

TOWN PLANNING BOARD

TPB Paper No. 10937
For Consideration by
The Town Planning Board on 17.11.2023

城市規劃委員會文件第10937號
供城市規劃委員會於2023年11月17日考慮

DRAFT TSUEN WAN OUTLINE ZONING PLAN NO. S/TW/36
CONSIDERATION OF REPRESENTATION NO. TPB/R/S/TW/36-R1
AND COMMENTS NO. TPB/R/S/TW/36-C1 TO C2

《荃灣分區計劃大綱草圖編號S/TW/36》
考慮申述編號 TPB/R/S/TW/36-R1
及意見編號 TPB/R/S/TW/36-C1 至 C2

**DRAFT TSUEN WAN OUTLINE ZONING PLAN NO. S/TW/36
CONSIDERATION OF REPRESENTATION NO. TPB/R/S/TW/36-R1
AND COMMENTS NO. TPB/R/S/TW/36-C1 AND C2**

Subject of Representation (Amendment Item)	Representer	Commenters
<u>Item A</u> Rezoning of a site at the upper section of Lo Wai Road from “Green Belt” to “Government, Institution or Community (10)”	<u>Total: 1</u> <u>Oppose Item A:</u> R1: Individual	<u>Total: 2</u> <u>Provide Views in relation to R1</u> C1: Longest Profit (Hong Kong) Limited <u>Provide Views</u> C2 (also R1): Individual

Note: The names of all representer and commenters are attached at **Annex III**. Soft copy of their submissions is sent to the Town Planning Board (the Board) Members via electronic means; and is also available for public inspection at the Board’s website at https://www.info.gov.hk/tpb/en/plan_making/S_TW_36.html and the Planning Enquiry Counters of the Planning Department (PlanD) in North Point and Sha Tin. A set of hard copy is deposited at the Board’s Secretariat for Members’ inspection.

1. INTRODUCTION

- 1.1 On 28.4.2023, the draft Tsuen Wan Outline Zoning Plan (OZP) No. S/TW/36 (the Plan) at **Annex I** was exhibited for public inspection under section 5 of the pre-amended Town Planning Ordinance (the pre-amended Ordinance)¹. The Schedule of Amendments setting out the amendments to the OZP and its Notes is at **Annex II** and the location of the amendment item (Item A) is shown on **Plan H-1**.
- 1.2 During the two-month statutory exhibition period ending on 28.6.2023, one representation was received. On 21.7.2023, the representation was published for three weeks for public comments. Upon expiry of the publication period on 11.8.2023, two comments on the representation were received.
- 1.3 On 15.9.2023, the Town Planning Board (the Board) agreed to consider all the representation and comments of the Plan collectively in one group.
- 1.4 This Paper is to provide the Board with information for consideration of the representation and comments. A list of representer and commenters is at **Annex**

¹ The “pre-amended Ordinance” refers to the Town Planning Ordinance in force immediately before 1.9.2023.

III. The representer and commenters have been invited to attend the meeting in accordance with section 6B(3) of the pre-amended Ordinance².

2. **BACKGROUND**

- 2.1 The Fu Yung Shan area where the site of Item A is located was first designated as “Green Belt” (“GB”) on the statutory plan of Tsuen Wan in 1963. In 1981, the eastern part of the site, together with a long strip of land along Sam Dip Tam was rezoned from “GB” to “Open Space” (“O”) based on the recommendation of the Tsuen Wan New Town – Landscape and Recreation Study. In 2003, as there was no programme for the development of the planned open space at that time, PlanD conducted a land use review and recommended to rezone a number of long-established religious institutions and elderly homes in the Fu Yung Shan area to “Government, Institution or Community” (“G/IC”) sub-zones, i.e. “G/IC(1)” to “G/IC(8)” to reflect their existing and committed uses at that time. The remaining areas zoned “O”, including the eastern part of the site, were rezoned back to “GB” on 5.9.2003. The “GB” zone of the site remains unchanged since then (**Plan H-1**).
- 2.2 On 25.6.2021, the Metro Planning Committee (MPC) of the Board partially agreed to the application under section 12A of the pre-amended Ordinance (s.12A application) No. Y/TW/15 submitted by Longest Profit (Hong Kong) Limited to rezone the site with an area of about 2,250m² (including 660m² of Government land) (**Plan H-1**) from “GB” to “G/IC(10)” for a proposed private columbarium through redevelopment. According to the indicative scheme submitted by the applicant under the partially agreed s.12A application, the site will be redeveloped into a 2-storey private columbarium with provision of not more than 3,000 single-urn niches, including 284 niches that have been sold (i.e. 103 occupied and 181 unoccupied) and 50 niches to be offered free of charge to local villagers with financial difficulties (**Drawings H-1a to H-1d**). The proposed development has a maximum gross floor area (GFA) of 1,900m², a maximum building height (BH) of 2 storeys / 9.25m and a maximum site coverage (SC) of 57%. To address the local traffic concern during Ching Ming and Chung Yeung festival periods, the proposed columbarium will be closed during festival days and their shadow periods (i.e. the two weekends before and after, including the public holidays in between). A management plan setting out such measures shall be submitted to the Private Columbarium Licensing Board (PCLB) for consideration under the Private Columbaria Ordinance at the licence application stage.
- 2.3 In the s.12A application, the applicant proposed to stipulate ‘Columbarium (with a total of not exceeding 3,000 niches, of which not less than 50 niches should be offered free of charge to local villagers with financial difficulties)’ as a Column 1 use, which was always permitted, and also included ‘Columbarium’ use under Column 2 to allow flexibility for providing additional niches through s.16 planning application. On 25.6.2021, the MPC decided to stipulate the ‘Columbarium’ use under Column 2 for better scrutiny of the development details

² Pursuant to sections 29(1) and 29(3) of the Town Planning Ordinance currently in force (the Ordinance), sections 6 and 6A to 6H of the pre-amended Ordinance apply to the draft OZP.

and other technical aspects of the proposed columbarium development in the planning application stage under s.16 of the Ordinance (**Annex IV**).

- 2.4 The site was subsequently rezoned from “GB” to “G/IC(10)”, subject to a maximum GFA restriction of 1,900m² and a maximum BH restriction of 2 storeys including car park with ‘Columbarium’ use under Column 2 of the Notes for the “G/IC(10)” zone. ‘Religious Institution’, ‘Residential Institution’ and ‘Social Welfare Facility’ are also stipulated under Column 2 of the zone to allow flexibility for the provision of community and social welfare facilities (**Item A**).

Amendments to the Notes of the OZP

- 2.5 The Notes of the OZP were revised in association with Item A.

The Draft OZP

- 2.6 On 31.3.2023, the MPC agreed that the above amendment to the approved Tsuen Wan OZP No. S/TW/35 was suitable for exhibition under section 5 of the pre-amended Ordinance for public inspection. The relevant MPC Paper No. 2/23 is available at the Board’s website³ and the extract of the minutes of the MPC meeting is at **Annex IV**. Subsequently, the draft Tsuen Wan OZP No. S/TW/36 was gazetted on 28.4.2023.

3. LOCAL CONSULTATION

During the processing of the aforesaid s.12A application, the application was published for public comments in accordance with the provision of the pre-amended Ordinance. The public comments on the application were considered by the MPC on 25.6.2021.

4. THE REPRESENTATION SITE AND ITS SURROUNDING AREAS

4.1 The Representation Site and its Surrounding Areas

- 4.1.1 Representation site under Item A (Item A site) (about 2,250m²) is zoned “G/IC(10)” for the proposed private columbarium development. It is located at the foothill of the Fu Yung Shan area and is connected to the upper section of Lo Wai Road through an access road on Government land which is share-used by the adjacent sites. There is an existing two-storey unauthorised building structure, with ancillary facilities in the open area, including statues, toilets and an incinerator for burning of paper offerings that were used for an unlicensed columbarium named Wing Shing Yuen (永盛園)⁴ (**Plans H-2a, H-2c and H-2d**). While the regularisation of the previous columbarium was not pursued by the operator, ashes in the columbarium were returned to eligible claimants, while those not returned to the eligible claimants were delivered to the Temporary Ashes Storage

³ The MPC Paper No. 2/23 is available at the Board’s website at: <https://www.info.gov.hk/tpb/en/papers/papers.html>.

⁴ The unauthorised building works (UBW) on the site have been subject to enforcement action undertaken by the Buildings Department (BD).

Facility of the Food and Environment Hygiene Department (FEHD) according to the Prescribed Ash Disposal Procedures. No ash is currently stored in the building structure on site.

4.1.2 To the northeast of Item A site across Lo Wai Road is the Western Monastery complex zoned “G/IC(4)” with columbarium use approved on 6.5.2022 under planning application No. A/TW/530 for 11,046 niches in portions of the premises. To the further northeast and southeast of the Site are two religious institutions namely Lung Mo Temple zoned “G/IC(7)” and Tung Kwok Shim Lam zoned “G/IC(8)” respectively. To its southeast, south and southwest across Sam Dip Tam are predominately shurbland with a number of small-scale temples/monasteries in individual “G/IC(8)” zones. To its northwest and north are Yuen Yuen Care and Attention Home for the Aged and Yuen Yuen Home for the Aged respectively zoned “G/IC(2)”. To its further north are the Yuen Yuen Institute zoned “G/IC(1)” and its extension zoned “G/IC(3)” with columbarium use approved on 12.1.2007 under planning application No. A/TW/379 for 20,000 niches (**Plan H-1**).

4.2 **Planning Intention**

4.2.1 The planning intention of the “G/IC(10)” zone of Item A site is intended primarily for the provision of columbarium. Some other community and social welfare facilities may also be permitted by the Board under section 16 of the Ordinance.

4.2.2 The Explanatory Statement of the OZP also states that in order to ensure better planning control under the “G/IC(10)” zone, ‘Columbarium’ use requires planning permission from the Board such that the development details and other technical aspects of the proposed columbarium development would be further considered by the Board under section 16 of the Ordinance. To allow flexibility for other Government, institution and community (GIC) uses within this sub-zone, ‘Religious Institution’, ‘Residential Institution’ and ‘Social Welfare Facility’ uses may also be permitted by the Board under section 16 of the Ordinance subject to consideration of the development details and technical aspects, especially the traffic impact along Lo Wai Road.

5. **THE REPRESENTATION**

5.1 **Subject of Representation**

R1, the only representation, is submitted by an individual opposing Item A. Its major grounds and views and PlanD’s responses, in consultation with the relevant Government bureaux/departments (B/Ds), are summarised below:

Major Grounds / Views	
(1)	The columbarium at Item A site reflects a case of ‘build first, apply later’ and involves unauthorised use/structures. Approval of the rezoning would

set an undesirable precedent for other similar unauthorised columbarium developments implemented without complying with relevant regulations/ordinances.

- (2) There are traffic, land administration and building issues in association with the columbarium. The major ground for rejecting the previous s.12A application No. Y/TW/9 for the same site in 2017 in relation to the traffic impact should still be applicable to the subject amendment.

PlanD's Responses

In response to (1) and (2):

- (a) The current amendment is to take forward the s.12A application No. Y/TW/15 to redevelop Item A site for columbarium use, which was partially agreed by the MPC on 25.6.2021 based on its individual merits and various planning considerations including land use compatibility, development intensity, technical aspects, etc. The MPC considered that columbarium use at the site might not be incompatible with its surrounding areas.
- (b) The proposal under the current application has addressed various concerns of relevant Government departments with the support of relevant technical assessments. On the traffic aspect, as compared with the previous s.12A application No. Y/TW/9 (submitted by the same applicant in 2017 for a similar rezoning proposal) rejected by the MPC, the current application has proposed new crowd control arrangements including closing the columbarium on festival days and two weekends before and after, a mandatory 'visit-by-appointment' scheme and limiting selling of niches to not more than 500 per year to address the traffic concerns.
- (c) The MPC also considered that there would be proper planning control by stipulating 'Columbarium' as a Column 2 use of the "G/IC(10)" zone so that the development details and technical aspects of the proposed columbarium development could be better scrutinised under s.16 planning application, including crowd control arrangement and traffic management measures etc. Furthermore, the applicant would still need to comply with other legislations and requirements governing columbarium use at the site including the necessary lease modification, building plan submission and private columbarium licence. There is suitable control at the licensing application stage subject to the PCLB's consideration to ensure proper operation of the proposed columbarium and implementation of management measures. As such, the current "G/IC(10)" zone with 'Columbarium' as a Column 2 use is considered appropriate.
- (d) On the enforcement aspect, aerial photos taken in 1963 showed that there were already some structures erected within the site when it was first zoned "GB" on the statutory plan for Tsuen Wan. There are some UBW on the site identified and enforced by BD. The Lands Department (LandsD) has also served warning letter to the owner on contravention of lease conditions and occupation of Government land. BD and LandsD advise that an Authorised Person (AP) has been appointed by the registered owner of the site to handle

demolition of UBW and cessation of occupation of adjoining Government land. While the irregularities on the site have been subject to the aforesaid enforcement actions, the “G/IC(10)” zoning of the site is considered suitable which may allow columbarium or other GIC uses such as social welfare facilities on application to the Board under section 16 of the Ordinance.

6. **COMMENTS ON REPRESENTATION**

- 6.1 Two comments on the representation from Longest Profit (Hong Kong) Limited (**C1**, the applicant of the S.12A application No. Y/TW/15 and also the owner of the site) and an individual (**C2**, also **R1**) were received.
- 6.2 **C1** provided views in response to **R1** in relation to Item A and its views are summarised in the table below:

Major Grounds	
(1)	In view of the need to complete the handover of the unclaimed ashes and FEHD’s disposal procedure, the existing UBW at the site have not been demolished. An AP has been appointed to handle the demolition of unauthorised structures in accordance with Government requirements.
(2)	The proposed columbarium development would meet the local, regional and territorial demand for columbarium niches. The ‘Columbarium’ use put under Column 2 of the “G/IC(10)” zone will facilitate the examination of development details and other technical aspects through the s.16 application mechanism, and suitable approval conditions could be imposed by the Board.
(3)	Government departments had no objections to nor adverse comments on the s.12A application No. Y/TW/15. Supportive comments were also received from the public including Tsuen Wan East Area Committee and Tsuen Wan Lo Wai Village Office.
PlanD’s Responses	
The views in support of Item A are noted.	

- 6.3 **C2** reiterated her major views as stated in paragraph 5.1 above, and provided an additional view summarised in the table below:

Major Grounds	
Public notice of the amendment item does not mention ‘Columbarium’ use.	
PlanD’s Responses	
(a)	The public was informed of the amendment Item A through the gazette notice ⁵ and press release as shown on the Government’s website published

⁵ Gazette notice is available at <https://www.gld.gov.hk/egazette/pdf/20232717/egn202327172449.pdf>.

on 28.4.2023⁶. The details of the amendment item are reflected in the Notes and Explanatory Statement of the OZP including the planning intention of “G/IC(10)” for columbarium use and the development parameters. The draft OZP, incorporating the amendments, was available for public inspection on the Board’s website⁷ and at (i) the Secretariat of the Board, (ii) the Planning Enquiry Counters, (iii) the Tsuen Wan and West Kowloon District Planning Office, (iv) the Tsuen Wan District Office, and (v) the Tsuen Wan Rural Committee during office hours.

7. **DEPARTMENTAL CONSULTATION**

7.1 The following B/Ds have been consulted and their comments have been incorporated in the above paragraphs where appropriate:

- (a) Director of Food and Environmental Hygiene;
- (b) Director of Environmental Protection;
- (c) Director of Fire Services;
- (d) Commissioner for Transport;
- (e) Commissioner of Police;
- (f) District Officer (Tsuen Wan), Home Affairs Department;
- (g) Chief Architect/ Advisory & Statutory Compliance Division, Architectural Services Department;
- (h) Chief Engineer/Mainland South, Drainage Services Department;
- (i) Chief Town Planner/Urban Design & Landscape, PlanD;
- (j) Chief Building Surveyor/New Territories West, BD;
- (k) District Lands Officer/Tsuen Wan and Kwai Tsing, LandsD ;
- (l) Chief Highway Engineer/New Territories West, Highways Department;
- (m) Head of Geotechnical Engineering Office, Civil Engineering and Development (CEDD);
- (n) Project Manager/West, CEDD; and
- (o) Chief Engineer/Construction, Water Supplies Department.

8. **PLANNING DEPARTMENT’S VIEWS**

8.1 Based on the assessments in paragraph 5.1 above, PlanD does not support R1 and considers that the OZP should not be amended to meet the representation for the following reason:

the amendment Item A is to take forward the application No. Y/TW/15 under section 12A of the pre-amended Town Planning Ordinance partially agreed by the Metro Planning Committee (MPC) of the Town Planning Board (the Board), on the consideration that the proposed use is not incompatible with the surrounding areas containing a temple/monastery cluster covered by various “G/IC” subzones in Fu Yung Shan area. The “G/IC(10)” zoning of the amendment item is

⁶ Press release shown on the Government’s website is available at <https://www.info.gov.hk/gia/general/202304/28/P2023042700364.htm>.

⁷ The draft OZP on the Board’s website is available at https://www.tpb.gov.hk/en/plan_making/S_TW_36.html.

considered appropriate with ‘Columbarium’ use stipulated under Column 2 of the zone such that the development details and other technical aspects of the proposed columbarium would be subject to the scrutiny of the Board upon planning application under section 16 of the Town Planning Ordinance.

9. DECISION SOUGHT

- 9.1 The Board is invited to give consideration to the representation and comments taking into consideration the points raised in the hearing session and decide whether to propose/not to propose any amendments to the OZP to meet/partially meet the representation.
- 9.2 Should the Board decide that no amendment should be made to the draft OZP to meet the representation, Members are also invited to agree that the draft OZP, together with their respective Notes and updated ES, are suitable for submission under section 8(1)(a) and 29(8) of the Ordinance to the Chief Executive in Council for approval.

10. Attachments

Annex I	Draft Tsuen Wan OZP No. S/TW/36
Annex II	Schedule of Amendments to the Approved Tsuen Wan OZP No. S/TW/35
Annex III	List of Representer and Commenters in respect of the Draft Tsuen Wan OZP No. S/TW/36
Annex IV	Extract of Minutes of MPC Meeting held on 31.3.2023
Drawings H-1a to H-1d	Indicative Development Scheme of Amendment Item A
Plan H-1	Location Plan of the Representation Site
Plan H-2a	Site Plan of Representation Site under Item A
Plan H-2b	Aerial Photo of Representation Site under Item A
Plan H-2c	Site Photos of Representation Site under Item A

**PLANNING DEPARTMENT
NOVEMBER 2023**