

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

**APPLICATION NO. Y/TM/24**

- Applicant** : Filial Praise Niches (Hong Kong) Limited represented by Brighspect Limited
- Site** : Lots 1744 S.D ss.1 (Part) and 1744 S.D RP (Part) in D.D. 132, Hing Fu Street, Tuen Mun, New Territories
- Site Area** : About 1,175 m<sup>2</sup>
- Lease** : (i) New Grant No. 2745  
(ii) Orchard Lot with Building Licence No. 814  
(iii) Permitted Building Area of 975ft<sup>2</sup>  
(iv) Height Restriction of 25 feet and 2 storeys  
(v) No grave shall be made on nor human remains be interred in, or deposited on the land sold either in the earthenjars
- Plan** : Draft Tuen Mun Outline Zoning Plan No. S/TM/36 (the OZP)  
*(currently in force)*  
  
Approved Tuen Mun Outline Zoning Plan No. S/TM/35  
*(at the time of submission)*
- Zoning** : “Green Belt” (“GB”)  
*(no change to zoning and restrictions)*
- Proposed Amendment** : To rezone the application site from “GB” to “Government, Institution or Community” (“G/IC”)

**1. The Proposal**

- 1.1 The applicant proposes to rezone the application site (the Site) from “GB” to “G/IC” with a maximum building height restriction of 2 storeys for proposed columbarium use on the Site, under the name of Filial Praise Niches (FPN) (光孝仙苑) (**Plan Z-1**). The applicant has not provided a tailor-made Notes for the proposed “G/IC” zone at the Site. According to the Notes of the

OZP for “G/IC” zone, ‘Columbarium’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

- 1.2 According to the applicant, the landowner has agreed for the applicant to use the Site for columbarium use. The Site is currently occupied by a 2-storey columbarium building, three temporary structures of 1 to 2 storeys for office, pantry and toilets, a pond and an open paved area. Underneath the columbarium building, there is a semi-sunken level for storage use, and outside which there are two walls previously used for display of ancestral tablets. The columbarium and ancestral tablets had been removed since 2018. No religious use or worship activity would be held at the Site. The Site is surrounded by a 2.4m high fence wall. It is accessible via a track leading to Hing Fu Street (**Plans Z-1a, Z-2, Z-4a and Z-4b**). The Site is not covered by any planning permission.
- 1.3 The applicant has submitted an indicative scheme, which is the same as the current condition, to support the proposed rezoning application for columbarium use (**Drawings Z-1 to Z-5 and Plans Z-2 and Z-4a to Z-4c**). Details of the columbarium are as follows:

Site Area	About 1,175 m <sup>2</sup>
Total Floor Area	About 517.3 m <sup>2</sup>
Plot Ratio	About 0.44
Site Coverage	22.5%
No. of Blocks	4
No. of Storeys	2 storeys (excluding 1 semi-sunken level)
Maximum Building Height	Not more than 7.8m
Operation Hours	9:00 a.m. to 5:00 p.m. daily  No operation on Ching Ming and Chung Yeung Festivals; 2 Saturdays and 2 Sundays before and after the festival days) (total 9 days)

Note: No parking space will be provided within the Site.

- 1.4 According to the applicant, the columbarium provides a total of 5,670 double-urn niches. A breakdown of the sale and occupation conditions are shown as follows:

<b>Occupation Condition of Niches</b>	<b>No. of Niches (Double-urn)</b>
Sold and Occupied before 30.6.2017*	2 <sup>^</sup>
Sold but Unoccupied before 30.6.2017*	514
Unsold Niches	5,154
<b>Total</b>	<b>5,670</b>

- \* It is the date when the Private Columbaria Ordinance (PCO) (Cap 630) was enacted.
- ^ The applicant carried out alternative ash disposal procedures approved by the Director of Food and Environmental Hygiene (DFEH) under PCO. The 2 sets of interred ashes were returned to eligible claimants. According to FEHD's inspection on 1.3.2022, no deceased ash was detected.

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

- 1.5 The Site is accessible via a sub-standard local road partly on private lots and partly on government land (GL) leading to Hing Fu Street (**Plan Z-2**). The applicant proposes to close the access road outside the Site and within the private lots from vehicular access but only allow pedestrian, delivery vehicles and emergency vehicles to access at all times (**Drawing Z-7**). According to the TIA and TCMP, the parking space and loading and unloading bay will be provided at the Site, there is sufficient space for delivery vehicle (light goods vehicle) to manoeuvre within the Site. Visitors must be dropped off at the temporary pick-up/drop-off point at Hing Fu Street and access the Site on foot (**Drawing Z-7**), and their vehicles could be parked in the public car parks in the vicinity (**Drawing Z-6**).
- 1.6 According to the TCMP (**Drawings Z-7 to Z-9**), the columbarium development operates daily from 9 a.m. to 5 p.m. (including weekends and public holidays). Niche owners and their family members with proofs of memberships will be allowed to visit the columbarium. Other visitors visiting the columbarium must be permitted and led by staff. The maximum holding capacity at the columbarium building is 95 persons, which has taken into account the fire safety concern as stipulated under the "Code of Practice for Fire Safety in Buildings". To avoid a large number of visitors to visit the Site during grave sweeping periods, the columbarium will be closed during Ching Ming and Chung Yeung Festivals and on two weekends before and after the festive days<sup>1</sup>.

*Landscape Master Plan*

- 1.7 According to the applicant, there has been major tree clearance nor site formation works since the Site was acquired in 2010. The existing pond and open space have been refurbished to uplift the visual amenity and aesthetics of the Site. Additional greenery area with plotted plants is proposed to further enhance the environment (**Drawing Z-2**).

*Environmental Measures*

- 1.8 To minimise air pollution from worship activities, burning of joss paper is not allowed and no joss furnace will be provided. Besides, the applicant has obtained a licence under the Water Pollution Control Ordinance for discharge of commercial trade effluent into underground septic tanks and soakaway

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<sup>1</sup> In the Management Plan submitted to the Private Columbaria Licensing Board (Chinese version) in the Traffic Impact Assessment (TIA) at **Appendix II**, the columbarium will continue to open during Ching Ming and Chung Yeung Festivals while no visitors will be allowed to enter the premises, extra manpower will be deployed to control the traffic flow during festival periods.

system. No public announcement system or fixed noise source will be installed at the Site. The road traffic noise arising from vehicles is minimal on normal and festive days.

1.9 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 26.6.2020 and replacement pages **(Appendix I)**
- (b) Planning Statement **(Appendix Ia)**
- (c) Further information (FI) received on 16.11.2020 **(Appendix Ib)**
- (d) FI received on 29.3.2021 **(Appendix Ic)**
- (e) FI received on 18.6.2021 **(Appendix Id)**
- (f) FI received on 9.11.2021 and 12.11.2021 **(Appendices Ie-1 & Ie-2)**
- (g) FI received on 19.1.2022 **(Appendix If)**
- (h) FI received on 30.3.2022 **(Appendix Ig)**
- (i) FI received on 17.6.2022 **(Appendix Ih)**
- (j) FI received on 30.6.2022 **(Appendix Ii)**
- (k) FI received on 29.8.2022 **(Appendix Ij)**
- (l) FI received on 6.9.2022 **(Appendix Ik)**
- (m) FI received on 13.9.2022 **(Appendix II)**
- (n) FI received on 22.11.2022 **(Appendix Im)**
- (o) FI received on 14.12.2022 **(Appendix In)**

*((c), (k) and (l) were exempted from publication and recounting requirements)*

*((d) to (j) and (m) to (n) were not exempted from publication and recounting requirements)*

1.10 Upon request by the applicant, the Committee on 18.9.2020, 5.2.2021 and 10.9.2021 agreed to defer a decision on the application each for two months so as to allow time for the applicant to submit FI **(Appendices Ib to In)** to address various departmental comments.

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

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ia**. They can be summarised as follows:

- (a) The proposed “G/IC” zone will provide land for government, institution or community 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. Rezoning the Site from “GB” to “G/IC” could increase land supply for ‘Columbarium’ use to meet the future need for such use.
- (b) The Site is close to public transport services including light rail stops and bus terminus. The Site is about 10-15 minutes walking distance away from Po Tin Bus Terminus and Tin King Light Rail Stop. As there is no parking space provided at the Site, the applicant encourages visitors to park their cars at nearby car parks in Po Tin Estate and Kin Sang Commercial Complex. The Site will be closed during Ching Ming and Chung Yeung Festivals and no visitors will be allowed.
- (c) The Site is located on the hillside surrounded by trees, temples, graves, columbaria, high voltage overhead power cables and the Castle Peak Firing Range. There are very few residential dwellings after the shutdown of mines and the subsequent installation of pylons and overhead transmission lines (OHLs). In this regard, the columbarium use at the Site will not have adverse impact to the surrounding environment or will not be incompatible with the surrounding land uses. No adverse landscape and environmental impacts, including air quality, sewerage and noise, are anticipated.

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

The applicant is not a “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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining written consent of the “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

## 4. **Background**

### Zoning History of the Site

- 4.1 The Site falls within the northwestern part of Tuen Mun New Town. The Site has been zoned “GB” since the gazettal of the first Tuen Mun OZP on 29.7.1983 with no change to zoning since then. Under the Notes of the OZP for “GB” zone, ‘Columbarium (within a Religious Institution or extension of existing Columbarium only)’ is a Column 2 use subject to planning permission from the Board.

### The Private Columbaria Ordinance

- 4.2 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 (PCLB) their views on suitable mitigation measures that should be followed up by individual cases.
- 4.3 PCLB refused the applicant's application for Licence and TSOL for pre-cut-off columbarium on 30.4.2021 and the applicant had returned the interred ashes to the eligible claimants. According to FEHD's inspection in March 2022, no deceased ash was detected.

### The Existing Building

- 4.4 According to the District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD), the Site is subject to a building licence. According to the lease conditions, no grave shall be made on nor shall any human remains be interred in, or deposited on the land. For details, please refer to paragraph 9.1.2 below.
- 4.5 The Buildings Department (BD) issued two removal orders to the land owners on 19.2.2011 requesting the removal of unauthorised buildings works, including structures erected on and above ground floor and two retaining walls erected and ground (**Appendix V**). However, the removal orders have not been complied with.

## **5. Previous Application**

The Site is involved in two previous applications (No. A/TM/435 and Y/TM/12). Application No. A/TM/435 for Columbarium (within a Religious Institution or extension of existing Columbarium only) (8,500 niches) was withdrawn by the applicant on 14.5.2012. Application No. Y/TM/12 for rezoning the Site from "GB" to "G/IC" for the development of a columbarium (5,670 niches) was also withdrawn by the applicant on 24.1.2014. The two previous applications were not submitted by the applicant of the current application. The location of the previous applications are shown on **Plan Z-1a**.

## 6. Similar Applications

- 6.1 There are four similar rezoning applications within the same “GB” zone. Applications No. Y/TM/8 and 23 at the same site under the name of Tin Kwong Lun Yee (TKLY) (天罡隆義) (6,000 and 11,094 niches) for rezoning from “GB” to “G/IC” for proposed religious institution and columbarium uses were considered by the Committee in 2013 and 2021 respectively. Their locations are shown on **Plan Z-1** and details of the similar applications are summarised in **Appendix II**.
- 6.2 Application No. Y/TM/8 for rezoning from “GB” to “G/IC” for proposed religious institution and to regularise the existing columbarium uses at TKLY (天罡隆義) (6,000 niches) was rejected by the Committee on 19.4.2013 on grounds that the applicant had not provided sufficient information to demonstrate that the proposed road widening is acceptable and implementable and would not have adverse landscape impact; insufficient information to demonstrate that the proposed development would not pose adverse vehicular and pedestrian traffic impacts; and approval of the application would set an undesirable precedent for other similar applications within the “GB” zone.
- 6.3 Application No. Y/TM/23 for rezoning from “GB” to “G/IC” for proposed religious institution and to regularise the existing columbarium uses at TKLY (天罡隆義) (11,094 niches) was approved by the Committee on 25.6.2021 on considerations that the proposed development is not incompatible with surrounding land uses and no adverse comment from relevant departments on the application<sup>2</sup>.
- 6.4 Another two applications No. Y/TM/25 and 26 under the names of Able Fortune Memorial Garden (AFMG) (祥隆精舍) (5,418 niches) and Citifair Memorial Garden (CMG) (益豐精舍) (4,942 niches) for regularising the existing columbarium uses are scheduled for consideration by the Committee on 17.3.2023.

## 7. The Site and Its Surrounding Areas (Plans Z-1 to Z-4)

- 7.1 The Site is:
- (a) located on a platform at the hillslope in the northwestern fringe of Tuen Mun New Town;

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<sup>2</sup> In the course of considering the proposed amendments to the Tuen Mun OZP No. S/TM/35 on 24.6.2022, in view of the applicant of application No. Y/TM/23 had provided detailed development proposal with supporting technical assessments and concerned departments had no in-principle objection to or adverse comment on the proposed scheme, the Committee agreed to rezone the application site from “GB” to “G/IC(2)” where ‘Columbarium’ is a Column 1 use (i.e. an always permitted use) and subject to a maximum building height of 2 storeys and a maximum number of niches for the existing columbarium to streamline the development control process. The draft Tuen Mun OZP No. S/TM/36 incorporating the amendment to reflect the Committee’s decision on the application was gazetted on 22.7.2022 for public inspection.

- (b) hard paved and occupied by a 2-storey building with semi-sunken level for columbarium use and temporary structures for office and ancillary uses (**Plans Z-4a to Z-4c**); and
- (c) accessible via a local track leading from the cul-de-sac of Hing Fu Street.

7.2 The surrounding areas have the following characters (**Plans Z-2 and Z-4a to Z-4c**):

- (a) to the immediate north is a columbarium TKLY (天罡隆義) zoned as “G/IC(2)” with agreed rezoning application (No. Y/TM/23);
- (b) to the immediate east is OHL. To the southeast and further east down the hillslope is a vehicle park, some vacant land and brownfield operations, rural settlements at Kwong Shan Tsuen and a high-rise public housing development of Po Tin Estate. There is a bus terminus at the eastern edge of Po Tin Estate;
- (c) to the further southeast is a cluster of rural settlements intermixed with vehicle park and two columbaria of AFMG (祥隆精舍) (application No. Y/TM/25) and CMG (益豐精舍) (application No. Y/TM/26); and
- (d) to the west and north are vegetated slopes and Tsing Shan Firing Range.

## **8. Planning Intention**

The planning intention of “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to obtain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

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

9.1 The following bureaux and government departments have been consulted and their views on the application and the public comments are summarised as follows:

### **Licencing**

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

- (a) PCO, which regulates the operation of private columbaria through a licensing scheme, has come into effect on 30.6.2017 upon gazettal.

- (b) Under PCO, only private columbaria that have obtained a licence may sell or newly let out niches. The operator of a private columbarium who applies a licence must comply with the Town Planning Ordinance (Cap. 131) and other requirements prescribed in PCO or specified by PCLB, including land-related, building-related, right to use the columbarium premises, deed of mutual covenant (if applicable), fire safety, etc. The PCO stipulates that PCLB may grant a licence only if a management plan submitted by the applicant has been approved by PCLB. The management plan submitted to 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 when the Board approved the planning application. In considering the management plan submitted by a licence applicant, PCLB will take into account comments provided by concerned departments including Transport Department (TD), the Police, Fire Services Department and Planning Department. If a licence application is approved by PCLB, the Private Columbaria Affairs Office (PCAO) will oversee the monitoring of the licensee's implementation of the approved management plan in coordination with other concerned departments.
- (c) PCLB decided to refuse the two sets of applications for Licence and Temporary Suspension of Liabilities (TSOL) for pre-cut-off columbarium in respect of the applicant in an open hearing on 30.4.2021 as the applicant failed to demonstrate the columbarium was in operation as at 8 a.m. on 18.6.2014. The applicant had been informed of PCLB's decision in writing on 24.5.2021 and the relevant information had been published at the dedicated website. The applicant lodged an appeal against PCLB's decision to the Private Columbaria Appeal Board (PCAB). However, the applicant withdrew the appeal on 2.8.2021.
- (d) The applicant subsequently carried out alternative ash disposal procedures approved by DFEH under PCO. The two sets of interred ashes were returned to eligible claimants and no deceased ash was detected during the inspection on 1.3.2022.
- (e) There is no application for the Specified Instrument submitted by the applicant being processed by PCAO.

## **Land Administration**

### 9.1.2 Comments of the DLO/TM, LandsD:

- (a) The Site comprises portions of the two private lots namely Lot 1744 s.D ss.1 and Lot 1744 s.D RP both in D.D. 132. According to the Land Registry record, the said two private lots are both owned by Fu Wai Industrial Company Limited. The applicant is not the current registered owner of the Site.
- (b) The parent lot, Lot 1744 in D.D. 132 is held under New Grant No. 2745 and was sold on 2.5.1918 by way of public auction. According to the available record that includes, Tai Po New Grant Register and the auction GN No. S90 of 1918 obtained from the Public Record Office, Lot 1744 in D.D. 132 (i.e. the parent lot) is an orchard lot subject to the special condition that “without the consent of the District Officer, no grave shall be made on nor shall any human remains be interred in, or deposited on the land sold either in the earthenware jars or otherwise, a covenant to this effect shall be inserted in the Crown Lease of the lot”.
- (c) The subject lots (formerly known as Lot 1744 RP in D.D. 132) are also subject to a Building Licence No. 814 issued on 16.1.1960 with the area of building permitted at 975 ft<sup>2</sup> (or 0.03 acre) and in which the buildings to be erected are subject to, inter alia, a height restriction of 25 feet and 2 storeys.
- (d) By virtue of the Deed Poll dated 21.4.1981, Lot 1744 S.D was divided into Lots 1744 S.D ss.1 and 1744 S.D RP. Area of the lots are as follows:

<b>Lot No. in D.D. 132</b>	<b>Agricultural Land</b>	<b>Building Land</b>
1744 S.D ss.1	About 764.91m <sup>2</sup> (8,231 ft <sup>2</sup> )	About 60.64m <sup>2</sup> (653 ft <sup>2</sup> )
1744 S.D RP	About 651.61m <sup>2</sup> (7,012 ft <sup>2</sup> )	About 60.64m <sup>2</sup> (653 ft <sup>2</sup> )

- (e) The applicant proposes to accommodate the proposed columbarium development in the existing buildings now standing on the Site. It is noted that the Buildings Authority (BA) had in February 2011 served s.24(1) Building Orders against the existing buildings/structures, and retaining structures/walls at the Site. These demolition orders have been registered against the respective lots in the Land Registry.
- (f) According to the development proposal, building height of the columbarium structure exceeds the height restriction

under the lease. It is noted that the applicant has revised the total proposed GFA of the four structures of 517.3m<sup>2</sup>. The proposed columbarium development contravenes the existing lease conditions.

- (g) Other detailed comments on the application are at **Appendix III**.

### **Traffic**

#### 9.1.3 Comments of the Commissioner for Transport (C for T):

- (a) According to the TIA enclosed in **Appendix II**, there is insufficient information to justify the validity of the adopted assumptions and junction assessments. Without further clarification, the applicant could not demonstrate that the application would not result in adverse impact from traffic point of view.
- (b) Other detailed comments on the application are at **Appendix III**.

#### 9.1.4 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The village roads connecting the Site from the cul-de-sac at the end of Hing Fu Street are not and will not be maintained by his office.
- (b) Adequate drainage measures shall be provided to prevent surface water flowing from the Site to the public roads and drains nearby.

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

In response to his concerns, the applicant undertakes to seek Road Management Office (RMO)'s approval in advance in their Temporary Traffic Arrangement (TTA) plan and to liaise other stakeholders on the road closure arrangement. In view of the above, he has no further comment.

### **Environment**

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

- (a) The applicant confirms that burning of joss paper would be prohibited and thus no joss paper furnace of any type to be provided for use by visitors. As such, no adverse impact on air quality is anticipated for its operation.
- (b) Regarding to the sewerage disposal, the applicant confirms

that the wastewater from the toilet is being discharged to the underground septic tank and soakaway system. A discharge licence under the Water Pollution Control Ordinance (WPCO) has been issued to the premises owner in November 2019.

- (c) According to the applicant's submission, there is no particular worshipping activity carried out on-site and no public announcement/loudspeaker system nor noisy activity be allowed at the Site; and there is no fixed noise source in the vicinity. According to the revised Noise Impact Assessment, the applicant demonstrates that the road traffic noise arising from vehicles from the proposed use will not be more than 1dB(A) during both normal days and festive days. Therefore, no adverse traffic noise impact is anticipated.

### **Urban Design and Landscape**

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

#### **Urban Design and Visual**

- (a) Taking into account the scale of the development scheme, it is unlikely to impose significant adverse visual impact on the surrounding areas.

#### **Landscape**

- (b) The Site is situated in an area of urban fringe landscape character surrounded by woodland to the south and west, and a religious institution to its north. Carpark and public housing estates are found to its further east and southeast. With reference to the aerial photo of 2019, the Site is hard paved with a building at the centre and a pond at the southern portion of the Site. With reference to applicant's submission, such building was built in the 1980s. Nonetheless, it is observed from the aerial photos from 2000 to 2009 that the building at the centre of the Site was generally surrounded by dense vegetation, and the vegetation found missing and hard paved in the aerial photos of 2010 and 2011. Adverse landscape impact to the existing landscape resources has taken place.

### **Drainage**

- 9.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

He has no in-principle objection to the application from public

drainage viewpoint.

### **Fire Safety**

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

He has no objection in principle to the proposal subject to water supplies for firefighting and fire service installations being provided to his satisfaction. Other detailed comments on the application are at **Appendix III**.

### **Building Matters**

#### 9.1.10 Comments of the Chief Building Surveyor/Existing Buildings Section E (CBS/E), BD:

BD issued two removal orders, namely CWP/S1/101233/10/NT and CWP/S1/101234/NT to the land owners in February 2011. However, the said orders have not been complied with.

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

The proposed building may be subject to the issue of various licences and should comply with the building and safety requirements as may be imposed by the relevant licensing authorities. Detailed comments under Building Ordinance will be provided at the building plan submission stage. Other detailed comments on the application are at **Appendix III**.

### **Geotechnical Aspect**

#### 9.1.12 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) A slope steeper than 30° with a height greater than 6m within 6m of the Site may affect or be affected by the application. In view of the above, the applicant submits a Geotechnical Planning Review Report (GPRR) to support the application.
- (b) According to his record, there is unauthorised works/retaining walls within the Site. With reference to the information provided by BD, two removal orders on removal of unauthorised structures and retaining walls at the Site were issued to the land owners in February 2011. The applicant is required to remove or demolish the unauthorised retaining walls under BD's removal orders. The applicant was also requested to indicate geotechnical works in the GPRR that are required in connection with the removal works of the two unauthorised retaining walls under BD's removal orders.

- (c) According to the latest GPRR (**Appendices In**), the applicant proposes to comply with BD's removal order on one of the unauthorised retaining walls by removing it. However, for the other unauthorised retaining wall under BD's removal order, the applicant proposes to keep this wall with strengthening works if required (i.e. not complying with BD's removal order). Besides, the GPRR contains contradictory and unclear information on the proposed geotechnical works.

### **Nature Conservation**

#### 9.1.13 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) According to the aerial photo available, the Site is entirely paved and developed. While the surrounding area is mostly vegetated, there are village settlements and car park in nearby granted/allocated land. Considering the existing condition of the Site, he has no strong view on the application from nature conservation perspective.
- (b) Nonetheless, as the Site is located within "GB" zone, the Board may wish to consider if the approval of the rezoning application would set undesirable precedents for unauthorised columbarium developments which may degrade the habitats in this area.

### **Others**

#### 9.1.14 Comments of the Director of Electrical and Mechanical Services (DEMS):

Based on the information provided, the Site will be within the preferred working corridor of the 400kV extra high voltage overhead lines as stipulated in HKPSG. He has no objection in principle to the application subject to the conditions pertaining to electricity supply safety and reliability, being strictly complied by the applicant and his contractor. His detailed comments on the application are at **Appendix III**.

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

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

- (a) He has distributed consultation letters to the concerned locals and understands that they will provide their comments, if any, to the Board direct.

- (b) He notes the applicant proposes to provide a total of 5,670 niches at the Site. The Tuen Mun District Council (TMDC), villagers and locals living in the vicinity have raised concerns about the deteriorating traffic and environmental conditions brought by clustering of developments in Tuen Mun Northwest. In view of the close proximity of the Site to Kwong Shan Tsuen, Po Tin Estate, Po Leung Kuk Horizon East Primary School and columbarium developments (i.e. TKLY, AFMG and CMG), it is envisaged that TMDC, villagers and locals living in the vicinity may raise concerns about the potential adverse traffic, odour, visual as well as other environmental impacts caused by the proposed columbarium development to the adjoining areas.
- (c) It is noted that the Site will be primarily served by the local track linking the cul-de-sac at Hing Fu Street. The concerned local track also serves as a major access to villagers of Kwong Shan Tsuen. It is envisaged that villagers and locals living in the vicinity may raise concerns about whether the existing roads would be sufficient to serve the proposed columbarium development having regard to the additional traffic flow arising from the worship activities.

- 9.2 The following Departments have no objection to or no comment on the application:
- (a) Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD);
  - (b) Project Manager (West) (PM(W)), CEDD; and
  - (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

- 10.1 The application and its FIs were published for public inspection. During the statutory public inspection periods, a total of 19 public comments from former TMDC member, Kadoorie Farm and Botanical Gardens, concern groups and individuals objecting to the application were received. The samples of the objecting comments are at **Appendices III-1 to III-6** respectively. The whole set of public comments will be deposited at the meeting for Members' inspection.
- 10.2 Their objecting grounds are summarised as follows:
- (a) not in-line with the planning intention;
  - (b) approval of the application may bring adverse traffic and environmental impacts to the surrounding neighbourhood, especially during Ching Ming and Chung Yeung Festivals;

- (c) undesirable precedent for other similar applications within “GB” zone;
- (d) undesirable if it is a profit-making columbarium development; and
- (e) the applicant has not provided sufficient information for the public to make comment on the application.

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

- 11.1 The applicant proposes to rezone the Site from “GB” to “G/IC” with a maximum building height of 2 storeys to regularise the existing columbarium development with 5,670 niches at the Site. The applicant has not provided a tailor-made Notes for the Site. According to the OZP for “G/IC” zone, ‘Columbarium’ is a Column 2 use requiring planning permission from the Board.
- 11.2 According to the information provided by the applicant, a total of 5,670 niches are provided in the existing building, of which 2 niches have been sold and occupied before 30.6.2017 (i.e. the date when PCO was enacted), 514 niches have been sold but not yet occupied and the remaining 5,154 niches are unsold. However, PCLB on 30.4.2021 refused the applicant’s application for Licence and TSOL for pre-cut-off columbarium under PCO and the applicant had returned the interred ashes of the two previously occupied niches to the eligible claimants. According to FEHD’s inspection in March 2022, no deceased ash was detected at the Site.

### *Land Use Compatibility*

- 11.3 The Site is surrounded by green vegetation on three sides, OHLs running to the east and TKYL (天罡隆義), a religious institution cum columbarium development, is located to the immediate north of the Site. The proposed development is located at the fringe of the hillslope of Tuen Mun New Town and bounded by vegetated slope to its east and north and Tsing Shan Firing Range Boundary to its west. The vicinity of the Site is dominated by vacant land, brownfield operations intermixed with columbarium and scattered rural settlement. The nearest high rise residential development, Po Tin Estate, is located about 145m away from the Site (**Plans Z-1 to Z-3**). The total plot ratio of the development is about 0.47 (total GFA of about 517.3m<sup>2</sup>). In view of the above, the proposed columbarium use is considered not incompatible with the surrounding land uses.

### *Traffic and Crowd Management*

- 11.4 According to C for T, there is insufficient information in the TIA submitted by the applicant to justify the validity of the adopted assumptions and junction assessments. In addition, C for T has reservation on whether the visitors would utilise the proposed stop for temporary pick-up-drop-off, or use the roundabout at Hing Fu Street instead. In this regard, the applicant is advised to deploy resources to observe the traffic situation at the

roundabout. C for T also has concerns due to the recent developments in the vicinity and the latest traffic changes, and require further justification. However, there is insufficient information in the applicant's submission for the proposed columbarium to demonstrate that the application would not result in adverse traffic impact on the surrounding areas.

#### *Unauthorised Building Works and Geotechnical Concerns*

- 11.5 Although the Site is subject to a Building Licence, the applicant has not provided evidence to prove that the existing building for proposed columbarium use was built in accordance with the Building Licence. Moreover, some unauthorised structures and retaining walls are subject to BD's removal orders which were issued to the lot owners in February 2011. According to CBS/E, BD, the lot owners have yet to comply with the removal orders. In addition, H(GEO), CEDD advises that the proposed geotechnical works under GPRR submitted by the applicant has complying with BD's removal orders. The GPRR contains contradictory and unclear information on the proposed geotechnical works. The applicant fails to demonstrate that the proposed development would not generate adverse geotechnical impacts to the surrounding areas.

#### *Other Technical Considerations*

- 11.6 Other concerned departments consulted including DEP, DEMS, CE/MN of DSD, CTP/UD&L of PlanD, CE/C of WSD, D of FS and PM(W) of CEDD have no objection to/adverse comment on the application from environmental, electrical safety, drainage, landscape, water supply and fire safety perspectives.

#### *Previous and Similar Applications*

- 11.7 There are two withdrawn previous applications covering the Site. Although there is one similar application (No. Y/TM/23) approved by the Committee on 25.6.2021 for rezoning from "GB" to "G/IC"<sup>3</sup> within the same "GB" zone to regularise the existing private columbarium development with religious institution (**Plan Z-1**), the planning circumstances of the current application are different from application No. Y/TM/23 mainly in that the applicant fails to demonstrate the proposed development would not generate adverse traffic and geotechnical impacts to the surrounding areas. Moreover, each application would be considered based on its individual merits.

#### *Public Comments*

- 11.8 A total of 19 public comments were received during the statutory publication

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<sup>3</sup> At the course of considering the proposed amendments to the Tuen Mun OZP No. S/TM/35 on 24.6.2022, in view of the applicant of application No. Y/TM/23 had provided detailed development proposal with supporting technical assessments and concerned departments had no in-principle objection to or adverse comment on the proposed scheme, the Committee agreed to rezone the application site from "GB" to "G/IC(2)" where 'Columbarium' is a Column 1 use (i.e. an always permitted use) and subject to a maximum building height of 2 storeys and a maximum number of niches for the existing columbarium to streamline the development control process. The draft Tuen Mun OZP No. S/TM/36 was gazetted on 22.7.2022 for public inspection.

periods. All of them raised objection to the application and the grounds of the comments are summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.8 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 above, the Planning Department does not support the application for the following reason:

(a) the applicant fails to demonstrate that the proposed development would not generate adverse traffic and geotechnical impacts to the surrounding areas.

12.2 Alternatively, should the Committee decide to agree/partially agree to the application, the relevant proposed amendment to the OZP will be submitted to the Committee for approval prior to gazetting under the Town Planning Ordinance when opportunity arises.

## 13. **Decision Sought**

13.1 The Committee is invited to consider the application and decide whether agree, partially agree, or not to agree to the application.

13.2 Should the Committee decide not to agree 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 26.6.2020 and replacement pages
<b>Appendix Ia</b>	Planning Statement
<b>Appendix Ib</b>	FI received on 16.11.2020
<b>Appendix Ic</b>	FI received on 29.3.2021
<b>Appendix Id</b>	FI received on 18.6.2021
<b>Appendices Ie-1 &amp; Ie-2</b>	FI received on 9.11.2021 and 12.11.2021
<b>Appendix If</b>	FI received on 19.1.2022
<b>Appendix Ig</b>	FI received on 30.3.2022
<b>Appendix Ih</b>	FI received on 17.6.2022
<b>Appendix Ii</b>	FI received on 30.6.2022
<b>Appendix Ij</b>	FI received on 29.8.2022
<b>Appendix Ik</b>	FI received on 6.9.2022
<b>Appendix Il</b>	FI received on 13.9.2022
<b>Appendix Im</b>	FI received on 22.11.2022
<b>Appendix In</b>	FI received on 14.12.2022

<b>Appendix II</b>	Similar Applications
<b>Appendix III</b>	Detailed Comments of Relevant Government Departments
<b>Appendices IV-1 to IV-6</b>	Extract of Public Comments
<b>Appendix V</b>	Orders by the Building Authority under section 24(1), Building Ordinance (Cap.123) dated 19.2.2011
<b>Drawing Z-1</b>	Site Layout Plan
<b>Drawing Z-2</b>	Indicative Landscape Plan
<b>Drawings Z-3 and Z-4</b>	Floor Plans
<b>Drawing Z-5</b>	Elevation Drawing
<b>Drawing Z-6</b>	Existing Car Park in the vicinity of the Site
<b>Drawings Z-7 and Z-9</b>	Proposed Traffic and Crowd Management Plan
<b>Plan Z-1</b>	Location plan
<b>Plan Z-1a</b>	Previous Withdrawn Applications Plan
<b>Plan Z-2</b>	Site plans
<b>Plan Z-3</b>	Aerial photo
<b>Plans Z-4a to Z-4c</b>	Site photos

**PLANNING DEPARTMENT  
FEBRUARY 2023**