

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

APPLICATION NO. Y/TP/36

<u>Applicant</u>	: Ever Rest Limited represented by Toco Planning Consultants Limited
<u>Site</u>	: Lots 136 RP (Part) and 138 RP (Part) in D.D. 5 and adjoining Government Land (GL), 8 Mui Shue Hang, Tai Po
<u>Site Area</u>	: About 447.71m ² (including GL of about 75.32m ² or 17% of the Site)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/30
<u>Zoning</u>	: “Open Space” (“O”)
<u>Proposed Amendment</u>	: Rezoning from “O” to “Government, Institution or Community (3)” (“G/IC (3)”)

1. The Proposal

- 1.1 The applicant proposes to rezone the application site (the Site) from “O” to “G/IC(3)” to regularize the existing religious and columbarium uses under the name of “Ever Rest Temple” (常寂園) (**Plan Z-1**). The applicant has proposed a set of Notes for the new “G/IC(3)” zone (**Appendix II**) with ‘Religious Institution’ and ‘Columbarium’ uses placed under Column 1 (permitted as of right) and Column 2 (may be permitted on application to the Town Planning Board (the Board)) respectively. A building height (BH) restriction of 2 storeys will be imposed for the proposed zoning.
- 1.2 As shown in **Drawing Z-5**, there are three buildings of 1-2 storey high for columbarium and/or religious use (Buildings A to C), three walls of about 3m high (Walls A to C), an ancillary office, a proposed toilet and a Buddha statue, providing a total of 763 niches and 49 memorial tablets within the Site. The columbarium is located on G/F of Buildings B and C with religious use in Building A, on 1/F of Buildings B and C and at Walls A to C. Major development parameters of the existing columbarium and ancillary uses are as follows:

Site Area	About 447.71m ² (including 75.32m ² GL)			
Total Gross Floor Area (GFA)	About 200.19m ²			
	Building / Structure	Columbarium Use	Religious Use	Other use
	Building A (頌恩堂)	--	24.67m ²	--
	Building B (念恩堂) & Wall A	40.01m ² (G/F)	47.80m ² (1/F) 3.89m ² (Wall A)	--
	Building C (福恩堂)	20.68m ² (G/F)	20.68m ² (1/F)	--
	Wall B & Wall C	--	18.87m ²	--
	Ancillary Office	--	--	16.17m ²
	Proposed Toilet	--	--	11.31m ²
Plot Ratio (PR)	About 0.447			
Site Coverage (SC)	About 26.68%			
BH	Building A (頌恩堂)	4.07m (1 storey)		
	Building B (念恩堂) & Wall A	8.13m (2 storeys) 2.67m		
	Building C (福恩堂)	6.18m (2 storeys)		
	Wall B & Wall C	2.97m		
	Ancillary Office	2.4m (1 storey)		
	Proposed Toilet	2m (1 storey)		

- 1.3 The applicant states that there is a total of 763 niches¹ provided in the columbarium in Buildings B and C, of which 217 niches have already been sold before 30.6.2017 and 546 niches are available for sale. There are 49 memorial tablets provided in Building A (**Drawing Z-5**). A detailed account of the current status of the columbarium niches is as follows:

Classification	Building B	Building C	Total
Total No. of Niches	387	376	763
No. of Sold Niches	90	127	217
• <i>Occupied</i>	• 57	• 117	• 174
• <i>Not Yet Occupied</i>	• 33	• 10	• 43
No. of Niches Available for Sale	297	249	546

¹ According to the Applicant, there are 2,744 niches in Building A; G/F (part) and 1/F of Building B; 1/F of Building C; and Walls A to C that are not under the current planning application and licensing application under the Private Columbarium Ordinance (PCO). The applicant has either locked or covered the columbarium with thick fabric, and will further discuss with relevant departments under licensing application to permanently sealed off the niches (**Appendix Id**).

Traffic and Crowd Management Plan (TCMP)

- 1.4 According to the applicant, the Site is not served by direct vehicular access and no parking facilities will be provided within the Site. The Site is outside Mui Shue Hang Playground but accessible via footpaths through the playground along Lam Tsuen River. Visitors are strongly advised to take public transport to Tai Wo MTR Station/ Tai Wo Plaza and then walk around 10 minutes to the Site. Private vehicles can park in the nearby carparks including Tai Wo Plaza and Tai Po Tau Shui Wai Road. A Traffic Impact Assessment (TIA) cum TCMP (**Appendix Ie**) and a detailed Management Plan (**Appendix Id**) have been submitted in support of the application. The proposed crowd control management measures are summarized as follows:
- (a) 'visit-by-appointment' system will be adopted during Ching Ming/Chung Yeung Festivals and their shadow weekends (i.e. Saturdays, Sundays and public holidays within the two weeks immediate before and after the festival days). Operation hours will be from 8am to 5pm and the visitor number will be restricted to a maximum of 60 visitors per 45-minute session (20 visitors staying indoor and 40 visitors staying outside at waiting areas). Two outdoor waiting areas of 79m² in total are proposed within the Site with a maximum capacity of 131 visitors (40 on-time visitors and 91 early-arrived visitors with booking) (**Drawing Z-9**);
 - (b) during festival periods, a total of about 17 management staff/security guards will be deployed to regulate and ensure smooth operation of the TCMP. Directional signage with designated ingress/egress routings and waiting areas will be set up;
 - (c) other measures during festival periods include a set of house rules specified in the sale agreement; advance notice (i.e. two months before the festival periods) informing all buyers of niches about the 'visit-by-appointment' arrangements and special crowd management during the grave sweeping period; and provision of a traffic report on each festival day to evaluate the effectiveness of the TCMP in consultation with the Police and Transport Department (TD) to improve traffic measures if necessary; and
 - (d) 'visit-by-appointment' system will also be adopted during non-festival days with operation hours between 9am and 5pm to minimize the traffic impact induced by the columbarium use. The maximum number of visitors will be restricted to 10 per hour.

Environmental Impact

- 1.5 The applicant states that there is an existing underground septic tank and soakaway installation near the site entrance. A new toilet will be provided on top and connected to the septic tank with sufficient capacity (**Drawing Z-3**). In order not to overload the capacity, the applicant will advise visitors to use the public toilets in the vicinity or rent movable chemical toilets as appropriate.
- 1.6 The applicant advises that burning of ritual paper, incense and joss stick is prohibited under the existing house rules, and no furnace facility will be provided on site. The religious and worshiping activities would be monitored to ensure no noise nuisance generated from the Site. The applicant commits to follow good operation practice and administrative measures as recommended in "Guidelines on Air Pollution Control for Joss Paper Burning at Chinese Temples, Crematoria and Similar Places" published by Environmental Protection Department (EPD).

- 1.7 The applicant states that there is a drainage network within the Site with sufficient capacity. As the application only involves regularization of the existing columbarium use without affecting the building bulk, it is anticipated that there will be no significant change in the drainage flow.
- 1.8 The location plan, public transport/ car parking facilities in the vicinity, master layout plan of the Site, floor plans of the columbarium buildings, and crowd management plan are shown in **Drawings Z-1 to Z-10**.
- 1.9 The Site was the subject of three previous applications (No. Y/TP/20, 23 and 33) submitted by the same applicant for rezoning from “O” to “G/IC”. Application No. Y/TP/20 and 33 were withdrawn on 29.9.2014 and 18.1.2022 respectively. The latest previous application (No. Y/TP/23) was rejected by the Rural and New Town Planning Committee (the Committee) on 6.2.2015. Details of the previous applications are set out in paragraph 5 below.
- 1.10 In support of the rezoning application, the applicant has submitted the following documents:
- (a) Application Form with supplementary information received (Appendix I)
on 14.10.2022
 - (b) Planning Statement attached to the Application Form (Appendix Ia)
 - (c) Further Information (FI) received on 13.3.2023[#] (Appendix Ib)
 - (d) FI received on 23.6.2023, 28.6.2023 and 29.6.2023 [#] (Appendix Ic)
 - (e) FI received on 22.8.2023 and 24.8.2023 [#] (Appendix Id)
 - (f) FI received on 6.10.2023 ^{*} (Appendix Ie)
- ([#] accepted but not exempted from publication and recounting requirements)
(^{*} accepted and exempted from publication and recounting requirements)
- 1.11 On 13.1.2023 and 9.6.2023, the Committee agreed to defer a decision on the application for two months as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application as stated in the Planning Statement (**Appendix Ia**) and FIs (**Appendices Ib to Ie**) are summarized as follows:

- (a) Ever Rest Temple (previously named Shing Sing Tong (性成堂)) was established in 1854 as a monastery (庵堂) for cremation and storage of human remains. The Site has long been occupied by religious institution and columbarium uses before the first statutory plan came into force in 1980. This rezoning application is to reflect the existing uses of the temple;

- (b) Private Columbarium Ordinance (PCO) came into effect on 30.6.2017 to stipulate proper regulation on private columbaria. The Temporary Suspension of Liability (TSOL) was granted by the Private Columbaria Licensing Board (PCLB) on 23.2.2023 for a validity period of three years. The applicant has to comply with all statutory requirements (including town planning, land lease and building safety) and therefore seek the Board's permission to regularize the pre-cut-off columbarium with 763 niches at Ever Rest Temple. The current application providing about 550 niches for sale is in line with the Government's policy objectives to meet the social need of ancestral worshipping, to meet public demand for columbarium niches, as well as to improve the financial situation of the Temple;
- (c) the Site is located in a secluded environment which is screened by roadside slopes and mature trees, and separated at a certain distance from the surrounding villages and residential developments. The nearest Kam Shek New Village (錦石新村) is about 200m away; whereas Parc Versailles (帝欣苑), Tai Po Tau Shui Wai (大埔頭水圍) and Po Nga Court (寶雅苑) on the other side of Lam Tsuen River is 130m, 200m and 300m away from the Site respectively. As the Site is separated from other developments by Lam Tsuen River, it is hardly visible from outside;
- (d) the Site is well served by existing public transport and car parking facilities in the vicinity. It is within 10-minute walking distance from Tai Wo MTR Station, where major public transport facilities, public car parks, pick-up and drop-off spaces are available. Besides, the pedestrian routes from nearby transport facilities are barrier-free;
- (e) the application is the subject of a previous s.12A application (No. Y/TP/23) submitted by the applicant in 2014 as detailed in paragraph 5 below. At the time of consideration, concerned departments had no major comments from environmental, drainage, sewerage, geotechnical, visual and landscape impacts. In response to TD's comments, a TIA with appropriate mitigation measures has been submitted under the current application. The applicant has also submitted a Management Plan to PCLB and the Commissioner of Police (C of P) considers it acceptable;
- (f) there is a religious institution and columbarium, namely Poh Yea Ching Shea (般若精舍) approved by the Board in 2019 as detailed in paragraph 7.3(a) below located in close proximity to the Site. Ever Rest Temple and Poh Yea Ching Shea have similar and planning circumstances as they are both surrounded by "O" zone and located in a secluded environment;
- (g) the application will not result in any adverse impact on land use and traffic, and significant impacts on environmental, drainage, sewerage, geotechnical, visual and landscape aspects are not anticipated;
- (h) as regard to the public concern on causing nuisance to the users of Mui Shue Hang Playground as the Site is situated within the playground, it should be noted that Ever Rest Temple is not a new development but an establishment that has already been in existence and operation in the community for a long time, well before the establishment of Mui Shue Hang Playground. With the implementation of TCMP, the applied use will unlikely create any significant interface issue. Also, the applicant will provide sufficient training to and regularly remind the staff of Ever Rest Temple so that they will comply with the rules and regulations of Leisure and Cultural Services Department (LCSD)'s venue and the prevailing ordinance.

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

For the private land portion of the Site, the applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Member’s inspection. As for the GL portion of the Site, the “owner’s consent/notification” 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. 31B) are not applicable to this application.

4. Background

- 4.1 The Site was zoned “Green Belt” (“GB”) since the first statutory plan (i.e. draft OZP No. LTP/47) covering Tai Po area gazetted on 12.12.1980. It was subsequently rezoned to “O” on the draft Tai Po OZP No. LTP/47B on 21.10.1983 and the “O” zoning remain unchanged. According to the Notes of the “O” zone, ‘Religious Institution’ is a Column 2 use. As for ‘Columbarium’ use, it has neither been a use permitted as of right under Column 1 nor a use that may be permitted on application to the Board under the Notes for “O” zone.

5. Previous Applications

- 5.1 The Site is the subject of three previous applications (No. Y/TP/20, 23 & 33) submitted by the same applicant for rezoning the Site from “O” to “G/IC”. Application Nos. Y/TP/20 and Y/TP/33 were withdrawn on 29.9.2014 and 18.1.2022 respectively. Application No. Y/TP/23 was rejected by the Committee on 6.2.2015 mainly on the grounds that the applicant failed to demonstrate no adverse traffic impacts on the surrounding areas; the columbarium use was not compatible with the open space use; and approval of the application would set an undesirable precedent for other similar rezoning applications in the area for columbarium development. It should be noted that in considering this previous application, the Committee considered that the columbarium use would cause nuisance to the public.

- 5.2 Compared with the previous application (No. Y/TP/23), there is an increase in site area, total GFA, PR, SC, number of buildings/structures and memorial tablets under the current application. A comparison of the major development parameters of the two applications are as follows:

Development Parameters	(a) Y/TP/23 (Previous rejected application)	(b) Y/TP/36 (Current Application)	(b) - (a) Difference
Proposed Rezoning	“O” to “G/IC”	“O” to “G/IC(3)”	a new “G/IC” sub-zone is proposed and the schedule of uses are different
Site Area (about) • private land • GL	397.76m ² • 392.49m ² (98.7% of the Site) • 5.27m ² (1.3% of the Site)	447.71m ² • 372.39m ² (83.2% of the Site) • 75.32m ² (16.8% of the Site)	+49.95m² (+12.56%) • -20.10m ² (-5.12%) • +70.05m ² (+1,329.22%)
Total GFA	128.9m ² • 43.5m ² (columbarium) • 85.4m ² (religious use)	200.19m ² • 60.691m ² (columbarium) • 112.02m ² (religious use) • 16.17m ² (office) • 11.31m ² (toilet)	+71.29m² (+55.30%) • +17.19m ² (+39.52%) • +26.62m ² (+31.17%)
PR	0.32	0.447	+0.127 (+39.69%)
SC	21.5%	26.68%	+5.18%
No. of Blocks / Structures	3 buildings	3 buildings and 3 walls, an office and a proposed toilet	+3 wall structures, an office and a proposed toilet
BH	• Extension building, equivalent to Building A (1-storey, 2.75m) • Main building equivalent to Building B (2-storey, 7.5m) • Pagoda, equivalent to Building C (1-storey and 1 basement floor, 4.2m)	• Building A (1-storey, 4.07m) • Building B (2-storey, 8.13m) • Building C (2-storey, 6.18m) • Walls A (2.67m), B and Wall C (2.97m) • Office (2.40m) • Proposed Toilet (1-storey, 2.00m)	generally increase in building heights
No. of niches	763	763	0
No. of Memorial Tablets	--	49	+49

6. Similar Application

There is no similar rezoning application within the same “O” zone.

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

7.1 The Site is:

- (a) currently fenced off, hard-paved and occupied by religious institution and columbarium uses and ancillary facilities (**Plans Z-4a to 4e**);
- (b) located in a relatively secluded environment screened by roadside slopes, vegetation and trees;
- (c) located in the southeastern portion of Mui Shue Hang near the toe of a vegetated slope bounded by Tai Po Tai Wo Road to the south and Mui Shue Hang Playground to the north, northeast and northwest; and
- (d) outside Mui Shue Hang Playground but accessible via a shared footpath (about 120m) and a separate footpath (about 50m) through the playground (**Plans Z-2a**).

7.2 The surrounding areas have the following characteristics:

- (a) Mui Shue Hang Playground is located to the north of the Site which is accessible via a footpath connecting to Kam Shan Road and Tai Po Tau Shui Wai Road, and footbridges across Lam Tsuen River including Kam Wo Bridge and Kam Shek Bridge (**Plans Z-2a and Z-2c**);
- (b) Poh Yea Ching Shea (般若精舍), accommodating religious and columbarium uses, is located about 100m to the east;
- (c) across Tai Po Tai Wo Road to the south and southeast are Shek Kwu Lung Village (石古壟村) and Kam Shek New Village (錦石新村) respectively; and
- (d) across Lam Tsuen River to the north and northeast are low-rise residential and village developments, viz., Parc Versailles (帝欣苑), Po Nga Court (寶雅苑) and Tai Po Tau Shui Wai (大埔頭水圍) respectively.

7.3 There are other five private columbaria in the vicinity, of which three were approved and two rejected by the Committee (Plan Z-1**). Details are as follows:**

- (a) s.16 application No. A/TP/657 for columbarium use under the name of “Poh Yea Ching Shea” (般若精舍) within the “G/IC” zone, providing a total of 5,302 niches, was approved with conditions by the Committee on 29.11.2019 mainly on consideration that the applied use was not incompatible with the existing religious institution use; the application site was located at a secluded and tranquil location, shielded by roadside slopes and tall trees and separated from village houses; the development was not expected to cause significant visual and landscape impacts and would not pose adverse traffic and environmental impacts on surrounding areas;
- (b) s.16 applications No. A/TP/652 and 681 for columbarium within a religious institution under the name “Siu Ling Shan (Ling Hin Fat Yuen)” (小靈山(靈顯法院)) (providing a total of 757 niches) and “Pun Chun Yuen” (半春園) (providing a total of 3,834 niches) within “GB” zone were approved with conditions by the

Committee on 19.7.2019 and 26.8.2022 respectively, as they were generally in line with the Town Planning Board Guidelines No. 10 and on similar considerations as application No. A/TP/657; and

- (c) Buddhist Cheung Ha Temple (佛教長霞淨院) and Cheung Ha Ching Shea (祥霞精舍) (providing a total of 13,426 niches and 1,700 niches respectively) under s.12A applications No. Y/TP/29 and Y/TP/37 respectively within the “V” zone of Kam Shan were rejected by the Committee on 4.9.2020 and 27.10.2023 mainly for reasons of being not compatible with the existing village setting of the area and the approval of the application would set an undesirable precedent for other similar rezoning applications within the “V” zone.

8. Planning Intention

The planning intention of the “O” zone is for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

9. Comments from Relevant Government Departments

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

Licensing Aspect

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

General Comments

- (a) PCO, which regulates the operation of private columbaria through a licensing scheme, has come into effect on 30.6.2017 upon gazettal. Under 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 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. A licence applicant is also required to submit a Management Plan to PCLB for approval. The Management Plan should show that suitable measures on traffic and public transport arrangement or management, and crowd management would be taken to minimize any adverse impact that operation of the columbarium may have on the neighbourhood. 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. There are legal provisions under PCO to regulate breaches of licensing conditions imposed by PCLB;

Comments Specific to the Site

- (b) PCLB received a set of specified instrument (SI) application (viz. a licence and TSOL) from the subject private columbarium. It is noted that the total number of niches proposed for the SI applications is in line with that under the current application. The application is being processed by PCAO of Food and Environmental Hygiene Department (FEHD) according to the prevailing procedure. PCLB has granted approval-in-principle for TSOL applications to the above private columbarium with a validity period of 3 years from 23.2.2023 to 22.2.2026. In the meantime, the niche information proposed for the licence application is subject to verification by PCAO; and
- (c) FEHD has no comment on the applicant's proposed measures in the revised Management Plan at **Appendix Id**.

Land Administration

9.1.2 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) the Site comprises parts of Lots 136RP, 138RP in D.D.5 and GL. The private lots are held under Block Government Lease demised for agricultural use and not covered by any Modification of Tenancy or Building Licence. No structure shall be erected on the lots without prior approval from LandsD. Columbarium use is not permitted on the lots;
- (b) the GL is being occupied without LandsD's prior approval and there are unauthorized building works on Lots 136RP and 138RP. A warning letter issued on 22.11.2016 was registered in the Land Registry on 13.1.2017. Lease enforcement action is withheld at the moment according to LandsD's "Internal Guidelines for Processing Regularization Applications for the Licensing Scheme under PCO (Cap. 630)";
- (c) should the application be approved by the Board, the applicant is required to submit an application for Short Term Waiver (STW) to LandsD should the applicant wish to erect any structure or regularize any irregularities on the Site. However, there is no guarantee at this stage that the STW would be approved; and
- (d) the applicant has submitted an application for Short Term Tenancy (STT) to regularize the occupation of GL. However, there is no guarantee at this stage that the STT application would be approved. If the STT application is approved by LandsD acting in the capacity as landlord as its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD including the payment of rent and fee as considered appropriate.

Traffic

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

- (a) based on the TIA report and Management Plan, she has no in-principle objection to the application provided that the proposed crowd and traffic management measures including but not limited to “visit-by-appointment” as detailed in the crowd management plan under the planning application is included in the licence application for PCLB’s approval, and PCAO will be responsible to monitor and enforce the implementation of the management plan; and
- (b) the applicant shall prepare proposals for the relevant management & maintenance departments (including but not limited to HD, HyD, LCSD, TD and Police) and/or property owner of the road concerned for comments and agreement before erection of signs during festival periods as detailed in TIA. The design and erection of temporary direction signs shall comply with Code of Practice for the Lighting, Signing and Guarding of Road Works, and remove after those signs after the festival periods immediately.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the application on the understanding that there are mechanisms available under PCO to ensure the applicant’s implementation of the proposed operational arrangements;
- (b) the applicant has proposed the following operational arrangements for the columbarium:
 - (i) the operation hour during normal days (including Saturdays, Sundays and public holidays) would be between 9am and 5pm and that during festival days and shadow period (two weekends and Sundays before and after festive days) would be from 8am to 5pm;
 - (ii) administrative measures would be in place to control the number of visitors (e.g. ‘visit-by-appointment’ system);
 - (iii) no joss paper burning would be allowed within the Site; and
 - (iv) visitors would be advised to use public toilet in the vicinity or movable chemical toilets would be rented in order not to overload the existing septic tank and soakaway system at the Site;
- (c) no environmental complaint has been received for the Site in the past three years; and
- (d) the applicant is advised to review the sewage generation, in particular the sewage arising from flushing, and ensure the existing septic tank has

sufficient capacity to cater for the demand.

Drainage and Sewerage

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

- (a) there is no public drain maintained by DSD in the vicinity of the Site. The subject columbarium should have their own stormwater collection and discharge systems to collect runoff within the Site. In addition, all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant is also required to maintain such systems properly and rectify/ modify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure or ineffectiveness of the systems; and
- (b) the cost and works of drainage and sewerage connection as well as future maintenance responsibility shall be borne by the applicant.

9.1.6 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the application;
- (b) for provision of water supply to the development, the applicant may need to extend his/her own services to the nearest suitable government water mains for connection; and
- (c) the applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the services within the private lots to WSD's standards.

Electricity and Gas Safety

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

Electricity Safety

- (a) no particular comment on the document's electricity supply safety aspect;
- (b) the applicant should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) within and/or in the vicinity of the concerned site and observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works; and

Gas Safety

- (c) there is a high pressure underground town gas transmission pipeline (running along the riverbank to Tai Po Tai Wo Road) in the vicinity of the Site. The applicant/ consultant/ works contractor shall liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of development. They are also required to observe the requirements of the Electrical and Mechanical Services Department's Code of Practice on "Avoidance of Damage to Gas Pipes" 2nd Edition.

Urban Design and Landscape

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

Urban Design

- (a) in view of the small scale of the development scheme and its relatively secluded location with similar use to the east of the Site, there are no particular comment from urban design and visual impact perspective;

Landscape

- (b) no objection from the landscape planning perspective. The Site is situated in an area of urban landscape character comprises village houses and clusters of trees. An existing columbarium, Poh Yea Ching Shea, is located to the further east of the Site in an area zoned "G/IC" and is surrounded by "O". The application is considered not incompatible with the existing landscape character in the proximity; and
- (c) the Site is hard-paved and occupied by two existing two-storey buildings and one single-storey building. No significant landscape resource is observed within the Site. Therefore, adverse landscape impact arising from the application is not anticipated.

Leisure and Cultural Services

- 9.1.9 Comments from the Director of Leisure and Cultural Services (DLCS):

- no objection to the application on the condition that applicant agreed to comply with the rules and regulation of LCSD's venue and the prevailing ordinance. The applicant was committed to follow those rules, regulations and ordinance, and LCSD will arrange regular patrol and follow-up action to tackle the irregularities when spotted.

Religious Policy

- 9.1.10 Comments of the Secretary of Home Affairs (SHA):

- Ever Rest Temple is not registered under the Chinese Temples Ordinance (Cap. 153). Based on the information submitted by the

applicant and relevant information available online, it does not appear that Ever Rest Temple is a bona fide religious organization nor a charitable organization registered under Section 88 of Inland Revenue Ordinance.

Building Matters

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

- (a) no comment on the application under the Buildings Ordinance (BO);
- (b) besides certain extent of fence wall was erected under minor works control system, there is no record of approval by the Building Authority for the remaining existing structures at the Site and BD is not in a position to offer comments on the suitability for the use related to the application;
- (c) if there are existing structures which had been erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the BO and should not be designed for any approved use under the captioned application unless such are permissible under PCO (Cap 630);
- (d) For Unauthorised Building Works (UBWs) erected on lease land, enforcement action may be taken in accordance with BD's enforcement policy. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBWs on the Site under BO;
- (e) noting that the proposed development is a columbarium, the premises should comply with specific design and construction requirements for columbarium facilities as outlined in PNAP APP-154; and
- (f) other detailed comments are set out at **Appendix V**.

Local Views

9.1.12 Comments of the District Officer/Tai Po, Home Affairs Department (DO/TP, HAD):

- (a) no comment on the application; and
- (b) the residents in nearby estates such as Parc Versailles and villages including Shek Kwu Lung and Mui Shue Hang may have concern on the subject columbarium. Two letters were received from the Chairman of the Incorporated Owners and property management company of Parc Versailles I objecting to the application mainly on grounds that the subject columbarium poses negative environmental impact on the surroundings; the existing transport and parking facilities are not sufficient to support the large number of visitors; the existing columbarium is an unauthorized development selling niches illegally;

and approval of the rezoning application will set an undesirable precedent.

9.2 The following government departments have no objection to or no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (d) Director of Fire Services (D of FS);
- (e) Chief Highway Engineer/NT East, Highways Department (CHE/NTE, HyD); and
- (f) C of P.

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

10.1. The application and FIs submitted by the applicant were published for public inspection. During the statutory public inspection periods, a total of 2,150 public comments were received, of which 2,142 supporting the application, eight raising objection to the application. All the public comments received are deposited at the meeting for Members' inspection and samples of the comments are attached at **Appendix IV**.

Supporting Comments

10.2. The **2,142 supporting comments** were received from the individuals (**Appendices IV (1) to IV (4)**), which mostly in the form of two types of standard letters. Their samples are at **Appendices IV (3) to IV (4)**. The major supporting grounds are summarised below:

- (a) the subject columbarium is surrounded by trees and slopes with the adjoining highway acting as a visual barrier from the surrounding areas. There is a considerable distance between the Site and the nearby residential areas. Therefore, it will not cause adverse impacts and the Site is considered suitable for columbarium use;
- (b) being located only about 8-10 minutes' walk from the nearest Tai Wo MTR Station, the columbarium is easily accessible to those people who wish to worship their ancestors;
- (c) the subject columbarium is a long-established temple that has been existed since 1854 with historical values. Also, the subject columbarium is low-rise in nature and therefore not incompatible with its surrounding environment;
- (d) the proposed special traffic management arrangement and the management team could minimize the traffic impacts on residents nearby;
- (e) there are no adverse environmental impacts on residents nearby by prohibiting burning of incense and joss paper in the Site;

- (f) TSOL was granted to the subject columbarium by PCAO in February 2023 and the planning application is to comply with the licensing requirements; and
- (g) approval of the application would not set an undesirable precedent for other similar rezoning applications.

Opposing Comments

- 10.3. The **eight opposing comments** were received from the Incorporated Owners of Parc Versailles (**Appendix IV (5)**), one local resident (**Appendix IV (6)**), and one individual (**Appendix IV (7)**).
- 10.4. The major grounds of objection are summarised as follows:
 - (a) the columbarium use should be located away from recreational uses which serve the needs of local residents;
 - (b) the subject columbarium is not in line with planning intention of the “O” zone and incompatible with the surrounding areas, and will bring negative landscape and visual impacts. Besides, the columbarium will adversely affect the property value of its surrounding area;
 - (c) the operation of the columbarium will cause adverse psychological and health impacts on the nearby residents and park users;
 - (d) the Government should encourage green burial to replace the traditional columbarium development;
 - (e) the subject columbarium will cause traffic congestion, road safety and parking problems. There are inadequate parking facilities nearby and the subject columbarium will aggravate traffic congestion and existing illegal parking problems in surrounding area;
 - (f) the subject columbarium will increase pedestrian flow and attract strangers to the area and create security problems;
 - (g) the subject columbarium would pose adverse environmental impacts on the surrounding areas, especially noise and air pollution; and
 - (h) approval of the application will set an undesirable precedent to similar use in “O” zone.

11. Planning Considerations and Assessments

The Proposal

- 11.1 The applicant proposes to rezone the Site from “O” to “G/IC(3)” in order to regularize the existing religious and columbarium use at the Site, providing a total of 763 niches (including 546 unsold) and 49 memorial tablets (including 43 unsold), which are accommodated in three buildings of 1-2 storeys high. Together with the ancillary office

and proposed new toilet, the development under application will have a total GFA of about 200m² (**Drawings Z-2 to Z-6 and Plans Z-4b to 4e**). Under the new set of Notes for the proposed “G/IC(3)” zone (**Appendix II**), ‘Religious Institution’ and ‘Columbarium’ uses will be put under Column 1 and Column 2 respectively.

Land Use Compatibility

- 11.2 The Site is located in the southeastern portion of Mui Shue Hang “O” zone near the toe of a vegetated slope bounded by Tai Po Tai Wo Road to the south and Mui Shue Hang Playground to the north, northeast and northwest. The planning intention of the “O” is for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. While the applicant claims that the monastery at the Site was established in 1854 and converted into a religious institution with crematorium and mortuary in 1934 before the gazette of the first OZP, there is insufficient evidence to substantiate the claim. SHA also advises that Ever Rest Temple is not registered under the Chinese Temples Ordinance and is not a bona fide religious organization nor a charitable organization registered under section 88 of Inland Revenue Ordinance.
- 11.3 It should be highlighted that the Site is adjacent to but not within the boundary of Mui Shue Hang Playground, and is situated at a secluded location generally screened by roadside slopes, vegetation and trees or separated by Lam Tsuen River with similar religious and columbarium uses found in the vicinity. There is no residential and village development nearby the Site and the nearest Kam Shek New Village is about 200m away whereas Parc Versailles, Tai Po Tau Shui Wai Village and Po Nga Court on the other side of Lam Tsuen River are about 130m, 200m and 300m from the Site respectively (**Plans Z-2a, Z-3 and Z-4a to 4e**).
- 11.4 Visitors heading to the columbarium at the Site would need to share the major vehicular access, i.e. Kam Shan Road and Tai Po Tau Shui Wai Road, for public transport and vehicle parks with residential developments in the area. They need to walk to the Site via footpath and across the nearby footbridge to Mui Shue Hang Playground before arriving the Site (**Plan Z-2c**). Notwithstanding this, there is a separate pedestrian access within Mui Shue Hang Playground to the Site which is not shared by nearby villagers and residents. Majority of the play equipment and play areas are located to the further northwestern part of Mui Shue Hang Playground. In view of the overall setting of the Site, it is considered that there would be limited nuisance to the nearby village houses in terms of potential intermixing of grave-sweepers and villagers in this locality. Since the rejection of the previous application, the applicant has spent effort to improve the visual quality of the Site in order to harmonize Ever Rest Temple with the surrounding areas such as using eco-friendly wood and natural façade colours for the exterior of the buildings and fence walls. CTP/UD&L, PlanD has no objection to the application from the urban design and visual perspective (**Plans Z-4a to Z-4e**).
- 11.5 Potential nuisance to the local residents and playground users arising from the 763 niches is expected to be limited and could be addressed by appropriate measures proposed under the applicant’s TIA report and Management Plan, with conditions to be imposed under the licence to be granted under PCO in consultation with relevant B/Ds as appropriate, and enforced by PCAO. Hence, it is considered not incompatible with the surrounding developments given its scale and nature of use.

Traffic Impact and Crowd Management

- 11.6 The Site is only accessible via footpaths through Mui Shue Hang Playground without direct vehicular access. According to the Management Plan and TIA report submitted (**Appendices Id and Ie**), there will be no parking facilities within the Site and majority of the visitors are expected to visit the columbarium by public transport. For the small number of car users, there are a number of sizable public car parks within walking distance of the Site (**Drawing Z-7**). Moreover, the applicant will adopt 'visit-by-appointment' arrangement during both festival and non-festival days in order to minimize the traffic impact on the surrounding areas and proposed other traffic and crowd management measures such as admission control system within the Site by setting up temporary waiting area; advance notice informing the visitors about the 'visit-by-appointment' arrangement and providing directional signage with designated ingress/egress routings as stated in TCMP (**Drawing Z-9**). Traffic report on each festival day will be provided to evaluate the effectiveness of the TCMP.
- 11.7 C for T, noting that PCAO has confirmed to take up the monitoring and enforcement including the 'visit-by-appointment' arrangement under the Management Plan to be submitted to the Licensing Board upon approval, has no in-principle objection to the application subject to the implementation of the crowd management measures as detailed in the TIA report and the Management Plan.
- 11.8 According to DFEH's advice, the licence applicant is required to submit a Management Plan to PCLB for consideration, demonstrating suitable measures on traffic arrangement or management taken to minimize any adverse impact that operation of the columbarium may have on the neighbourhood. Upon the approval of the licence by PCLB, PCAO will be responsible for monitoring the implementation of the Management Plan within the site boundary covered by the licence.

Urban Design and Landscape Aspect

- 11.9 Noting that the application is mainly to regularize the current columbarium use within the as-built structures at the Site without any increase in building bulk and the existing 1 to 2-storeys religious institution and columbarium uses are considered not entirely incompatible with the environment of the Site, CTP/UD&L of PlanD has no adverse comment on the application as significant adverse visual impacts on the surrounding areas and significant landscape impacts are not anticipated.

Other Technical Aspects

- 11.10 DEP has no objection to the rezoning application on the understanding that there is mechanism available at the s.16 planning application stage as well as under PCO to ensure the applicant's implementation of the proposed environmental mitigation measures and operational practices including control visitors number by 'visit-by-appointment' system; restriction on opening hours; no burning of joss papers; and management mechanisms would be carried out to advise the visitors to use public toilet in the vicinity or would rent movable chemical toilet in order not to overload the existing septic tank and soakaway system at the Site.
- 11.11 Other government departments consulted including DAFC, DEMS, CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD, D of FS, H(GEO) and PM/N of CEDD have no objection to/no comment on the application.

Proposed Schedule of Uses

- 11.12 As mentioned in paragraph 11.1 above, the applicant has proposed ‘Columbarium’ use to be a Column 2 use requiring planning permission from the Board. In view that the applicant has submitted a detailed development proposal with supporting technical assessments, concerned departments have no in-principle objection to or adverse comment on the proposed scheme and there will have control mechanism on the details and technical requirements of the proposed columbarium use under the licencing regime of PCO and lands administrative regime, should the Committee agree to the application, consideration could be given to streamlining the development control process by placing ‘Columbarium’ under Column 1 uses (i.e. uses always permitted) of a new “G/IC” sub-zone with stipulation of appropriate development restrictions (such as maximum building height and number of niches) at the OZP amendment stage. Concerned government departments will be further consulted on the above in the subsequent OZP amendment process, which will also be subject to public scrutiny.

Previous and Similar Applications

- 11.13 The Site is the subject of a previous application No. Y/TP/23 for the same rezoning proposal from “V” “O” to “G/IC” that was rejected on 6.2.2015 mainly on the grounds of failing to demonstrate that the proposed development would have no adverse traffic impacts on the surrounding areas; the proposed columbarium use was not compatible with the open space use; and setting of undesirable precedent for other similar rezoning applications in the area for the development of columbarium use. The Committee also considered that as the columbarium use was located within a public park, it would cause nuisance to the public. Notwithstanding, it should be noted that PCO, which regulates the operation of private columbaria through a licensing scheme, has come into effect on 30.6.2017. If a licence application is approved by the PCLB, PCAO will oversee the monitoring of the licensee’s implementation of the approved management plan in coordination with other concerned departments. There are legal provisions under PCO to regulate breaches of licensing conditions imposed by the PCLB. In this regard, C for T and C of P have no objection to the application as mentioned in paragraph 11.5 above. As the applicant committed to comply with the rules and regulations of LCSD’s venue and the prevailing ordinance, DLCS has no objection to the application. Adverse impact on park users is considered limited.
- 11.14 Although there is no similar s.12A application within the same “O” zone, there is a s.16 application No. A/TP/657 for columbarium use within the “G/IC” zone about 100m to the east of the Site which was approved by the Committee on 29.11.2019 mainly on consideration that the applied use was not incompatible with the existing religious institution use; the application site was located at a secluded and tranquil location, shielded by roadside slopes and tall trees and separated from village houses; the development was not expected to cause significant visual and landscape impacts and would not pose adverse traffic and environmental impacts on surrounding areas. The planning circumstances of the current application is similar to the application No. A/TP/657.

Public Comments

- 11.15 The 2,150 supporting comments are noted. For the eight public comments objecting to the application, the planning assessments and comments of government departments above are relevant. Property and psychological impact are not material planning considerations.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no in-principle objection to the proposed rezoning of the Site from "O" to "G/IC(3)".
- 12.2 Should the Committee decide to agree/ partially agree to the subject application, the relevant proposed amendments to the Tai Po OZP, together with the revised Notes and Explanatory Statement, will be submitted to the Committee for consideration prior to gazetting under section 5 of the Town Planning Ordinance upon reference back of the OZP.
- 12.3 Should the Committee decide to reject the application, the following reasons for rejection is suggested for Member's reference:
- (a) the Site falls within an area zoned "Open Space" ("O") with the planning intention primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. There is no strong justification for rezoning the Site to "G/IC(3)" to make provision for application for columbarium use. The current "O" zone for the Site is considered appropriate;
 - (b) the columbarium development is not compatible with the adjoining public open space; and
 - (c) the approval of the application would set an undesirable precedent for other similar rezoning applications within the "O" zone.

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 rejection should be given to the applicant.

14. Attachments

Appendix I

Application Form with supplementary information received on 14.10.2022

Appendix Ia

Planning Statement attached to the Application Form

Appendix Ib

FI received on 13.3.2023

Appendix Ic	FI received on 23.6.2023, 28.6.2023 and 29.6.2023
Appendix Id	FI received on 22.8.2023 and 24.8.2023
Appendix Ie	FI received on 6.10.2023
Appendix II	Proposed Schedule of Uses for the “G/IC(3)” zone
Appendix III	Previous application
Appendix IV	Sample of public comments
Appendix V	Detailed comments from relevant Government departments
Drawings Z-1 to Z-10	Drawings submitted by the applicant
Plan Z-1	Location Plan
Plans Z-2a to Z-2c	Site Plans
Plan Z-3	Aerial Photo
Plans Z-4a to Z-4e	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2023**