

MPC Paper No. Y/K18/11A  
For Consideration by  
the Metro Planning  
Committee  
on 12.1.2024

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**APPLICATION FOR AMENDMENT OF PLAN**  
**UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. Y/K18/11**

- Applicant** : Gan En Tang Management Limited represented by Toco Planning Consultants Limited
- Plan** : Approved Kowloon Tong Outline Zoning Plan (OZP) No. S/K18/21
- Application Site** : 25 Cumberland Road, Kowloon Tong, Kowloon
- Site Area** : About 940m<sup>2</sup>
- Lease** : (a) New Kowloon Inland Lot (NKIL) No. 695 (the Lot) subject to a lease term having been extended up to 30.6.2047
- (b) Subject to the following restriction:-
- keep and maintain on the Lot a messuage ~~and~~ *or* dwelling house which is subject to Front and Range Clause.
- Zoning** : “Residential (Group C) 1” (“R(C)1”)
- Maximum plot ratio (PR) of 0.6 and maximum building height (BH) of three storeys, or PR and BH of the existing building, whichever is the greater.
- Proposed Amendment** : To rezone the application site from “R(C)1” to “Government, Institution or Community (14)” (“G/IC(14)”)

**1. The Proposal**

- 1.1 The applicant proposes to rezone the application site (the Site) from “R(C)1” to “G/IC(14)” on the Kowloon Tong OZP (**Plan Z-1**). The proposed “G/IC(14)” is tailored for the Site in that it is primarily intended for religious institution and columbarium uses and there is no Column 1 uses under the proposed Schedule of Uses. The user terms including ‘Religious Institution’ and ‘Columbarium’ are put under Column 2. The maximum number of niches is capped at 3,358 and the maximum PR and BH are 0.84 and two storeys (**Appendix II**) which are the same as the PR<sup>1</sup> and BH of the building at the Site according to the applicant.

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<sup>1</sup> According to the submissions, the PR of the current building at the Site is about 0.834 (GFA of 784.165m<sup>2</sup> based on a site area of 940m<sup>2</sup>) (**Drawing Z-1**).

- 1.2 According to the submission, the applicant converted the building into a religious institution cum columbarium (Gan En Tang 感恩堂) in 2008. However, columbarium is not permissible (i.e. neither Column 1 nor Column 2 uses) while religious institution requires planning permission under s.16 planning application from the Town Planning Board (the Board) (i.e. a Column 2 use) on “R(C)1” zone.
- 1.3 The major development parameters and uses by floor of the proposal are tabulated below. The floor plans, section and elevation plans are at **Drawings Z-1 and Z-2**.

Site Area (about)	940m <sup>2</sup>
PR (about)	0.834 <sup>1</sup>
Gross Floor Area (GFA) (about)	784.165m <sup>2</sup>
- Religious Halls	153.181m <sup>2</sup> (19.5%)
- Columbarium	170.862m <sup>2</sup> (21.8%)
- Offices and Other Supporting Uses	460.122m <sup>2</sup> (58.7%)
BH	2 storeys (about 18.7mPD)
Site Coverage (SC) (about)	60%
<b>Main Floor Uses</b>	
G/F	Religious halls and worshipping area, meeting room, columbarium in five halls, supporting facilities for staff and visitors (including store room, pantry, resting area and toilets*) and E&M
1/F	Offices and supporting facilities for staff (including store rooms, resting area and a dormitory)

\* According to the applicant, the entrance of the toilets within the current building will be sealed to prohibit usage due to insufficient capacity of the existing public sewerage system (**Drawing Z-3**).

- 1.4 According to the applicant, the columbarium provides a total of 3,358 niches. A breakdown of their status (**Appendix Ia**) are shown as follows:

Status	No. of Niches
Sold and Occupied before 30.6.2017*	32 (5 single-urn and 27 double-urn)
Sold but Unoccupied before 30.6.2017*	100 (16 single-urn and 84 double-urn)
Unsold before 30.6.2017*	3,226 (2,752 single-urn and 474 double-urn)
<b>Total</b>	<b>3,358</b> (2,773 single-urn and 585 double-urn)

\* It is the date when the Private Columbaria Ordinance (PCO) (Cap 630) was enacted.

#### Traffic Impact Assessment (TIA) and Traffic and Crowd Management Plan (TCMP)

- 1.5 There is no car park provision, and one loading/unloading (L/UL) area and two waiting spaces will be provided at the Site (**Drawing Z-3**). According to the submission, the requirements stipulated in the proposed management plan submitted for approval by the Private Columbaria Affairs Office (PCAO) will be enforced, which include: (i) introduction of a ‘Member-Only Scheme’ to allow only purchasers

and accompanies to enter the Site during grave sweeping periods<sup>2</sup>, (ii) implementation of a mandatory visit-by-appointment booking system that restricts a maximum of 42 visitors within each of the 30-minutes worshipping session<sup>3</sup>, and (iii) deployment of security personnel at the designated locations within and outside the Site for crowd management and route guidance. The operation hours of the columbarium is 9:00 a.m. to 5:00 p.m. daily during normal day and 8:00 a.m. to 6:00 p.m. during grave sweeping periods respectively. Other than the proposed management plan, the applicant further proposed to include a 'no driving nor taxi policy' in the sales agreement with incentives (e.g. earlier notification for appointment) and penalties (e.g. not to accept reservation for visit for the next grave sweeping periods, to apply no discount or increase in management fee in the next few years) to discourage purchasers from using private car or taxi to visit the Site.

### Environmental Measures

- 1.6 No burning of josspapers and large amount of conventional incense sticks will be allowed within the columbarium halls. The burning of incense materials will only be allowed at the designated incense burner located at the rear of the temple. Besides, in view of insufficient capacity of the existing public sewerage system as per the Sewerage Impact Assessment, the existing toilets within the current building will be closed and eight on-site portable chemical toilets (**Drawing Z-3**) will be provided to collect the sewage on-site. The sewage will then be tanked away for off-site disposal. The number of chemical toilets and frequency of clean-ups could be increased on demand.
- 1.7 In support of the application, the applicant has submitted the following documents:
- |     |   |               |
|-----|---|---------------|
| (a) | Application form received on 3.11.2022                        | (Appendix I)  |
| (b) | Supplementary Planning Statement received on 3.11.2022        | (Appendix Ia) |
| (c) | Further Information (FI) 1 received on 31.3.2023 <sup>#</sup> | (Appendix Ib) |
| (d) | FI 2 received on 2.6.2023 <sup>#</sup>                        | (Appendix Ic) |
| (e) | FI 3 received on 7.8.2023 <sup>#</sup>                        | (Appendix Id) |
| (f) | FI 4 received on 12.10.2023 <sup>#</sup>                      | (Appendix Ie) |
| (g) | FI 5 received on 22.12.2023 <sup>*</sup>                      | (Appendix If) |

### Remarks:

*\* accepted and exempted from publication requirement*

*<sup>#</sup> accepted but not exempted from publication and recounting requirement*

- 1.8 On 3.2.2023, the Metro Planning Committee of the Board (the Committee) agreed to defer making a decision on the application for two months as requested by the applicant.

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<sup>2</sup> According to the application, grave sweeping periods are Ching Ming Festival Day/ Chung Yeung Festival Day and three consecutive weekends/public holiday(s) before and after these two festival days.

<sup>3</sup> Maximum visitors holding capacity inside the columbarium per session would not be more than 78 at any one time.

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement and the FIs at **Appendices Ia to If**. They are summarized as follows:

### Regularization of Current Columbarium Use

- (a) Gan En Tang at the Site was established in 2008 and had been in operation ever since. The proposed rezoning of the Site from “R(C)1” to “G/IC(14)” zone is essential to the regularization of the current columbarium. It is in line with the Government’s policy and the requirements of the PCO. Moreover, the current columbarium, with over 3,200 niches available for sale, will help meeting the strong demand for niche spaces in Hong Kong.

### Land Use Compatibility and Development Intensity

- (b) The religious institution and columbarium uses at the Site are considered compatible with the adjacent land uses in the Kowloon Tong Garden Estate (KTGE) area, in particular along Cumberland Road, which is mostly occupied by religious, educational and commercial uses. The Site is not located at the predominant residential neighbourhood of the KTGE area and there are several religious institutions and another private columbarium at Rutland Quadrant (Shang Sin Chun Tong 省善真堂) near the Site (**Drawing Z-4, Plans Z-1 and Z-2**). Before 2008, the Site had been used for kindergarten and care home for the elderly for more than ten years<sup>4</sup>.
- (c) Developments in the KTGE area are of three-storey or below. The current two-storey building with PR of 0.834 and site coverage of 60% is compatible in scale. The parameters of the proposed “G/IC(14)” zone reflects the current development (**Appendix II**).
- (d) Columbaria, cemeteries and funeral parlours are not uncommon in the urban area, such as Shang Sin Chung Tong in Kowloon Tong, and Chinese Permanent Cemetery in Aberdeen. Columbarium is a clean social facility and is not an undesirable land use.

### Technical Aspects

- (e) The Site is situated in a convenient location within walking distance from Kowloon Tong and Mong Kok MTR Stations, bus terminus, bus and mini-bus stops, a number of on-street meter parking spaces and public car parks. There is a management team to undertake the maintenance and management of the building. The applicant will implement the proposed traffic and crowd management measures as mentioned in paragraph 1.5 above to minimize traffic impact to the local road network. The toilets in the building would be closed and on-site portable toilets would be provided to avoid direct discharge of sewage to the public sewer network. The columbarium, confined inside the five halls on G/F of the current building, is visually obstructed by

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<sup>4</sup> There is no record of any approval or valid planning permission granted for ‘Religious Institution’, ‘School’ or ‘Residential Institution’ use at the Site.

the fence wall when viewed from outside (**Drawings Z-1 and Z-2**). As demonstrated in the submitted Traffic Impact Assessment (TIA), Sewerage Impact Assessment (SIA) and Management Plan, the small scale development will not result in significant impacts on traffic, environmental, drainage, sewerage and visual aspects.

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

The applicant is not the current land owner but has complied with the requirements as set out in the Town Planning Board Guidelines on satisfying the “Owner’s Consent/Notification” requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent of the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

#### The KTGE Area

- 4.1 The KTGE area where the Site is located has been zoned as “R(C)” since the first publication of statutory plan (No. LK 18/10) gazetted in 1979 with the intention to retain and control the scale and form of residential developments with a maximum PR restriction of 0.6. The KTGE area was subsequently rezoned as “R(C)1” in 1993 to further impose BH restriction of 3 storeys to preserve the character and amenity of the low-rise and low density residential developments. The “R(C)1” zoning of the KTGE area remains unchanged since then. Under the Notes of the “R(C)1” zone of the current Kowloon Tong OZP, non-residential uses such as ‘Hotel’, ‘School’ and ‘Religious Institution’ uses might be permitted on application to the Board.

#### List of Information of Private Columbaria issued by the Development Bureau

- 4.2 The List of Information of Private Columbaria (“the List”) previously issued by the Development Bureau comprised Part A and Part B. Part A of the List referred to private columbaria which were in compliance with user restrictions in the land leases and the statutory town planning requirements, and were not illegally occupying Government land. Part B of the List referred to private columbaria made known to the Lands Department (LandsD) and/or Planning Department (PlanD) that did not fall under Part A of the List. According to the Director of Food and Environmental Hygiene (DFEH), two private columbaria (i.e. the subject columbarium and the aforementioned Shang Sin Chun Tong<sup>5</sup> at Rutland Quadrant) are in operation in the KTGE area and both are under Part B of the List.

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<sup>5</sup> The exemption application was approved with conditions by the Private Columbarium Licensing Board (PCLB). Although ‘Columbarium’ is not a permitted use at the concerned site under the OZP, there are express provisions in section 111 of PCO providing that the enforcement provisions under the Town Planning Ordinance against unauthorized development do not apply on private columbarium conferred with an exemption status.

## Private Columbaria Ordinance

- 4.3 The PCO, which regulates the operation of private columbaria through a licensing scheme, has come into effect since 30.6.2017. Upon the enactment of the PCO, the operation of a private columbarium in Hong Kong must be covered by a licence, or exemption, and in the interim a temporary suspension of liability (TSOL)<sup>6</sup>. Only dated columbaria<sup>7</sup> are eligible for application for exemption. Other private columbaria must obtain a licence. In order to obtain a licence, a private columbarium has to satisfy all statutory and government requirements (including building, planning and land-related requirements) and submit a management plan in respect of the columbarium for the PCLB approval. Only private columbaria that have obtained a licence may sell or newly let out niches. The deadline of submitting applications to the PCLB for licence, exemption or TSOL in respect of pre-cut-off columbaria had expired on 29.3.2018.
- 4.4 The subject columbarium, in operation since 2008 as claimed, might be considered as a pre-cut-off private columbarium. The operator of the subject columbarium had submitted both licence and TSOL applications. On 3.9.2021, the TSOL application was approved in principle by the PCLB with a validity period of three years up to 2.9.2024. The applicant is applying for rezoning in support of its licence application.

## **5. Previous Applications**

The Site is the subject of three previous s.16 planning applications (Nos. A/K18/132, 167 and 189) for ‘School (Kindergarten)’ use submitted in 1999 to 2002. They were rejected mainly because the proposals would adversely affect the traffic conditions in the local road network.

## **6. Similar Applications**

- 6.1 While there is no similar application for ‘Columbarium’ use within the area zoned “R(C)1” of the subject OZP, there was a similar application (No. Y/SK-PK/2) for rezoning a site in Sai Kung area from “R(C)2” and other zones to “Other Specified Uses” (“OU”) annotated “Columbarium” and “Green Belt” zones for a proposed columbarium use. That application was rejected on 21.6.2013 mainly on the grounds that the proposed columbarium use was incompatible with the surrounding low-rise, low-density residential and agricultural uses; the current zonings were considered more appropriate in terms of land use compatibility; the proposed columbarium development would induce adverse vehicular and pedestrian traffic impacts on the nearby road network; there was inadequate provision of parking and L/UL facilities within the application site; there were doubts on the proposed monitoring and enforceability of the traffic management plan and the applicant failed to demonstrate

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<sup>6</sup> TSOL (暫免法律責任書): An operator of a pre-cut-off private columbarium (i.e. a columbarium that was in operation, and in which ashes were interred in niches, immediately before 8a.m. on 18.6.2014) in seeking a licence or an exemption may apply to the PCLB for TSOL if he/she needs time to work towards meeting the relevant requirements. TSOL would enable the columbarium to continue operating and providing services before a licence or exemption is granted. During the period, the columbarium could not sell/let out any new or unoccupied niches.

<sup>7</sup> The columbarium was in operation (with at least one set of ashes interred in any niche or an interment right for any niche sold) before 1.1.1990.

that the crowd management and public safety, and that the cumulative effect of approving such applications would aggravate the traffic congestion in the area.

- 6.2 Regarding 'Religious Institution' use, between 1980 to 2020, there were 20 similar s.16 planning applications (involving ten sites) for the use within the KTGE area (i.e. "R(C)1" zone) (**Plan Z-1**). 17 planning applications were approved and three were rejected. The rejected applications cover two sites, but the two sites had been granted planning approval for the use subsequently. For all the ten sites with planning approvals, five were for regularisation/redevelopment of religious institution already in operation, and five were for newly proposed religious institutions. In approving the applications for regularisation/redevelopment, the Board considered that adverse traffic and environmental impacts were not induced by their operations, and the uses would not generate further impacts as their operation modes would remain unchanged. Details of these similar applications are summarized at **Appendix III**.

7. **The Site and Its Surrounding Areas** (Plans Z-1 to Z-2 and site photos on Plans Z-3 to Z-7)

7.1 The Site is:

- (a) currently occupied by a two-storey building and used as a religious institution, columbarium (Niches in five halls on G/F) and residential use on part of 1/F was observed on site survey on 11.11.2022.

7.2 The surrounding areas have the following characteristics:

- (a) the Site is located at the southern part of the KTGE area, which is predominantly a low-rise, low-density residential neighbourhood mixed with some non-residential uses such as schools, religious institution, guesthouses/hotels and residential care home for the elderly. Some of these non-domestic uses have not obtained planning permissions or may be existing uses prior to the publication of the first statutory plan. In recent years, some sites that were previously used for non-domestic use have ceased operation and are planned to be redeveloped for dwellings;
- (b) to the immediate north of the Site is a religious institution (without columbarium) and to the immediate south of the Site are two vacant houses. Other low-rise non-domestic uses such as religious institutions (without columbarium) and schools intermixed with houses are found on the same street block of the Site;
- (c) low-rise houses on the street blocks to the north and east across Surrey Lane and Cumberland Road/Essex Crescent, which are all zoned "R(C)1". An open space and a sports and recreation club (i.e. the Kowloon Tong Club) are located to the southeast and further east of the Site respectively;
- (d) to the immediate west and southwest of the Site is the Kowloon Tong School zoned "G/IC(2)" on the subject OZP which has been in operation since 1960s;

- (e) a dated columbarium (i.e. Shang Sin Chun Tong) is located to the further north of the Site at Rutland Quadrant;
- (f) to the further south of the Site across Boundary Street are the medium-density residential development zoned “Residential (Group B)” (“R(B)”) on the Ho Man Tin OZP along Boundary Street and Prince Edward Road; To the further west and east of the Site across the MTR East Rail track and Waterloo Road respectively are mainly low-density residential developments covered by various “R(C)” sub-zones in various OZPs; and
- (g) Kowloon Tong and Mong Kok East MTR Stations are located within 900m to the north and south of the Site respectively.

## **8. Planning Intention**

The “R(C)” zone is intended primarily for low to medium-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

## **9. Comments from Relevant Government Bureau/Departments**

- 9.1 The following Government bureau/departments have been consulted and their views on the application are summarized as follows:

### **Columbarium Policy**

- 9.1.1 Comments of the DFEH (including PCAO of Food and Environmental Hygiene Department (FEHD)):

- (a) 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 PCO or specified by the PCLB, including land-related, building-related, right to use the columbarium premises, deed of mutual covenant (if applicable), fire safety, etc. Section 18(2) of the PCO stipulates that the PCLB may grant a licence only if a management plan submitted by the applicant has been approved by the PCLB. The management plan submitted to the PCLB should cover matters including traffic and public transport arrangement or management, crowd management, manpower deployment on peak grave sweeping days or periods and other days or periods, etc. For cases in which planning permission has been given by the Board, the management plan should include the crowd and traffic management measures accepted (and the conditions imposed) by the relevant departments and the Board. In considering the management plan submitted by a licence applicant, the PCLB will take into account comments provided by concerned departments including Transport Department (TD), the Police, Fire Services Department (FSD) and Planning Department (PlanD). If a licence application is approved by the PCLB, the PCAO will oversee the monitoring of the licensee’s



implementation of the approved management plan in coordination with other concerned departments. Regarding enforcement measures on the approved management plan, if the PCLB decides to approve the licence application, the approved management plan will be included in the licensing conditions. 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 period. If breach of licensing conditions is detected, verbal warning, written warning or enforcement notice may be issued to the licensee for rectification. A person holding a SI are subject to provisions under sections 40 and 64<sup>8</sup> of the PCO.

- (b) Regarding “Gan En Tang (感恩堂)” at the Site, a set of the specified instrument (SI) application (viz. a licence and TSOL) in respect of a pre-cut-off columbarium was received by PCLB and the applications are being processed by the PCAO. The PCLB has granted approval-in-principle for the TSOL applications to the subject private columbarium with a validity period of 3 years from 3.9.2021 to 2.9.2024. “Approval-in-principle for TSOL Application” does not mean that the application for a Licence in respect of the columbarium concerned will be approved eventually. If the applicant fails to comply with all the requirements and fails to prove to the satisfaction of the PCLB that all the above-mentioned necessary steps have been taken with reasonable expedition by the expiry of the validity period of the “Approval-in-principle for TSOL Application”, the PCLB will not extend the validity of the “Approval-in-principle for TSOL Application” and may refuse the whole set of applications.
- (c) It is preliminary noted that the total number of the niches (i.e. about 3,358 niches) proposed for the licence application is the same as that proposed under the rezoning application. Having said that, FEHD is still in the course of detailed checking of niche information, including the number of sold niches (with ashes interred or not yet interred) to verify its accuracy.
- (d) Having studied the revised management plan in the FI 4 (**Appendix Ie**) and the applicant’s clarification in FI 5 (**Appendix If**), he has no specific comment on the submissions. However, it is noted that the proposals under the current application, including closing the current female and male toilets, the provision of eight portable toilets, one L/UL area and two waiting spaces for vehicles do not tally with the SI application. Clarification from the applicant and/or submission of revised plans in respect of their SI application to PCAO is required.

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<sup>8</sup> According to section 40 of PCO, if the person holding a SI has failed to comply with a licensing condition, the PCLB may revoke, suspend, refuse to renew or extend, vary any condition or impose new conditions on the license. According to section 64 of PCO, DFEH may, by notice (enforcement notice) served on the holder of SI in respect of a columbarium, require the recipient to end a contravention of a condition; to remedy the consequences of such a contravention; and to prevent the recurrence of such a contravention. If the recipient of an enforcement notice who, without reasonable excuse, fails to comply with the notice commits an offence and is liable on conviction to a fine at level 3.

**Land Administration****9.1.2 Comments of the District Lands Officer/Kowloon East, LandsD (DLO/KE, LandsD):**

- (a) The Site is located at NKIL No. 695 (the Lot) which is subject to a lease term having been extended up to 30.6.2047. Pursuant to the lease governing the Lot, the Lessee shall during the whole of the lease term keep and maintain on the Lot a messuage ~~and~~ *or* dwelling house which is subject to Front and Range Clause and other conditions as contained in the lease. According to Land Registry record, the owner of the Lot is “Ikobox Services Limited”.
- (b) The current application proposing to keep and maintain the existing 2-storey building for religious and columbarium purpose is in contravention of the lease conditions. If the subject planning application is approved by the Board, the lot owner shall apply to LandsD for a lease modification for implementation of the proposal. However, there is no guarantee that the lease modification will be approved. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion subject to policy support and endorsement given by the concerned policy bureaux (i.e. Environment and Ecology Bureau and Home and Youth Affairs Bureau for the current application). In the event that the application is approved by LandsD, it shall be subject to such terms and conditions including, among others, the payment of premium and administrative fee as may be imposed by LandsD.
- (c) The applicant shall note that approval by the Board of the current application shall not prejudice the Government’s right to take enforcement action against any breach of lease identified at the Site pursuant to their prevailing practice. All the provisions, covenants, stipulations, exceptions, reservations, powers and conditions contained in the lease governing the Lot shall remain in full force and effect.
- (d) A warning letter was issued to the Lot owner on 6.5.2011 regarding the operation of columbarium use in breach of the lease and the letter has been registered in the Land Registry against the Site (i.e. commonly known as “imposing an encumbrance”). The Government reserves the rights to take any further lease enforcement action against the Site.

**Traffic Aspect****9.1.3 Comments of the Commissioner for Transport (C for T):**

- (a) Having reviewed the applicant’s submissions, the proposed provision of two waiting spaces and one L/UL bay with nil parking provision within the Site is considered not adequate to avoid tail back onto the public road outside the Site. In addition, taking into account the available space of the vehicle maneuvering area, the move-in/out and u-turn of vehicles are highly restricted. Considering nil parking provision and inadequate waiting/maneuvering space for L/UL within the Site, he has

reservation on the application from traffic engineering perspective as it is envisaged that there will be high level of pick-up and drop-off activities in the vicinity of the Site which will pose significant traffic impact in the area.

- (b) Nevertheless, the proposed management measures in the applicant's submissions are noted. These include the penalties to visitors not complying with the 'no driving nor taxi policy', the staff monitoring of L/UL activities outside the Site, the provision of an appointment system to limit the visitor numbers, and incentives to visitors for compliance.
- (c) It is also noted that the worst case scenario in the TIA report had assumed that the proposed columbarium would be operated without the 'no driving nor taxi policy'. The appointment system would limit a maximum number of visitors to 84 persons per hour generating 20 pcu per hour. The TIA concluded that the potential traffic impact within the study area to be minimal.
- (d) Along with the fact that the peak grave sweeping days will unlikely coincide with normal school days, he has no adverse comment on the application from traffic engineering viewpoint on condition that the applicant undertakes to implement the above non-exhaustive measures to monitor and regulate their proposed appointment system and 'no driving nor taxi policy'.

#### 9.1.4 Comments of the Commissioner of Police (C of P):

No adverse comment on the application given that the proposed site management measures will be implemented to control taxi/private car access to minimize queue outside the Site. Besides, in the area there were traffic related complaints<sup>9</sup> and traffic accidents<sup>10</sup> received.

### **Building Aspect**

#### 9.1.5 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

No objection in principle to the application subject to the detailed comments at **Appendix IV**.

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<sup>9</sup> Between January and December 2023, a total of 58 traffic related complaints were received, of which 24, 17, 8 and 9 complaints were at Cumberland Road, Essex Crescent, Lincoln Road and Surrey Lane respectively.

<sup>10</sup> Between January and December 2023, a total of seven traffic accidents occurred, of which two each were at Cumberland Road, Lincoln Road and Surrey Lane, and one was at Essex Crescent respectively.

### **Fire Safety**

#### 9.1.6 Comments of the Director of Fire Services (D of FS):

No comment on the application and advised that any proposal with the nature of pre-cut-off private columbarium as classified by FEHD, application of Licence, Exemption and TSOL under Cap. 630 and relevant fire safety requirements for the licencing of private columbarium shall be observed.

### **Environmental Aspect**

#### 9.1.7 Comments of the Director of Environmental Protection (DEP):

- (a) No objection to the application from environmental planning perspective as adverse environmental impacts arising from the columbarium use at the Site is not anticipated.
- (b) It is noted from the submission that the applicant has committed to properly monitor the religious and worshipping activities to ensure no nuisance will be caused; the operation of the columbarium will not involve burning of ritual/josspapers and large amount of conventional incense sticks; and portable chemical toilet will be used at the Site.
- (c) In the past five years, no environmental complaint was received at the Site but there was one complaint related to emissions from burning of paper offerings against a premises adjacent to the Site (i.e. 8 Surrey Lane) in September 2019.

### **District Officer's Comments**

#### 9.1.8 Comments of the District Officer (Kowloon City), Home Affairs Department (DO(KC), HAD):

No particular comment on the application. However, as the application is related to the operation of Columbarium, it is anticipated that locals will show grave concern to this sensitive subject.

#### 9.2 The following Government departments have no objection to/no comment on the application:

- (a) Chief Town Planner/Urban Design and Landscape, PlanD;
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Highways Engineer/Kowloon, Highways Department; and
- (d) Chief Engineer/Construction, Water Supplies Department.

## **10. Public Comments Received During Statutory Publication Periods**

- 10.1 The application and FI were published for public inspection. During the statutory public inspection periods, a total of 620 public comments were received. 612 (98.7%) supported the application and eight (1.3%) objected to the application.
- 10.2 Standard letters in four types were submitted from 612 individuals, including a few local residents, during the statutory public inspection periods (samples of the standard letters are enclosed in **Appendix Va**) to support the application on the following grounds:
- (a) The PCLB had granted “Approval-in-principle for the TSOL Application” to the subject columbarium on 3.9.2021.
  - (b) The Site is well served by public transportation facilities and is near the Kowloon Tong MTR Station. It is located outside the main residential cluster.
  - (c) The subject columbarium is small in scale and surrounded by non-residential uses, including schools, hotels, religious institutions and other commercial facilities.
  - (d) The subject columbarium is confined on G/F of the current building, which is screened off by the fence wall and not visible from outside the Site.
  - (e) The number of niches in the subject columbarium is not large. The submitted TIA had taken into account the local traffic flow and proposed special traffic management measures during grave sweeping periods. Approval of the application will not set an undesirable precedent.
  - (f) No adverse air quality and environmental impacts as burning of josspapers is prohibited.
  - (g) The application will be able to solve the problem of lack of niches in Hong Kong.
- 10.3 The eight objecting comments include three from owners of nearby residential developments, three from local residents and two from individuals (**Appendix Vb**). The main reasons for objecting to the application are summarized as follows:
- (a) The KTGE area is designed and intended for pure residential use and is not suitable for columbarium use. The proposed rezoning for religious institution cum columbarium use is against the KTGE’s planning intention, the interest of property owners in the KTGE and the public interest. The local residents have concerns on the increasing commercial activities and the land use incompatibility between ‘religious institution cum columbarium’ use and residential uses in the area.
  - (b) According to the submissions, the total number of niches (3,358) in the s.12A application in 2023 is 73 times of the number of interred ashes (46) in the PCO license application in 2021. It is doubtful if the business practice of running the subject columbarium is legal.

- (c) The subject columbarium has been operating for many years at the Site without licence. The Site was also used for care home for the elderly and kindergarten for more than ten years without proper planning and land-related approvals. Instead of approving the current application, enforcement actions should be taken by the Government. Approving the application will set an undesirable precedent for other similar applications. The cumulative effect of approving such applications will result in aggravation of land use incompatibility and adverse traffic impact in the residential area.
- (d) Local traffic situation is already saturated by the current non-domestic uses including schools, kindergartens, hotels, care homes for the elderly and religious institutions with no parking spaces in the area. Traffic congestions and illegal parking issues are causing nuisance to local residents.
- (e) The local road network, public transport system and sewerage network in the area cannot support the subject columbarium, which will attract thousands of visitors and worshippers during grave sweeping periods. It will inevitably cause adverse traffic impacts, public services disruptions and impede the tranquility in the area.
- (f) The storage of human remains in the form of ash in a residential area is repugnant, unhygienic and against the proper planning of the city. The Government should be aware of the potential health issues induced by the columbarium.
- (g) The smoke, noise and incense ash emitted during worshipping activities at the Site will adversely affect the health of nearby residents, children in nearby schools and users of the sports facilities in the nearby Kowloon Tong Club.

10.4 A full set of the public comments received on the application and the FIs are deposited at the Board's Secretariat for Members' inspection and reference.

## **11. Planning Considerations and Assessments**

11.1 The applicant proposes to rezone the Site from "R(C)1" to "G/IC(14)" (with 'Religious Institution' and 'Columbarium' as Column 2 uses) to provide for subsequent s.16 planning application for the continued operation of the 2-storey religious institution cum columbarium. In the Notes tailored for the Site, the intention is expressly set for religious institution and columbarium uses and the maximum number of niches is capped at 3,358 (**Appendix II**). It should be noted that the current "R(C)1" zone provides for planning application for religious institution, hence it is considered unnecessary to pursue rezoning to effect the same control for the development of a religious institution. The subject rezoning application, which bundles religious institution with columbarium, is a step towards meeting the licencing requirement of PCO for a private columbarium (paragraphs 4.2 to 4.4 refer).

### Planning Intention and Land Use Compatibility

- 11.2 The residential sites in the Kowloon Tong area including the KTGE fall within “R(C)” and its sub-zones on the OZP, which are intended primarily for low-density residential developments. The KTGE area covering the Site has been so zoned ever since the first statutory plan to preserve the special character and amenity of the residential houses in the area. Specifically the Site is located at the southern part of the KTGE area and in a wider context at the centre of the Kowloon Tong and Ho Man Tin residential areas. The non-residential uses in the vicinity such as schools, hotels and religious institutions without columbarium are either operating with/without planning permissions or existing uses. These non-residential uses to serve the residential neighbourhood are put as Column 2 uses of the “R(C)1” zone. They cannot be taken as reference to justify rezoning of the Site primarily for ‘Columbarium’ use. It should be noted that columbarium has not been contemplated in residential district in the KTGE area and the wider residential cluster. The proposed inclusion of columbarium use is incompatible with and out of character of the established residential neighbourhood. DO(KC), HAD anticipated that locals will show grave concern to the operation of columbarium at the Site and indeed disturbing the integrity of the KTGE area as a residential neighbourhood which is the concern of some local residents. In this connection, the applicant has failed to provide strong justifications for a departure from the planning intention of “R(C)1” zone for columbarium use.
- 11.3 The applicant’s argument that the subject columbarium should warrant the same treatment with another pre-cut-off private columbaria at Rutland Quadrant cannot be supported. In terms of status, the dated columbarium at Rutland Quadrant has been granted exemption by PCO, hence is tolerated under the planning regime. Besides, the subject columbarium has 3,226 unsold niches (equivalent to 96% of total) as opposed to the dated columbarium which is restricted from selling and newly letting out niches. If the subject columbarium is approved by the Board and is eventually granted with a license by PCO, this will result in a real increase in nuisance onto the residential neighbours and further impacts on the existing infrastructure. The proposed rezoning would frustrate the phasing out of the non-compliant uses and incompatible activities within the residential neighbourhood in the KTGE area. The applicant also quoted another case, i.e. a cemetery in Aberdeen, to demonstrate that there is columbarium/public cemetery located within/near residential developments. The cemetery in Aberdeen is at the fringe of slope designated for cemetery and columbarium uses, as opposed to the Site within the residential neighbourhood. Hence, the different planning context of the Aberdeen cemetery cannot help justify the current application.

### Technical Impacts

- 11.4 The traffic conditions and infrastructure capacity in Kowloon Tong area have long been a local concern. The proposal involves the provision of only one L/UL and two waiting spaces for vehicles. To overcome the site constraints and traffic impact, the applicant proposed to impose a ‘no driving nor taxi policy’ in the ‘sales agreement’ to limit visitors from taking private cars or taxis to the Site, and a ‘visit-by-appointment’ booking system to limit the number of visitors to the Site during grave sweeping periods. With these measures, the submitted TIA concluded that the proposal would have no adverse traffic impact to the area. Counting on the applicant’s traffic and crowd management measures, both C for T and C of P have no

adverse comment on the application. CE/MS, DSD and DEP have no adverse comment on the application noting there would be no use of toilets of the building but deployment of portable toilets instead, and burning of josspapers and large amount of conventional incense sticks are prohibited. Other relevant departments including FEHD have no objection to or adverse comments on the application on other aspects.

- 11.5 However, it should be stressed that the subject proposal will result in a real increase of impact that will tax the already strained traffic and sewerage capacity in Kowloon Tong area. According to C of P, 58 traffic complaints were received and seven traffic accidents were recorded between January and December 2023 in the area. There are similar concerns on traffic and sewerage impacts raised by the public comments. Although the applicant proposed the abovementioned traffic management and environmental measures, these proposals have yet been incorporated in the Management Plan in support of the columbarium licence application. Even when the applicant's proposals are fully incorporated and endorsed in the Management Plan to be monitored by the PCAO, measures that are cardinal to control the impact such as 'no driving nor taxi policy' (traffic), appointment booking system (traffic), and closure of toilets of the building (sewerage) fall heavily on the operator's own control and adherence to the approved Management Plan. Some of these self-control measures are uncommon to be implemented and monitored, and pose challenges to effective enforcement.

#### Previous and Similar Applications

- 11.6 There is no similar application within the "R(C)1" zone in Kowloon Tong area. A similar rezoning application (No. Y/SK-PK/2) for columbarium use in Sai Kung area was not agreed mainly on the grounds of land use compatibility and doubts on the proposed monitoring and enforceability of the traffic management plan. Besides, all the planning applications for religious institutions in Kowloon Tong approved during 1980 to 2020 were solely religious institutions without columbarium use. Rejection of the subject rezoning application is in line with the decisions of the Board.
- 11.7 Approval of the current application would encourage similar applications. The cumulative effect of approving similar applications would result in proliferation of columbarium use in the low density residential area of Kowloon Tong, thereby aggravating the land use conflict/incompatibility in the residential area, and worsening the local traffic and sewerage condition and nuisance in the area.

#### Public Comments

- 11.8 Of the public comments received, 612 supported and eight objected to the application. The supporting grounds as stated on standard letter templates argue that the proposal is compatible with the surrounding non-residential uses, creates no adverse traffic and environmental impacts and provides additional niche supply to meet the demands. The major reasons of objection argues otherwise that the proposal is out of keeping of the residential character of the area, creates adverse traffic and environmental impacts on the surrounding area, nuisance to local residents, children in nearby schools and users of the nearby sports facilities, have concern on regularization of non-compliant activities and that the columbarium



within the Site contravenes the planning intention of “R(C)1” zone and the KTGE area. The assessment in paragraphs 11.2 to 11.7 above are relevant.

**12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reason:

the Site is situated within a residential neighbourhood. The extant “R(C)1” zone is considered appropriate and there is no strong justification to rezone the Site to “G/IC(14)” for religious institution cum columbarium use which is incompatible with the residential neighbourhood.

- 12.2 Alternatively, should the Committee decide to agree to the application, proposed amendments to the Kowloon Tong OZP, together with the revised Notes and Explanatory Statement, will be submitted to the Committee for agreement prior to gazetting under the Town Planning Ordinance.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.
- 13.2 Should the Committee decide not to agree to the application, Members are invited to advise what reason(s) for the decision should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application form received on 3.11.2022
<b>Appendix Ia</b>	Supplementary Planning Statement received on 3.11.2022
<b>Appendix Ib</b>	Further Information 1 vide letter received on 31.3.2023
<b>Appendix Ic</b>	Further Information 2 vide letter received on 2.6.2023
<b>Appendix Id</b>	Further Information 3 vide letter received on 7.8.2023
<b>Appendix Ie</b>	Further Information 4 vide letter received on 12.10.2023
<b>Appendix If</b>	Further Information 5 vide letter received on 22.12.2023
<b>Appendix II</b>	Notes for “G/IC(14)” zone proposed by the applicant
<b>Appendix III</b>	Similar S.16 Applications for Religious Institutions within “R(C)1” Zone on the Kowloon Tong OZP
<b>Appendix IV</b>	Detailed Comments of Government Departments
<b>Appendices Va to Vb</b>	Public comments received during the statutory publication periods
<b>Drawing Z-1</b>	Floor plans submitted by the applicant
<b>Drawing Z-2</b>	Elevation plans submitted by the applicant
<b>Drawing Z-3</b>	Proposed temporary traffic arrangement at the Site submitted by the applicant
<b>Drawing Z-4</b>	Land use character plan submitted by the applicant
<b>Plan Z-1</b>	Location plan
<b>Plan Z-2</b>	Site plan
<b>Plans Z-3 to Z-7</b>	Site photos

**PLANNING DEPARTMENT  
JANUARY 2024**