmental Hygiene Department (FEHD), there are 15 applications relating to 13 columbaria for Specified Instrument under the PCO within the “G/IC” zone in Tsing Shan Tsuen (the cluster area) (**Plan A-1b**). Amongst the applications for Specified Instrument, four columbaria have obtained planning approval (details please see paragraph 7)

and the remaining nine are yet to obtain planning permission from the Committee. FEHD advised that there are an overall of about 17,000 niches in the cluster area (all on the western side of Yeung Tsing Road) that have already been sold. According to FEHD, the number of sold and interred niches is 7,436 and sold but yet to be interred is 9,758. The aggregated niche data are compiled based on the niche information provided by the private columbaria in 2017 but yet to be verified by FEHD.

6. Previous Application

There is no previous planning application on the Site.

7. Similar Applications

Within the same G/IC zone

- 7.1 There are 15 planning applications for columbarium use within the same “G/IC” zone. Amongst the applications, nine of them relating to four columbaria have been approved with conditions; four of them were rejected and the remaining two are being processed. Details of these similar applications are summarised in **Appendix III** and their locations are shown in **Plans A-1 and A-1a**.

Approved Columbaria

- 7.2 The four approved columbaria are Filial Park (思親公園)³ (Applications No. A/TM/255, 306, 316, 373 and 527 for additional niches), Fat Yuen Ching Shea (佛緣精舍) (Application No. A/TM/398), Shan Yuan (善緣) (Applications No. A/TM/387 and 437) and Shan Guo (善果) (Application No. A/TM/441). They were approved with conditions on similar considerations including not incompatible with the surrounding land uses; generally in line with the planning intention of the “G/IC” zone; unlikely to have any significant adverse traffic, visual or environmental impacts.

Rejected Columbaria

- 7.3 The three rejected columbaria are Sin Sam Tong (善心堂) (Application No. A/TM/434), Lin Chi Ching Yuen (蓮池淨苑) (Application No. A/TM/465) and a site located to the east of Yeung Tsing Road (Application No. A/TM/531). Sin Sam Tong was rejected by the Committee on 18.5.2012 for reasons of incompatibility with the adjacent developments; failure to demonstrate the pedestrian and vehicular traffic impacts could be satisfactorily addressed; and adverse environmental and landscape impacts on the surrounding areas. Lin Chi Ching Yuen was rejected by the Committee on 21.8.2015 as it failed to demonstrate that the potential pedestrian safety issue and traffic impacts associated with the proposed columbarium can be satisfactorily addressed.

³ Application No. A/TM/255 was the first application approved by the Committee for the Filial Park columbarium development with 5,000 niches on 28.1.2000. Subsequently, Applications No. A/TM/306, A/TM/316 and A/TM/373 were related to minor amendments to the approved scheme.

Application No. A/TM/531 was rejected by the Committee on 20.9.2019 as the applicant failed to demonstrate that the proposed columbarium would not cause adverse traffic impact on the surrounding area and that the proposed Crowd Management Plan could be effectively implemented, the proposed columbarium was not in line with the TPB Guidelines No. 16 in that it was not compatible with the surrounding Government, Institution or Community and residential uses, and approval of the application would set an undesirable precedent for other similar applications. The fourth rejected application was Application No. A/TM/415 in relation to Shan Guo (善果) which was rejected on review on 8.6.2012 but subsequently the columbarium was approved under s.16 application No. A/TM/441 mentioned in the preceding paragraph.

Applications being processed

- 7.4 Two planning applications for columbarium use are being processed (**Plan A-1**). Application No. A/TM/541 is for provision of 1,210 niches at Lin Chi Ching Yuen (蓮池淨苑). The application is tentatively scheduled for consideration by the Committee on 10.7.2020. Application No. A/TM/545 is for provision of 3,066 niches. The application is tentatively scheduled for consideration by the Committee on 26.6.2020.

Within other "G/IC" zones on Tuen Mun OZP

- 7.5 The Committee has considered five applications involving two sites for columbarium use in other "G/IC" zones on the Tuen Mun OZP. Three were approved and the remaining two were rejected. Details of these similar applications are summarised at **Appendix III** and their locations are shown in **Plan A-1**.
- 7.6 Tsing Chung Sin Yuen (青松仙苑) with 113,000 urns in Tuen Mun North (Application No. A/TM/259) was first approved on 18.2.2000 for addition of a columbarium building (16,000 urns) on the considerations that the increase was minor, no adverse impact was expected, and the use was compatible with the existing columbarium use on-site and surrounding GIC uses. Subsequently, two applications for regularisation of three existing columbarium structures (No. A/TM/267) and amendments to the approved scheme (No. A/TM/329) were approved on 8.9.2000 and 10.6.2005 respectively on similar ground (**Plan A-1**).
- 7.7 The proposed redevelopment of Gig Lok Monastery (極樂寺) including 4,900 columbarium niches in Tuen Mun North (Application No. A/TM/419) was rejected on 1.2.2013 by the Board on review for the reasons of failure to demonstrate (i) planning merits, (ii) the potential adverse pedestrian and vehicular traffic impacts could be satisfactorily addressed, (iii) the effectiveness of the traffic management scheme and (iv) no conflicts and nuisances to the residents in surrounding areas; unacceptable tree felling and doubt on the landscape proposal and undesirable precedent. On 19.4.2013, the applicant lodged an appeal to the Town Planning Appeal Board against the Board's decision in refusing the application. The appeal was withdrawn by the applicant on 6.2.2014. A new application for regularisation of 1,567 niches and 1,089 ancestral tablets for Gig Lok Monastery (Application No. A/TM/530) was received on 3.8.2018. The application was rejected by the Committee on 29.11.2019 for the reasons of incompatibility with the adjoining residential

developments and undesirable precedents for other similar applications which would cause nuisance to the residential neighbourhood. The applicant applied for a review of the Committee's decision on 24.12.2019 and the review application is tentatively scheduled for consideration by the Board on 3.7.2020.

8. The Site and its Surrounding Areas (Plans A-1 to A-4f)

8.1 The Site is:

- (a) currently occupied by two buildings with columbarium use without valid planning permission; and
- (b) accessible via the adjacent Lot 633 in D.D. 131 which links to a footpath connecting Yeung Tsing Road (**Plan A-2**).

8.2 The surrounding areas have the following characteristics (**Plans A-1 and A-2**):

- (a) developments in the vicinity of the Site are mainly rural in character with scattered residential dwellings, graves, monasteries and vacant land;
- (b) to its immediate north, northeast and east are religious institutions, residential dwellings and the columbarium building of the approved s.16 application (No. A/TM/441) for columbarium use (Shan Guo (善果)) under construction;
- (c) to its west is a religious institution with columbarium use namely Filial Park (思親公園) (Applications No. A/TM/373 and A/TM/527);
- (d) to its south is a public open-air temporary car park. To the further south is a religious institution namely Tin Tak Sing Kau (天德聖教) (**Plan A-3**); and
- (e) to its further east and south across Yeung Tsing Road and San Shek Wan North Road are secondary schools, Independent Commission Against Corruption (ICAC) Training Camp and Tuen Mun Children and Juvenile Home (**Plan A-3**).

9. Planning Intention

The planning intention of "G/IC" zones is primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

10. Comments from the Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Licensing

10.1.1 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) The PCO, which regulates the operation of private columbaria through a licensing scheme, has come into effect on 30 June 2017 upon gazettal.
- (b) Under the PCO, only private columbaria that have obtained a licence may sell or newly let out niches. Any private columbarium which applies for a licence must comply with the Town Planning Ordinance (Cap. 131) and other requirements prescribed in the Ordinance or specified by the Private Columbaria Licensing Board (the Licensing Board), including land-related, building-related, right to use the columbarium premises, deed of mutual covenant (if applicable), fire safety, etc. A licence applicant is also required to submit a management plan to the Licensing Board for approval. The management plan should show that suitable measures on traffic and public transport arrangement or management would be taken to minimise any adverse impact that operation of the columbarium may have on the neighbourhood.
- (c) In determining whether to approve an application for licence, the Licensing Board must have regard to the public interest and may have regard to any other relevant considerations.
- (d) If the planning application is approved by the Board, all measures proposed by the applicants in support of its planning application that fall within the scope of the management plan specified by the Licensing Board should be included in the management plan to be submitted by the applicant in connection with its licence application under the PCO. The concerned departments (including TD, the Police, the Fire Services Department (FSD) and the Planning Department (PlanD)) will be consulted on the management plan and the Licensing Board will take these comments into account in considering whether the management plan should be approved. Under the PCO, the Licensing Board may grant an application for the issue of a licence in respect of a columbarium only if a management plan, submitted by the applicant in respect of the columbarium, has been approved by the Licensing Board. If the Licensing Board decides to approve the licence application, the approved management plan will be included in the licensing conditions and the licensee will be required to implement the approved management plan. There are legal provisions under the PCO to regulate breaches of licensing conditions imposed by the Licensing Board.
- (e) Private Columbaria Enforcement Team officers of FEHD would conduct inspections to licensed private columbaria in the period

of Ching Ming and Chung Yeung Festivals and their shadow periods. Any breach of licensing condition detected, verbal warning, written warning or enforcement notice may be issued to the licensee for rectification. A person holding a specified instrument must comply with the conditions imposed on the specified instrument. Otherwise, he/she has to bear one or more than one of the consequences under section 40 and 64 of the PCO.

- (f) With regard to the applicants' proposed measures of '(1) closing the columbarium during Ching Ming and Chung Yeung Festivals and their shadow periods, (2) 'visit-by-appointment' arrangement and (3) to encourage visitors to use public transport', the Private Columbaria Affairs Office (PCAO) will have no comments provided that:
- (i) the applicants undertake to lock up the columbarium during the proposed closure periods;
 - (ii) the proposed period of closure of the columbarium is clearly stated in the proposal (e.g. during Ching Ming Festival and Chung Yeung Festival Days and the two weekends before and after the two festival days, including any public holiday between festival days and the two weekends mentioned);
 - (iii) as some niches in the columbarium have already been sold, the applicants undertake to :
 - inform the affected parties (including the purchasers of the sold niches) in writing that these measures are proposed by the applicants and will be implemented if its planning application and licence application are approved;
 - remind the concerned parties by letter, email, fax, SMS and any possible notification means of the total closure of the columbarium during the specified periods at least one month in advance of each closure period; and
 - (iv) for future buyers of the interment rights of niches in the concerned columbarium, the applicants undertake to state clearly in the sales agreements that the columbarium will be completely closed during the specified periods and a 'visit-by-appointment' arrangement will be adopted for other periods and explain these arrangements to the potential buyers before entering into the sales agreements.
- (g) Regarding the private columbarium named '娑羅精舍' (Sha Law Ching Shea), a set of the specified instrument application (viz. a licence, exemption and temporary suspension of liability)

in respect of a pre-cut-off columbarium was received by the Licensing Board.

- (h) Based on the revised proposed plans submitted by the applicants in support of the specified instrument application, it is noted that the total number of niches proposed for the licence application (i.e. 4,444 niches including 300 niches sold and interred with ashes before 30.6.2017, 0 niches sold but not yet interred with ashes before 30.6.2017, and 4,144 vacant niches not yet sold) tallied with the figure as shown in the FI dated 12.6.2019 (**Appendix Id(a)**). Having said that, the niche breakdown including the number of sold, interred and unsold niches are subject to further clarification with the applicants and verification by PCAO.

Land Administration

10.1.2 Comments of the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Site comprises two private lots, namely Lot No. 501 and Lot No. 533 both in D.D.131 and adjoining Government land (GL) (**Plan A-2**). Both lots were sold in public auction and subject to General Conditions of Sale published in G.N. No. 365 of 1905 and to the Special Condition No. 5 published in G.N. No. 278 of 1911. Salient conditions of sale of the respective lots are as follow:

	Lot 501	Lot 533
Status	Building Lot	Building Lot
Lease conditions	(i) No house shall be more than two storeys in height (ii) No veranda shall be constructed so as to project over Government land (iii) No grave shall be made on, nor shall any human remains be interred in, or deposited on the land sold either in earthenware jars or otherwise without the consent of the District Officer	

- (b) The proposed columbarium contravenes the existing lease conditions. Also, the Site comprises a considerable size of the adjoining GL with various structures, fences and gates erected thereon. No permission has been given for the said encroachments. If planning approval is given, the applicants may consider applying to LandsD for a lease modification/land exchange for their columbarium proposal. The proposal will only be considered upon his receipt of formal application from the applicants. There is no guarantee that the application involving GL of considerable size, if received by LandsD, will be approved and he reserves his comments on such. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and

conditions as the Government shall deem fit to do so, including, among others, charging of premium and administrative fee.

- (c) Access to the Site is via the adjoining GL and an access road off Yeung Tsing Road. A non-exclusive right of way over such access road has been granted to the owner of Tuen Mun Town Lot No. 462 ('TMTL 462') (i.e. 'Filial Park' (思親公園)) as Brown Area under TMTL 462 (**Drawing A-1**). The applicants' proposal may affect the said Brown Area and the existing access road as constructed and maintained by the owner of TMTL 462. The Government may, upon receipt of the application for a lease modification/land exchange for their columbarium proposal mentioned above, consider granting right of way over the access road and the GL to the proposed columbarium. If such right of way is granted to the applicants, it will be subject to conditions to be imposed including but not limited to the responsibility to maintain the right of way at their own expense.
- (d) His office has no record of issue of Certificate of Exemption or any approval in respect of the existing buildings/structures on site under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121). Besides, some of the structures fall outside the private lot boundaries and encroached onto GL. The applicants should clarify if the existing buildings have obtained prior approval and consent from the Building Authority under the provisions of the Buildings Ordinance.
- (e) It is noted that the applicants have proposed traffic and crowd management plan/measures. Comments of Commissioner for Transport (C for T) and Commissioner of Police (C of P) on the same should be sought. *[Please see paragraphs 10.1.3 and 10.1.4]*
- (f) Comments of Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD), Director of Environmental Protection (DEP) and Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) should be sought on the proposed sewer connection and the proposed alignment which is largely within the public pavement of Yeung Tsing Road. *[Please see paragraphs 10.1.5, 10.1.6 and 10.1.8]* The applicants are reminded that should the connection affect GL and any private land, prior consent from the Government or private land owner should be sought.
- (g) It is noted that the applicants have submitted applications for New Issue of Temporary Suspension of Liability, New Issue of Licence and New Issue of Exemption in respect of the proposed columbarium to FEHD recently. FEHD's comments should be sought. *[Please see paragraph 10.1.1]*

- (h) Notwithstanding the above and whether planning permission is given or not, Government reserves the right to take enforcement action as may be considered appropriate against any breach of lease conditions and any unauthorized occupation of GL.

Traffic

10.1.3 Comments of C for T:

It is noted that all approved columbaria and planned columbaria (whose planning applications are still under processing) in the vicinity had been taken into account in the applicants' TIA and the cumulative traffic impact had been assessed. He has no objection in principle to the applicants' TIA, Traffic and Crowd Management Plan (TCMP) and Management Plan, subject to the following conditions:

- (a) FEHD's confirmation that the proposed administrative measures (including (i) temporary closure of the proposed columbarium during Ching Ming and Chung Yeung Festivals, two weekends before and after the festival days and any public holiday(s) before and after the festival periods; (ii) implementation of visit-by-appointment arrangement; and (iii) corresponding specification in usage agreements for columbarium niches) could be enforced by FEHD.
- (b) Agreement from the relevant management authority to be sought to secure the required provision of loading/unloading facilities to serve the subject development and to handle emergency situations related to the traffic management.
- (c) Details of emergency vehicular access (EVA) to be submitted to the Buildings Department (BD) and FSD for comment.

10.1.4 Comments of C of P:

He has no comment on the application. It is noted from the applicants' FI (**Appendix Ig**) that operation of the columbarium will be suspended during festival periods and 'visit-by-appointment' scheme will be implemented in normal weekdays and weekends. It appears that the columbarium, with such measures implemented, would not have adverse traffic and crowd management impact in the area in particular during festival periods.

10.1.5 Comments of CHE/NTW, HyD:

- (a) The proposed access arrangement of the Site from Yeung Tsing Road should be commented by TD.
- (b) His department does not and will not maintain any access connecting the Site and Yeung Tsing Road.

- (c) The proposed temporary traffic and crowd management measures mentioned in the application should be commented by TD and the Police.
- (d) The applicants/operator of the columbarium should make their own arrangement for the proposed temporary traffic and crowd management measures. Any road marking, signage and street furniture temporarily removed by the applicants/operator of the columbarium should be reinstated to the satisfaction of TD and HyD.
- (e) Adequate drainage measures should be provided at the Site to prevent surface water running from the Site to the nearby public roads and drains.

Environment

10.1.6 Comments of DEP:

- (a) He has no objection to the application.
- (b) According to the application, no burning facility (i.e. joss paper furnace) will be provided within or immediately outside the Site and any burning of joss paper, offering or candle is strictly prohibited inside and immediately outside the columbarium.
- (c) Since the planning submission confirmed that discharge from its toilet facilities will be connected to the public sewer leading to Yeung Tsing Road, he has no objection to the proposal and sewerage impact assessment (SIA) is considered not necessary. It is also noted that the applicants will submit a sewer connection proposal to DSD for approval.

Urban Design

10.1.7 Comments of the Chief Town Planner/Urban Design and Landscape, PlanD (CTP/UD&L, PlanD):

The subject application involves a two-storey main building (8.8m) and an attached one-storey ancillary building (3m-3.9m) for a management office and toilet facilities. Given that the application is for regularisation of the existing number of niches within the columbarium without erection of new structures and the number of storeys is within the stipulations of the OZP, adverse visual impacts would therefore not be anticipated.

Drainage

10.1.8 Comments of CE/MN, DSD:

- (a) On the understanding that there would not be any addition of paved areas, he has no comment on the captioned application from public drainage viewpoint.
- (b) Regarding the sewerage aspect, the applicants shall meet the full satisfaction of DEP, the planning authority of sewerage infrastructure, for the proposed sewage disposal scheme.
- (c) The applicants are required to submit and implement proposal to connect to public sewer to his satisfaction.

Buildings Matters

10.1.9 Comments of the Chief Building Surveyor/New Territories West, BD (CBS/NTW, BD):

- (a) There is no record of approval by the Building Authority for the structures existing at the application site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) If the existing structures are New Territories Exempted House (NTEH) under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121 or the previous Cap 322), DLO/TM, LandsD should be in a better position to comment on the captioned application.
- (c) The applicants' attention is drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of the BD (not being a NTEH), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any approved use under the captioned application unless such are permissible under the PCO Cap.630).
 - (ii) Before any new building works are to be carried out on the application site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An AP should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iii) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works

or UBW on the application site under the BO.

- (iv) If the proposed use under application is subject to the issue of a licence, any existing structures on the application site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.
- (v) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access (EVA) in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (vi) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (vii) Noting that the proposed development is a columbarium, the premises should comply with the specified design and construction requirements for columbarium facilities as outlined in the Practice Note for Authorised Persons, Registered Structural Engineers and Registered Geotechnical Engineers APP-154.
- (viii) Detailed comments under the BO will be provided at the building plan submission stage.

Nature Conservation

10.1.10 Comments of the Director of Agriculture, Fisheries and Conservation (DFAC):

- (a) The Site falls within “G/IC” zone on the approved Tuen Mun OZP No. S/TM/35. According to the most recent aerial photo (dated 29 December 2017) at Geospatial Information Hub of LandsD, the application site is mainly disturbed in nature. Some trees/vegetation are present at the southern and eastern boundaries of the site. Noting that the proposed development will not involve any tree felling, he has no adverse comments on the application from nature conservation perspective. Nevertheless, the applicants are reminded that the trees within and adjacent to the application site shall not be disturbed and precautionary measures shall be in place before commencement of works, if any, on the Site.
- (b) A watercourse is located at around 20m south to the Site (**Plan A-2**). The applicants should be reminded to perform good site practice so as not to disturb the watercourse nearby.

Fire Safety

10.1.11 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans, if any.
- (b) As no details of EVA have been provided, comments could not be offered by his Department at the present stage. Nevertheless, the applicants are advised to observe the requirements of EVA as stipulated in Section 6, Part D of the *Code of Practice for Fire Safety in Building 2011* which is administered by BD.

District Officer's Comments

10.1.12 Comments of the District Officer/Tuen Mun, Home Affairs Department (DO/TM, HAD):

- (a) He had distributed consultation letters to the locals concerned and understood that they would provide their comments to the Board direct.
- (b) He noted that the applicants have proposed some management and mitigation measures with a view to minimising potential nuisances to the local community. That said, it is noted that the Site is located in the vicinity of several existing/proposed columbarium developments, Tsing Shan Tsuen, one kindergarten, two secondary schools and a post-secondary institution. Tuen Mun District Council (TMDC) members of the subject and neighbouring constituencies as well as locals living in the vicinity have all along expressed grave concerns on the potential adverse traffic, visual, noise and other environmental impacts of the proposed columbarium to the residents and schools nearby. He understands that the subject application involves 4,144 unsold niches. Having regard to the relatively large number of niches to be provided in the Site, it is envisaged that the concerned TMDC members and residents living nearby would have strong reservation about the application, in particular when the cumulative effects of the existing /proposed columbarium developments in the adjoining area are taken into account.
- (c) In view of the above, he trusts that PlanD would take the public views into due consideration when deliberating the subject planning application.

10.2 The following departments have no comment on/no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department;

- (b) Head of the Geotechnical Engineer Office, Civil Engineering and Development Department;
- (c) Project Manager/New Territories North and West, Civil Engineering and Development Department;
- (d) Director of Leisure and Cultural Services;
- (e) Director of Electrical and Mechanical Services; and
- (f) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office.

11. Public Comments Received During Statutory Publication Periods

- 11.1 The application and subsequent FI submitted by the applicants were published for public inspection on 19.2.2019, 18.6.2019, 15.10.2019, 26.11.2019 and 17.4.2020. During the first three weeks of the statutory public inspection periods, a total of 236 comments were received from three TMDC members (2 former and 1 current with 112 signatures of residents living nearby), Incorporated Owners of Riche House, village representative of Yeung Siu Hang Tsuen, Mutual Aid Committee of Kin Lung House of Lung Yat Estate, representative of a school and individual members of the public. Amongst the public comments received, 209 of them are in the forms of standard comment (**Appendix IVa**). Samples of the comments received are at **Appendices IV and IVa**. A full set of public comments received would be deposited at the meeting for Members' inspection.
- 11.2 Among the public comments received, 230 of them objected to the application, and the remaining six did not indicate whether to support or object to the application. The major objection grounds/ comments are summarised as follows:
- (a) the numerous existing columbaria in the area have caused nuisance, traffic congestion and air pollution to the area affecting students and residents in the vicinity. The situation will be aggravated if the application is approved. The residents also feel aggrieved that there have been many planning applications for columbarium use in the area;
 - (b) there are already around 20,000⁴ niches in Tsing Shan Tsuen causing traffic congestion in the area during Ching Ming and Chung Yeung festivals. There is also no parking space nearby. The existing roads have insufficient capacity to cater for the additional traffic and visitors;⁵
 - (c) the effectiveness of the proposed temporary traffic measures is in doubt and whether it has been verified in the TIA is uncertain;
 - (d) the roundabout between Yeung Siu Hang Garden and Yeung Siu Hang Tsuen is small for coaches, causing traffic congestion during peak hours;⁵

⁴ FEHD advised that there are an overall of about 17,000 niches in Tsing Shan Tsuen Cluster (**Plan A-1b**).

⁵ The comments were received before the applicants proposed to close the columbarium during festivals and their shadow periods.

- (e) shortage of columbarium will be relieved by the proposed public columbarium in Tsang Tsui with more than 160,000 niches;
- (f) the Site is blocked by the new access road of the Filial Park (思親公園). Most pedestrians will enter into the Site through the footpath which would cause congestion;
- (g) the site should be reserved for GIC facilities to meet local needs in Lung Mun area;
- (h) most of the columbaria in the area are privately-operated with niche prices not affordable by locals. The proposed columbarium will only benefit a few stakeholders, including the government;
- (i) there is a licenced squatter on the site. Residents will be evicted from the Site if the site will be developed as a columbarium;
- (j) it is hoped that Tsing Shan Tsuen will be developed as a more diverse community rather than monoculture; and
- (k) it is unfair to use government land for columbarium development.

12. Planning Considerations and Assessments

The Proposal

- 12.1 The application is for regularising the existing 4,444 niches and 48 memorial tablets at the Site. According to the applicants' proposal, the columbarium development has two storeys with a total GFA of about 293.2m² and PR of not more than 0.4. According to the applicants, the Site has been operated as a columbarium with 1,000 niches and 48 memorial tablets before 2007. It was renovated between 2010 and 2013 and the number of niches has been increased to 4,444 while the number of memorial tablets remains as 48. Amongst the 4,444 niches, 300 of them were sold and interred with ashes before 30.6.2017 while the remaining 4,144 are vacant and not yet sold.

Planning Intention and Land Use Compatibility

- 12.2 The Site falls within an area zoned "G/IC" on the Tuen Mun OZP. The planning intention of the "G/IC" zone is primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments. As for the columbarium use, it is under Column 2 which requires planning permission from the Board. The acceptability of the proposal should be comprehensively assessed taking into account the land use compatibility of the Site with its neighbouring uses, and the traffic and environmental impacts arising from the development.
- 12.3 Area surrounding the Site is predominated by religious uses and GIC facilities

including approved columbaria (i.e. Filial Park (思親公園), Shan Guo (善果), Shan Yuan (善緣) and Fat Yuen Ching Shea (佛緣精舍)); other temples and religious institutions; schools, training camp, Children and Juvenile Home and scattered residential structures (**Plans A-1b and A-2**). In general, the columbarium use under application is not incompatible with religious uses and GIC facilities in the surrounding areas.

Traffic Impact and Traffic and Crowd Management

- 12.4 The Site is served by public transport. Two LRT stations, bus and mini-bus services are available within 500m radius (**Drawing A-5**). No car parking spaces are provided within the Site. The applicants proposed to provide loading/unloading spaces at the car park located to the south (**Drawing A-4, Plans A-1b and A-2**). The Site is linked to Yeung Tsing Road which is a dead-end road serving the subject “G/IC” zone and the adjacent village. Yeung Tsing Road is connected to Hing Choi Street which is the only main access to / from Tuen Mun urban area (**Plan A-1a**). In order to resolve traffic concerns on the capacity of the traffic network, the applicants propose to close the columbarium for visitors during Ching Ming and Chung Yeung Festivals and their shadow periods and adopt ‘visit-by-appointment’ arrangement. In this regard, C for T has no objection provided that DFEH confirms that the administrative measures could be enforced. In this connection, DFEH advises that if the Licensing Board decides to approve the licence application, the approved management plan will be included in the licensing conditions and the licensee will be required to implement the approved management plan. There are legal provisions under the PCO to regulate breaches of licensing conditions imposed by the Licensing Board. Site inspection will also be conducted to the licensed private columbaria during Ching Ming and Chung Yeung Festivals and their shadow periods. Any breach of licensing condition detected, verbal warning, written warning or enforcement notice may be issued to the licensee for rectification.
- 12.5 According to the TIA, all the concerned junctions in the vicinity of the Site would operate with ample capacities during normal weekends. The potential traffic impact caused by the columbarium is not significant with implementation of the proposed measures of closing the columbarium during festival periods and the ‘visit-by-appointment’ arrangement. C for T and C of P has no adverse comment on the application.

Land Administration and Building Matters

- 12.6 The Site comprises two private lots and a considerable portion of GL (74% of the application site) with various structures, fences and gates erected thereon. DLO/TM advises that the proposed columbarium contravenes the lease conditions and the applicants may submit application for lease modification/land exchange for the proposed columbarium. There is no guarantee that the application involving GL of considerable size, will be approved.
- 12.7 CBS/NTW, BD also indicates that there is no record of approval by the Building Authority for the structures existing at the Site. They are unauthorised under the BO and should not be designated for any approved use under the captioned application. If the columbarium use is subject to a licence,

any existing structures on the Site intended to be used for the intended purpose are required to comply with the building safety and other relevant requirements.

Other Technical Considerations

- 12.8 Other departments consulted including DFEH, DEP, CE/MN, DSD, D of FS and CTP/UD&L of PlanD have no objection to/ adverse comments on the columbarium development subject to the imposition of relevant approval conditions, where appropriate.

Public Comments

- 12.9 A total of 236 public comments were received during the statutory publication periods. 230 commenters objected to the proposed development mainly for reasons relating to traffic congestion, environmental nuisance, occupation of GL, reservation of the site for other GIC uses and future niche supply from Tsang Tsui. DO(TM) also noted that some TMDC members and locals have expressed grave concerns on the potential adverse traffic, visual, noise and other environmental impacts of the proposed columbarium on the residents and schools nearby. Departmental comments in paragraph 10 and the planning assessments in paragraphs 12.1 to 12.8 are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraphs 10.1.12 and 11, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, no time clause for commencement for the development is proposed as the columbarium use under application is already in operation. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the maximum number of niches within the application site should not exceed 4,444 and the maximum number of memorial tablets should not exceed 48;
- (b) the submission and implementation of emergency vehicular access, water supply for fire fighting and fire services installations to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (c) the submission and implementation of sewer connection proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

The applicants fail to demonstrate in the Traffic and Crowd Management Plan that the applied use would not cause adverse traffic impact to the surrounding area. Approval of the application will set an undesirable precedent to other columbarium applications in Tsing Shan Tsuen Cluster, the cumulative effect of which would result in adverse traffic impact to the surrounding area.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendix I	Application Form
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Applicants' Letter dated 11.2.2019
Appendix Ic	Applicants' Letter dated 19.2.2019
Appendices Id and Id(a)	FI received on 12.6.2019 and 13.6.2019
Appendix Ie	FI received on 3.10.2019
Appendix If	FI received on 15.11.2019
Appendix Ig	FI received on 2.3.2020
Appendix Ih	FI received on 7.4.2020
Appendix Ii	FI received on 11.5.2020
Appendix Ij	FI received on 18.5.2020
Appendix Ik	FI received on 21.5.2020
Appendix II	Town Planning Board Guidelines TPB PG-No. 16
Appendix III	Similar Applications
Appendix IV	Sample of Public Comments
Appendix IVa	Sample of Standard Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Master Layout Plan
Drawing A-2	Ground Floor Plan
Drawing A-3	First Floor Plan
Drawing A-4	Location of Car Park and Pedestrian Route
Drawing A-5	Public Transportation Network in the Vicinity of the Site
Plan A-1	Location Plan
Plan A-1a	Location of Columbarium Applications along Yeung Tsing Road

Plan A-1b	Location of Columbarium Applications within “G/IC” zone on Tuen Mun OZP
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
MAY 2020**