

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/TM/548**

- Applicant** : Tsing Wan Kun Temple Management Company Limited represented by Townland Consultants Limited engaged by Eminence Consulting and Management Co. Ltd.
- Premises** : G/F of an Existing Building within Tsing Wan Kun in Lot 559 in D.D. 131, Tuen Mun, New Territories
- Floor Area** : About 146.335 m<sup>2</sup>
- Lease** : Building Lot subject to the following salient conditions:
- (a) No verandah shall be constructed as to project over Government land
  - (b) No house erected shall be more than two storeys in height
  - (c) No grave shall be made on, nor shall any human remains be interred in, or deposited on the lot either in earthenware jars or otherwise
- Plan** : Approved Tuen Mun Outline Zoning Plan (OZP) No. S/TM/35
- Zoning** : “Green Belt” (“GB”)
- Application** : Columbarium (within a Religious Institution)

**1. The Proposal**

- 1.1. The applicant seeks planning permission for columbarium use at the application premises (the Premises) located within a religious institution named Tsing Wan Kun (青雲觀). The Premises falls within an area zoned “GB” on the approved Tuen Mun OZP No. S/TM/35 (**Plan A-1**). According to the Notes of the OZP, ‘Columbarium (within a Religious Institution or extension of existing Columbarium only)’ use in the “GB” zone requires planning permission from the Town Planning Board (the Board). The Premises has been converted for columbarium use without a valid planning permission.
- 1.2. The Premises is the subject of a previously rejected application (No. A/TM/487) which covered both G/F and 1/F of an existing building within the religious institution for columbarium use. As compared with the previous application, the current application is confined to G/F of the same existing building.
- 1.3. According to the applicant, the columbarium is situated on G/F of an existing

building (the subject block) formerly used as the ‘Home for the Monks and the Aged’ constructed in the 1920s and designated as a Grade 2 historic building since May 2010 in Tsing Wan Kun<sup>1</sup> (**Drawing A-1**). As the former use of the subject block became obsolete, the interior furnishing and exterior tiling of the subject block was renovated in 2010 and both G/F and 1/F of the subject block has been converted for columbarium purpose without planning approval.

- 1.4. The current application is confined to G/F of the subject block (**Drawing A-2**) with reduction of niches from not more than 4,884 to not more than 2,574 as compared with the previous application. According to the applicant, there is one existing sold and occupied niche on 1/F which will be relocated to the Premises. 1/F will be boarded up or reverted to religious institution use<sup>2</sup>. The current proposal as compared with the previous application (No. A/TM/487) is provided below:

	<b>Previous Rejected Application (No. A/TM/487) (a)</b>	<b>Current Application (b)</b>	<b>Difference (b) – (a)</b>
Floors	G/F and 1/F	G/F only	Not involving 1/F
Total Floor Area	266.064m <sup>2</sup>	146.335m <sup>2</sup>	-119.729m <sup>2</sup>
No. of Niches	4,884	2,574	-2,310
- G/F	2,574	2,574	0
- 1/F	2,310	0	-2,310

- 1.5. The breakdown of occupied and unoccupied niches in the Premises is shown in the table below:

<b>Location</b>	<b>Total</b>	<b>Details of Niches</b>			
		<b>Sold</b>		<b>Niches Sold and Occupied on 1/F to be relocated to the Premises</b>	<b>Residual for Sale</b>
		<b>Sold and Unoccupied</b>	<b>Sold and Occupied</b>		
The Premises (on G/F of the subject block)	2,574	367	115	1	2,091
		482			

- 1.6. The subject block is situated on a vegetated hill slope to the east of Castle Peak and accessed through the existing Tsing Shan Monastery Path (TSMP) (**Plans A-1a and A-1c**). TSMP is a single track access road with passing bays and is intermittently provided with a footpath. The Premises could also be accessed via a local footpath with staircases connecting to the TSMP on the east (**Plans A-4c, A-4d, A-4e and A-4f**). TSMP connects to Yeung Tsing Road in the east, which is approximately 800m from the Premises (**Plan A-1c**).

- 1.7. No parking space will be provided within Tsing Wan Kun. In order to minimise

<sup>1</sup> Tsing Wan Kun is a registered temple under the Chinese Temples Ordinance.

<sup>2</sup> The applicant indicates that this statement is made without prejudice to future planning submissions for 1/F of the subject block.

the potential traffic impact induced by additional traffic during grave sweeping festival periods (i.e. Ching Ming/ Chung Yeung Festivals and two weekends before and after the Festivals) and to enhance the traffic safety, traffic and crowd management measures are proposed to be implemented during grave sweeping festival periods. According to the applicant, these measures will be integrated with the Traffic and Crowd Management Plan ('TCMP') to be implemented by another columbarium operator, Shan Guo (善果) (Planning Application No. A/TM/441) (**Plans A-1 and A-1a**). A gist of the TCMP proposed by Shan Guo (**Drawing A-3**) is set out below.

- In the two weekends (Saturdays and Sundays) before and after the Festivals, there will be temporary closure of the section of Yeung Tsing Road between San Shek Wan North Road and Wan Shan Road to all vehicular traffic (except disable persons). The local access to San Shek Wan Village will be maintained. Traffic control will be located at the junction of Yeung Tsing Road and Wan Shan Road to allow traffic to turn around.
  - During Ching Ming and Chung Yeung Festivals, there will be temporary closure of the section of Yeung Tsing Road between San Shek Wan North Road and Wan Shan Road to all vehicular traffic (except disable persons). The local access to San Shek Wan Village will be maintained. Traffic control will be located at the junction of Yeung Tsing Road and Hing Choi Street as well as the junction of Yeung Tsing Road and Wan Shan Road to allow traffic to turn around. A temporary pick-up/ drop-off layby will be provided on the southbound carriageway of Hing Choi Street.
- 1.8. On top of the Shan Guo's TCMP, the applicant proposes to carry out traffic and crowd management measures during grave sweeping festival periods mainly including temporarily closure of TSMP (**Drawing A-4**) to all vehicular traffic except emergency vehicles; provision of free shuttle bus services running between MTR West Rail Siu Hong Station and Hing Choi Street (**Drawing A-5**) on Ching Ming and Chung Yeung Festivals; adoption of Visit-By-Appointment system; and setting of admission control to restrict not more than 200 persons staying in the proposed columbarium at any time.
- 1.9. According to the applicant, burning of paper offerings and joss sticks would not be permitted inside the Premises.
- 1.10. In support of the application, the applicant has submitted the following documents :
- (a) Application Form received on 2.12.2019 **(Appendix I)**
  - (b) Supplementary Planning Statement including Traffic Impact Assessment (TIA) **(Appendix Ia)**
  - (c) Applicant's letter dated 9.12.2019 to clarify the proposed columbarium use **(Appendix Ib)**

- (d) Further information (FI) received on 17.2.2020 providing responses to departmental comments  
*(exempted from publication and recounting requirements)* **(Appendix Ic)**
- (e) FI received on 7.5.2020 providing responses to departmental comments and enclosing revised TIA and preliminary assessment on sewerage impact  
*(not exempted from publication and recounting requirements)* **(Appendix Id)**
- (f) FI received on 26.8.2020 providing responses to departmental comments and enclosing a revised TIA  
*(not exempted from publication and recounting requirements)* **(Appendix Ie)**
- (g) FI received on 12.10.2020 providing responses to departmental comments and enclosing a revised TIA  
*(not exempted from publication and recounting requirements)* **(Appendix If)**
- (h) FI received on 19.11.2020 providing responses to departmental comments and enclosing a revised TIA  
*(not exempted from publication and recounting requirements)* **(Appendix Ig)**
- (i) FI received on 31.12.2020 providing responses to public comments on the TIA  
*(exempted from publication and recounting requirements)* **(Appendix Ih)**

1.11. On 17.1.2020 and 26.6.2020, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application as requested by the applicant. The applicant submitted FI between 17.2.2020 and 31.12.2020 (**Appendices Ic to Ih**). The application is scheduled for consideration by the Committee at this meeting.

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

The justifications put forth by the applicant in support of the application are detailed in **Appendices Ia to Ih**. They are summarised as follows:

- (a) The proposed columbarium is in line with the Government's initiative to increase columbarium supply to meet societal needs. The number of deaths in Hong Kong has increased steadily in the past decade. With the hyper-ageing population in Hong Kong, the demand for columbarium facilities will only continue to increase. The proposed columbarium can be practically and effectively used to increase the provision of much-needed columbarium facilities in Hong Kong. Subject to obtainment of planning permission and licence issued by the Private Columbaria Licensing Board, the Premises will be able to

provide readily available niches to meet societal needs.

- (b) The development proposal is in compliance with the Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB-PG No. 10) on the following reasons:
  - (i) The proposed development is compatible with the surrounding area which is characterised by religious institutions, graves and columbarium developments. The proposed columbarium use is confined within the G/F of an existing building block within a religious institution. The proposed columbarium is fully complementary to Tsing Wan Kun and does not change the character of or nature of the existing use. There is no change to the overall bulk and built form of the subject building.
  - (ii) No adverse traffic and pedestrian circulation impacts are identified. The subject block is connected with Yeung Tsing Road and Tsing Wun Road via local track and TSMP, which are well served by public transportation. Besides, there is no parking facilities within Tsing Wan Kun and shuttle bus services will be provided on Ching Ming and Chung Yeung Festivals. The proposed columbarium would not overstrain the capacity of the existing local footpaths.
  - (iii) The proposed columbarium would not cause adverse environmental impacts. The proposed columbarium is non-sensitive and not susceptible to adverse environmental effects. Furthermore, there are no sensitive use (e.g. residential development) nearby. Burning of paper offerings and joss sticks would not be permitted inside the Premises.
  - (iv) The proposed columbarium is unlikely to cause any adverse engineering and infrastructure impact. Given the existing water closet fitment, urinal, lavatory basin, and septic tank provisions in Tsing Wan Kun, no additional sanitary fitment will be required under the Buildings Ordinance's Standards of Sanitary Fitment, Plumbing, Drainage Works and Latrines for religious institutions. A water tank and pump systems are provided within Tsing Wan Kun. Besides, there will be no increase in surface runoff as the proposed columbarium is confined to the Premises.
  - (v) No clearance of existing vegetation would be involved and the existing natural landscape will not be affected by the proposed columbarium.
- (c) The proposed columbarium will not result in undesirable precedents. There is no adverse impacts on the "GB" zone, no change to the nature of Tsing Wan Kun and the proposed use is fully in line with the Government's policy on the provision of columbaria to meet societal needs.

### **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 giving notification to the managers of 'T'ong Tsing Wan Kun' (the sole owner of the subject lot) by hand. Subsequently, the applicant has obtained consent from the managers of 'T'ong Tsing Wan Kun' for submitting the planning application (**Appendix Id**). Detailed information would be deposited at the meeting for Members' inspection.

#### **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) is relevant to this application. The relevant assessment criteria are as follows:

- (a) there is a general presumption against development (other than redevelopment) in a "GB" zone;
- (b) an application for new development in a "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (d) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (e) the proposed development should not overstrain the overall provision of Government, Institution or Community (GIC) facilities in the general area; and
- (f) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

#### **5. Background**

##### *Tsing Shan Tsuen Cluster*

According to the information provided by the Food and Environmental Hygiene Department (FEHD), there are 13 private columbaria in Tsing Shan Tsuen (the cluster area) (**Plan A-1b**) submitted applications for Specified Instrument under the Private Columbaria Ordinance (PCO). Out of these 13 private columbaria, five columbaria have obtained planning approval and the remaining eight are yet to obtain planning permission from the Committee. FEHD advised that there are an overall of about 17,000 niches in the cluster area (all on the western side of Yeung Tsing Road) that have already been sold. According to FEHD, the number of sold and interred niches is 7,436 and sold but yet to be interred is 9,758. The aggregated niche data are compiled based on the niche information provided by the private columbaria in 2017

but yet to be verified by FEHD.

## **6. Previous Application**

The Premises is involved in a previous s.16 application (Application No. A/TM/487) submitted by a different applicant, Tsing Wan Kun (also known as T'ong Tsing Wan Kun) for columbarium use on G/F and 1/F of the subject block with 4,884 niches. The Committee rejected the application on 13.1.2017 on grounds that the proposed development is not in line with TPB PG-No. 10, the applicant failed to demonstrate that the proposed development would not have adverse impacts on traffic and pedestrian circulation as well as pedestrian safety in the area nor the feasibility and practicality of the proposed traffic and crowd management plan, and approval of the application would also set an undesirable precedent. Details of the applications are provided at **Appendix II**.

## **7. Similar Application**

- 7.1 While there is no similar application within the same “GB” zone, the Committee has rejected one application (No. A/TM/450) and approved one application (No. A/TM/497) both for columbarium use (within a religious institution or extension of existing columbarium only) covering Hau Shi Tong (孝思堂) in Sam Shing Temple (Saint Temple 聖廟) in another “GB” zone on the Tuen Mun OZP. Details of these applications are summarised in **Appendix III** and their locations are shown in **Plan A-1**.
- 7.2 Application No. A/TM/450 applying for columbarium use with 2,580 niches on G/F and 1/F of Hau Shi Tong was rejected by the Board upon review on 11.12.2015 for the reasons that the application was not in line with TPB PG-No. 10, the applicant failed to demonstrate that the columbarium would not have adverse traffic and pedestrian circulation impacts on the area, the means of escape of the Premises were not satisfactory, there was no solid proposal of enhanced fire safety provisions, and it would set an undesirable precedent for similar applications in the “GB” zone.
- 7.3 Application No. A/TM/497 covering G/F of Hau Shi Tong only and with reduction of number of niches from 2,580 niches to 1,176 niches was approved with conditions by the Committee on 28.7.2017 mainly on considerations that the scale of the application had been reduced as compared with the previous Application No. A/TM/450 and the technical concerns on pedestrian circulation and fire safety had been resolved.

## **8. The Premises and the Surrounding Areas (Plans A-1 to A-4f)**

- 8.1 The Premises is:
  - (a) located on G/F of a 2-storey existing building currently used for columbarium without planning permission;
  - (b) located within the Tsing Wan Kun, which includes three other structures

(i.e. Tsing Wan Kun (青雲觀), Ng Dak Tong (五德堂) and Zyu Tin Po Din (諸天寶殿)) used for worshipping, a vacant structure, and a small building block used as an ancillary toilet (**Drawing A-1** and **Plan A-2**); and

- (c) located at the northern part and at the upper platform within the religious compound. The Premises can be accessed through the TSMP which is a substandard single track access road without a continuous footpath linking with Yeung Tsing Road to the east (**Plans A-1c**). There is another access via flights of steps to the religious compound which links with TSMP (Photos 18 and 19 on **Plans A-4d** and **A-4e**).

8.2 The surrounding areas have the following characteristics:

- (a) the area to the southeast of the Premises is Tsing Shan Tsuen mainly rural in character with scattered village houses, temples, monasteries and religious institutions.
- (b) apart from the Tsing Wan Kun, there are limited developments in the surrounding areas and the Premises is surrounded by natural vegetation over-looking Tsing Shan Tsuen (**Plan A-3**). Existing columbarium developments in Tsing Shan Tsuen are located to the southeast within the “Government, Institution or Community” (“G/IC”) zone, including those obtained planning permissions, such as Fat Yuen Ching Shea (佛緣精舍) (Application No. A/TM/398), Shan Yuan (善緣) (Application No. A/TM/437), Shan Guo (善果) (Application No. A/TM/441), Filial Park (思親公園) (Application No. A/TM/527), and Sha Law Ching Shea (娑羅精舍) (Application No. A/TM/537) (**Plan A-1a**).

## 9. **Planning Intention**

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

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

- 10.1 The following bureaux and government departments have been consulted and their views on the application and public comments (if any) are summarised as follows :

### **Licensing**

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

- (a) The Private Columbaria Ordinance (Cap. 630) (PCO), which regulates the operation of private columbaria through a licensing scheme, has come into effect since 30 June 2017. Under the PCO, only private columbaria that have obtained a licence can sell or newly let out niches. The operator of a private columbarium



who applies for a licence must comply with the Town Planning Ordinance (Cap. 131) and other requirements prescribed in the PCO or specified by the Private Columbaria Licensing Board (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 the PCLB for approval. The management plan should show that suitable measures on traffic and public transport arrangement or management would be taken to minimize any adverse impact that operation of the columbarium may have on the neighbourhood. In determining whether to approve an application for a licence, the PCLB must have regard to the public interest and may have regard to any other relevant considerations.

- (b) According to the Application Guide promulgated by the PCLB, the applicant should obtain the Board's consent/approval of the planning application before submission of the management plan to the PCLB. The management plan to be submitted by the applicant to the PCLB in support of the licence application should include the crowd and traffic management measures accepted (and the conditions imposed) by the relevant departments and the Board in the approved planning application. The concerned departments (including Transport Department, the Police, Fire Services Department and Planning Department) will be consulted on the management plan and the PCLB will take these comments into account in considering whether the management plan should be approved. Under the PCO, the PCLB may grant an application for the issue of a licence in respect of a columbarium only if a management plan, submitted by the applicant in respect of the columbarium, has been approved by the PCLB. If the PCLB decides to approve the licence application, the approved management plan will be included in the licensing conditions and the licensee will be required to implement the approved management plan. There are legal provisions under the PCO to regulate breaches of licensing conditions imposed by the PCLB.
- (c) Regarding the private columbarium named '青雲觀(又名青雲觀堂)' at D.D. 131, Lot No. 559, Tuen Mun, New Territories, a set of the specified instrument ('SI') application (viz. a licence and temporary suspension of liability) in respect of a pre-cut-off columbarium was received by the PCLB. It is noted that the SI applications cover both G/F and 1/F of the subject building whereas the subject planning application only covers G/F of the subject building. There is also a significant difference in the total number of niches proposed for the SI application (4,884 niches) and that proposed for this planning application (2,574 niches). Regarding the proposed plans, which contain the niche information, submitted by the applicant for the SI applications, there are matters which require clarification and action by the applicant. The Private Columbaria Affairs Office (PCAO) has informed the applicant on the matters which the applicant is required to supplement/clarify before the PCAO may proceed with the on-site verification of the niche information. The

PCAO is now waiting for the applicant to submit the revised plans for vetting.

- (d) According to the Planning Statement (**Appendix Ia**), only a small portion (fewer than 500 niches) out of the total number of 2,574 niches included in the planning application has been sold. Moreover, the total number of 2,574 niches is significantly smaller than the total number of niches reported by the operator in the 2014 Notification Scheme. Therefore, the concerned departments (such as Transport Department and the Police) may proceed to give their comments on the planning application based on their expertise without waiting for the results of PCAO's vetting of the proposed plans.
- (e) He has no comment on the Visit-By-Appointment system provided that:
  - (i) the applicant undertakes to (a) inform the affected parties (including the purchasers of the sold niches) in writing that the House Rules, special traffic arrangements and a Visit-By-Appointment System arrangement during the grave sweeping festival periods are proposed by the applicant and will be implemented; and (b) remind the concerned parties by letter, email, fax, SMS and any possible notification means of the above-mentioned arrangements during grave sweeping festival periods at least one month in advance of each period;
  - (ii) for future buyers of the interment rights of niches, the applicant undertakes to state clearly in the sales agreements that above-mentioned arrangements during grave sweeping festival periods will be adopted and explain these arrangements to the potential buyers before entering into the sales agreements; and
  - (iii) the applicant should keep a register for the Visit-By-Appointment System for all the visitors, to record the information include (but not limited to): the date and time of visit session, niche no. to be visited, the name of visitors, the no. of visitors, the time of leaving the columbarium, the date of booking and the means of booking and etc. so that monitoring on compliance of such mandatory Visit-By-Appointment System arrangement could be conducted by FEHD staff on the spot.

### **Land Administration**

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

- (a) The Premises falls within Lot No. 559 in D.D. 131 ('the Lot') with an area of 1,600ft<sup>2</sup> which was sold by public auction in 1918. According to Gazette Notice No. 76 of 1918 for the auction, the Lot is a building lot sold subject to the following salient lease

conditions, inter alias:

- no verandah shall be constructed so as to project over Government land;
  - no house erected shall be more than two storeys in height; and
  - no grave shall be made on, nor shall any human remains be interred in, or deposited on the lot either in earthenware jars or otherwise.
- (b) The existing columbarium use within the subject building is in breach of the lease condition: no grave shall be made on, nor shall any human remains be interred in, or deposited on the lot either in earthenware jars or otherwise. He reserves the right to take necessary enforcement action deemed appropriate under the lease conditions.
- (c) The proposed columbarium contravenes the existing lease conditions of the Lot. If the planning approval is given, the applicant will need to apply to LandsD for a land exchange for the columbarium proposal. He would advise that the proposal will only be considered upon receipt of formal application from the applicant. There is no guarantee that the application, if received by LandsD, will be approved and he reserves his comments on such. The application will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event that the application is approved, it would be subject to such terms and conditions as the Government shall deem fit to do so, including amongst others, charging of premium and administrative fee.
- (d) Notwithstanding there is an application for Licence with Temporary Suspension of Liability under the PCO covering the Lot, irrespective of whether planning permission will be given to the proposed development, LandsD reserves the right to take enforcement action or land control action as may be considered appropriate should there be any breach of lease conditions or unauthorised occupation of Government land detected.
- (e) It is noted from **Appendix Id** that the applicant undertook to register in the Land Registry a deed of right-of-way over Lot 416 in D.D.131 in favour of the Lot after obtaining planning approval. Notwithstanding that the applicant did not provide any documentary proof on the legal basis of 'Tsing Wan Kun' being the same as 'T'ong Tsing Wan Kun', the applicant is reminded that it is the applicant's own responsibility to secure any right-of-way arrangement for the subject development to ensure that any such arrangement would be legally effective for the Lot to enjoy the right. The Government will not be involved in any access arrangement among private lots nor be involved in any disputes on such matters.
- (f) It is noted that consent letter given to the applicant to submit the subject application is signed by the two managers of Tsing Wan Kun, namely, To Kam Chow and To Kan Chi. She would

reiterate that application to LandsD for a land exchange or lease modification should be submitted by registered owner of the Lot. If the applicant obtains planning approval and thereafter applies to LandsD for a land exchange for the columbarium use, the applicant is required to clarify and prove the legal capacity of the managers of the registered owner to submit the land exchange application and execute the Conditions of Exchange, if approved.

### **Traffic**

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

He has no objection in principle to the applicant's TIA and the proposed traffic and crowd management measures from traffic engineering viewpoint provided that the proposed traffic arrangement will be implemented by the applicant. Residents along Tsing Shan Monastery Path (TSMP) and in Tsing Shan Tsuen should be coordinated and assistance should be given if they drive on Ching Ming and Chung Yeung Festivals when TSMP is temporarily closed. Besides, TSMP is a village road not managed by his department. Relevant parties should be approached for temporary closure of TSMP and/or implementation of special traffic arrangement.

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

He has no comment on the TIA but considered that comment should be sought from TD. Regarding the proposed closure of TSMP, he has no objection if consent from TD has been obtained. However, he opined that his concerns on the implementation of TCMP and the coordination work with other columbarium operators in the vicinity should be duly addressed. Especially, the arrangement of proposed road closure at Yeung Ching Road is different from other columbarium operators. The applicant should ensure that the diverse stakeholders affected by the proposed road closure are consulted in advance and coordinated to work out a workable plan for the Police to comment.

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

- (a) The access arrangement should be commented by C for T.
- (b) The access between the subject block and Yeung Tsing Road, including TSMP, are not and will not be maintained by HyD.
- (c) The TCMP should be commented by C for T and C of P. HyD shall not be responsible for implementation of the TCMP.

### **Environment**

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

He has no objection to the application having considered the following:

Regarding sewage disposal, the applicant will make use of the existing

toilets at Tsing Wan Kun which operating with septic tank system. The sewage will be discharged only to an existing holding tank and there will be no other sewage discharge from the site. The applicant will also consider the use of additional portable toilet facility.

### **Building Matters**

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures within the Lot and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) If the existing structures are New Territories Exempted House (NTEH) under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121 or the previous Cap 322), DLO/TM should be in a better position to comment on the captioned application.
- (c) The applicant should note the advisory comments as detailed in **Appendix V**.

### **Urban Design and Landscape**

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

- (a) The Premises is the subject of a previous rejected application No. A/TM/487. As compared with Application No. A/TM/487, the proposed total GFA for the columbarium has been reduced from 266.064m<sup>2</sup> to 146.335m<sup>2</sup>. Given that the entire building block remains unchanged and it is targeted for regularisation of 2,574 niches, adverse visual impacts would therefore not be anticipated.
- (b) The application involves conversion of internal use within an existing building, significant landscape impact arising from the application is not envisaged.

### **Nature Conservation**

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

Noting that the proposed columbarium would be located within the G/F of an existing building block in developed area, he has no comment on the application from nature conservation perspective.

### **Fire Safety**

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

He has no in-principle objection to the application subject to the fire

services installations and water supplies for firefighting being provided to the satisfaction to his Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans or referral from the licensing authority.

### **Water Supply**

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

Due to the relatively high level and remoteness of the Premises and the subject building, the applicant may need to make use of his/her private sump and pump system to effect adequate water supply to the columbarium. The applicant shall be responsible for the construction, operation and maintenance to WSD's standards of any private water supply system for water supply to the columbarium. He has no comment on the applicant's proposal to arrange private water source to supply the proposed development.

### **Others**

#### 10.1.12 Comments of the Secretary for Home Affairs (S for HA) :

He confirms that Tsing Wan Kun is a registered Chinese Temple under the Chinese Temples Ordinance.

#### 10.1.13 Comments of Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES(A&M), AMO);

The building on the Lot is the Home for the Monks and the Aged, Tsing Shan Monastery, a Grade 2 historic building (the 'Building'). While he has no comment on the use of the subject block, AMO would offer comment from heritage conservation point of view on any works proposed to be carried out at the building.

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

The applicant should note the advisory comments as detailed in **Appendix V**.

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

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

He noted that the applicant proposed to provide 2,574 niches in the subject site, which is located in the vicinity of a string of existing/proposed columbarium developments. Locals living in the vicinity (including villagers of Tsing Shan Tsuen and schools nearby) have all along expressed grave concerns on the potential adverse impacts in traffic, air, visual and noise aspects brought by the proposed columbarium development in the nearby areas. He also noted that the Site is connected to Yeung Tsing Road and the Light Rail Tsing

Shan Tsuen Station via Tsing Shan Monastery Path which is the primary access for villagers of Tsing Shan Tsuen and the adjoining areas and that the applicant proposed temporary closure of Tsing Shan Monastery Path to vehicular traffic (except emergency vehicles) during grave sweeping festival periods. Although mitigation measures such as crowd management plans and shuttle bus services are proposed by the applicant, it is envisaged that Tuen Mun District Council (TMDC), Tuen Mun Rural Committee (TMRC) and locals living in the vicinity will likely have similar concerns and raise objection to the subject application, in particular when the cumulative effect of the adjoining existing/proposed columbarium developments and the potential adverse traffic impacts brought by the proposed temporary closure of Tsing Shan Monastery Path are taken into account. TMDC, TMRC and locals living in the vicinity would expect vehicular passage of residents living along Tsing Shan Monastery Path to be maintained during the concerned periods.

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

- (a) Chief Engineer/Mainland North, Drainage Services Department;
- (b) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) Project Manager/West, Civil Engineering and Development Department; and
- (d) Director of Leisure and Cultural Services.

## 11. **Public Comments Received During Statutory Publication Period**

11.1 The application and relevant further information were published for public inspection. During the three weeks statutory public inspection periods, a total of 7,794 public comments were received including 7,497 supporting comments, 295 objections and two without specifying support or objection (see table below). A full set of the public comments received is deposited at the Secretariat of the Board for Members' inspection and reference.

	<b>Publication Period</b>	<b>Support</b>	<b>Objection</b>	<b>Without specifying support or objection</b>	<b>Total</b>
1	17.12.2019 – 7.1.2020	891	4	0	895
2	15.5.2020 – 5.6.2020	1,940	163	0	2,103
3	4.9.2020 – 25.9.2020	1,593	119	1	1,713
4	20.10.2020 – 10.11.2020	1,674	5	1	1,680
5	27.11.2020 – 18.12.2020	1,399	4	0	1,403
	<b>Total</b>	7,497	295	2	7,794

11.2 The 7,497 supporting comments including two submitted by TMRC chairman, two submitted by a representative of TMRC and 7,494 individuals (*samples in Appendices IV(1) to IV(10)*). The main reasons for supporting the application are summarised as follows:

- (a) the supply of the niches in the application could relieve shortage of niches and would be of public interest;
- (b) the Premises is located far away from residential dwellings and compatible with the surroundings. The environment nearby is quiet and peaceful and would not adversely affect and induce nuisance to the nearby residents;
- (c) the Premises is conveniently located and easily accessible by public transport and the operator will provide shuttle bus services to visitors. The existing traffic capacity and infrastructural facilities could cater for the development;
- (d) the Premises has sound historic and religious background and is located next to existing monasteries. Public will likely accept the subject columbarium given its religious background;
- (e) early approval of the subject columbarium will enable the operator to obtain a licence according to the columbarium policy and operate under Government supervision;
- (f) the Premises has been used as a columbarium for some time and there is no environmental and traffic impact;
- (g) the internal design and facilities of the Premises are satisfactory and suitable for columbarium use;
- (h) a number of private columbaria in the vicinity have obtained planning approvals and are now operating. It proves that the area is suitable for columbarium use. Besides, approval of the subject columbarium would facilitate monitoring of the approved private columbaria as a cluster by the Government in the future;
- (i) the revenue generated from niches can subsidise the operation of Tsing Wan Kun; and
- (j) using existing private columbarium to provide niches is more efficient and economically feasible than developing new public columbarium.

11.3 The 295 objections including four from two TMDC Members, one from village representative (VR) of Yeung Siu Hang Tsuen, two from the Incorporated Owners of the Richie Houses, four from the Alliance for the Concern Over Columbarium Policy (各界關注骨灰龕法案大聯盟), four from a legal firm representing some members of the TO Clan, one from Designing Hong Kong Limited, one from Hong Chi Morninghill School, Tuen Mun, 68 from the residents of Lung Mun Oasis, one from a group and 209 individuals (*samples in Appendices IV(11) to IV(21)*). The main reasons for objection to the application are summarised as follows:

- (a) the columbarium use is not in line with the planning intention of “GB”. Approval of the application would set an undesirable precedent to similar applications within the “GB” zone. Besides, the columbarium has been operating without planning approval. It is concerned that the Board may



be rewarding unauthorised development through approval of the application;

- (b) the building has been designated as graded historic building and should be preserved and not be converted into columbarium use without licence;
- (c) the TSMP is steep and narrow. There is an absence of pedestrian footpath along the TSMP, which may adversely affect pedestrian safety. Any congestion on TSMP would delay the rescue of casualties in the event of an emergency;
- (d) private columbaria which are profit-making in nature should not be encouraged. There is already a public columbarium in Tsang Tsui;
- (e) there are a number of columbaria in the area. The proposed columbarium will cause accumulative traffic impact to Tsing Shan Tsuen, as well as adverse impacts on environment, drainage, sewerage and visual aspects;
- (f) the building has been converted into columbarium use without approval of government department;
- (g) the proposed furnace would be located outdoor which would cause adverse ecological impact, environmental impact, and fire hazards;
- (h) T'ong Tsing Wan Kun is the registered owner of Lot No. 559 in D.D. 131, the members and owners of which are the TO Clan. However, the applicant of the current application (i.e. Tsing Wan Kun Temple Management Company Limited) neither has association with T'ong Tsing Wan Kun nor obtained an agreement/consent from all members of the TO Clan for conversion of the Premises to columbarium use. The applicant does not have the legal authority from T'ong Tsing Wan Kun to make the current application and convert the structures on Lot No. 559 in D.D. 131 for columbarium use. The Board should not process the application. The applicant also fails to comply with the 'Owner' requirements set out in the Private Columbaria Ordinance (Cap. 630);
- (i) Tsing Wan Kun is a temple of TO's clan, which is akin to ancestral hall, and not open to the public for worship or religious activities. Therefore, it should not be regarded as 'religious institution'. As the proposal cannot be considered as columbarium within a religious institution, the applicant should submit s.12A application instead;
- (j) the columbarium use is in breach of the lease conditions governing the lot. There is evidence showing that the niches in the Premises are being sold by the applicant which does not comply with the guidelines laid down by LandsD in respect of non-advertising and/or sale of urn niches;
- (k) it is misleading that the applicant claimed its ownership of the structures in the Tsing Wan Kun as the structures within the compound are owned by T'ong Tsing Wan Kun;

- (l) Tsing Wan Kun and its neighbouring Tsing Shan Monastery are being used as a religious site, a tourism site and a ceremonial site for the TO clan during festivals, such as Chinese New Year, Lantern Lighting Day etc. The TIA did not take into account the traffic impact during the festival periods other than Ching Ming festival. Besides, visitors of the columbarium would cause conflicts between pedestrian and vehicle along TSMP. Emergency services to/ from Tsing Wan Kun would also be affected;
- (m) the TIA submitted by the applicant fails to take into account the opening of Tuen Mun-Check Lap Kok Link (TM-CLKL) and therefore the TIA should not be accepted;
- (n) the proposed conversion of Tsing Wan Kun, which is an ancestral temple of TO clan, may have an adverse impact on prosperity and well-being of TO clan. The temple was originally for bless or protect the clan's ancestral hall, villages and lands, and not for general commercial use and profit making by the applicant and its stakeholders; and
- (o) most of the columbarium in the area are privately operated with niche prices not affordable by locals. The proposed columbarium will only benefit a few stakeholders.

## **12. Planning Considerations and Assessments**

### *The Proposal*

12.1 The application is for regularisation of the existing columbarium on G/F of an existing building within Tsing Wan Kun (the Premises). According to the applicant, the subject block was converted from the Home for the Monks and the Aged to columbarium use in 2010. There are a total of 2,574 niches within the Premises. 115 niches have been sold and occupied, 367 niches have been sold and unoccupied, 2,091 niches are available for sale and the remaining one will be used for accommodating the sold niche to be relocated from 1/F. The existing columbarium on 1/F will be boarded up or used for religious institution use.

### *Planning Intention*

12.2 The Premises falls within an area zoned “GB” on the Tuen Mun OZP. The planning intention of the “GB” zone is primarily to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. While the current application involves building conversion of an existing building which was constructed in the 1920s and is not in line with the planning intention of “GB” zone, the application should be comprehensively assessed taking into account the land use compatibility of the Premises with its surrounding areas, and the visual, traffic, environmental and other infrastructural impacts arising from the proposed development.

### *Land Use Compatibility*

- 12.3 The columbarium development involves the G/F of an existing 2-storey building structure within Tsing Wan Kun, which is a religious compound of temples. Tsing Wan Kun is mainly located on a vegetated hill slope and within an area surrounded by natural vegetation. The neighbouring area is mainly rural in character with scattered village houses, and predominated by temples, other religious institutions and approved columbaria (**Plan A-3**). In general, the subject columbarium use within an existing temple compound is considered not incompatible with the surrounding environment.

### *Traffic Impact and Traffic and Crowd Management*

- 12.4 The Premises is accessed through Tsing Shan Monastery Path which is a single track access road linking with Yeung Tsing Road. No car parking spaces are provided within Tsing Wan Kun. In order to minimise the potential traffic impact induced by additional traffic from the proposed columbarium and to enhance traffic safety, the applicant proposed to temporarily close Tsing Shan Monastery Path to all vehicular traffic except emergency vehicles during Ching Ming and Chung Yeung Festivals and the two weekends (Saturdays and Sundays) before and after the Festivals, to provide free shuttle-bus service running between MTR West Rail Siu Hong Station and Hing Choi Street on Ching Ming and Chung Yeung Festivals, and to adopt ‘visit-by-appointment’ arrangement to control the number of visitors. In this regard, C for T has no objection to the proposed traffic and crowd management measures provided that the proposed traffic arrangement would be implemented by the applicant, and residents along Tsing Shan Monastery Path and in Tsing Shan Tsuen should be coordinated and assistance should be given if they drive on Ching Ming and Chung Yeung Festivals when Tsing Shan Monastery Path is temporarily closed. In this connection, DFEH advises that if the PCLB decides to approve the licence application, the approved traffic and crowd management plan (TCMP) will be included in the licensing conditions and the licensee will be required to implement the approved TCMP. There are legal provisions under the PCO to regulate breaches of licensing conditions imposed by the PCLB.
- 12.5 With the implementation of the proposed traffic and crowd management measures, the TIA concludes that all the concerned junctions and road links in the vicinity of the Premises would still perform satisfactorily with the proposed columbarium after taking into account the cumulative traffic generated by the adjoining existing, approved and planned columbarium and their proposed traffic and crowd management measures. The potential traffic impact caused by the columbarium is not significant with the implementation of the proposed traffic and crowd management measures. C for T and C of P has no adverse comment on the TIA.

### *Town Planning Board Guidelines*

- 12.6 According to the TPB PG-No. 10 for development within “GB” zone, the development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape or cause any adverse visual impact on the surrounding environment; should not overstrain the capacity of the existing and planned infrastructure and should not be susceptible to adverse environmental effects or be the source of pollution. CTP/UD&L of PlanD has

no objection to the application from the visual and landscape perspectives as it involves only conversion of existing building and no adverse visual and landscape impacts arising from the columbarium use are envisaged. Besides, burning activity will be prohibited in the Premises. Toilets with septic tank system will be available at Tsing Wan Kun for visitors of the columbarium. Private water source to supply the columbarium will also be arranged by the applicant. Concerned Government departments including DEP, CE/MN of DSD and CE/C of WSD have no adverse comments on/ no objection to the application regarding the environmental, sewerage, drainage and water supply aspects. On this front, the application is considered not in conflict with the TPB PG-No. 10.

#### *Previous and Similar Applications*

12.7 The Premises is involved in a previous application (No. A/TM/487) for columbarium use which was rejected by the Committee on 13.1.2017 mainly on the grounds of not in line with the TPB PG-No. 10 and failing to demonstrate no adverse impact on traffic and sewerage impacts. Compared with the previous application, the number of niches has been reduced to 2,574 (47% reduction) and confined to the G/F of the existing building. The 1/F does not form part of the application and according to the applicant, the existing columbarium on 1/F will be boarded up or used for religious purpose. Moreover, there is no objection to or adverse comment on the application from the concerned departments on traffic and sewerage aspects. In this regard, sympathetic consideration may be given to the current application.

12.8 While there is no similar application within the same “GB” zone, an application (No. A/TM/497) for columbarium use with similar circumstances of the current application, i.e. also with reduced number of niches and all technical concerns resolved when comparing with its previous rejected application (No. A/TM/450), in a “GB” zone of the same OZP was approved by the Committee on 28.7.2017 (**PlanA-1**). Approval of the current application is in line with the Committee’s previous decision.

#### *Public Comments*

12.9 A total of 7,794 public comments were received during the statutory publication periods. 7,497 public comments indicate support to the application, 295 public comments raise objection and two do not specify support or objection. The grounds of the public comments are stated in paragraphs 11.2 and 11.3 above. Departmental comments in paragraph 10.1 and the planning considerations and assessments as mentioned in the above paragraphs are relevant. Regarding the query on owner’s consent/notification, the applicant has notified and obtained consent from the managers of T’ong Tsing Wan Kun for submitting the planning application (**Appendix Id**). DLO/TM also advises that the application for land exchange or lease modification should be submitted by registered owner of the Lot. For submission of land exchange application and execution of the Conditions of Exchange, the applicant is required to clarify and prove the legal capacity of the managers of the registered owner. Regarding the public comment that Tsing Wan Kun should not be regarded as ‘religious institution’ since it is akin to ancestral hall and so the applicant should submit a s.12A application instead, S for HA confirms that Tsing Wan Kun is a registered Chinese Temple under the Chinese Temples

Ordinance. Also, according to the Board's Definition of Terms, 'religious institution' includes, among others, temple and ancestral hall.

### **13. Planning Department's Views**

13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraphs 10.1.15 and 11 above, the Planning Department has no objection to the application.

13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 8.1.2025, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval Conditions

- (a) the maximum number of niches within the Premises should not exceed 2,574 niches; and
- (b) the submission and implementation of fire services installations and water supplies for firefighting proposal to the satisfaction of the Director of Fire Services or of the Town Planning Board.

#### Advisory Clauses

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

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

the columbarium use is not in line with the Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10) in that the applied use involves building conversion for columbarium use. There is a general presumption against development in "Green Belt" ("GB") zone. There is no strong planning justification for a departure from the planning intention.

### **14. Decision Sought**

14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the

applicant.

**15. Attachments**

<b>Appendix I</b>	Application form received on 2.12.2019
<b>Appendix Ia</b>	Supplementary planning statement including TIA
<b>Appendix Ib</b>	Applicant's letter dated 9.12.2019
<b>Appendix Ic</b>	FI received on 17.2.2020
<b>Appendix Id</b>	FI received on 7.5.2020
<b>Appendix Ie</b>	FI received on 26.8.2020
<b>Appendix If</b>	FI received on 12.10.2020
<b>Appendix Ig</b>	FI received on 19.11.2020
<b>Appendix Ih</b>	FI received on 31.12.2020
<b>Appendix II</b>	Previous application
<b>Appendix III</b>	Similar application
<b>Appendix IV</b>	Public comments
<b>Appendix V</b>	Advisory clauses
<b>Drawing A-1</b>	Block plan
<b>Drawing A-2</b>	Layout plan of application premises
<b>Drawing A-2</b>	Existing public transport facilities
<b>Drawing A-3</b>	Concurrent traffic and crowd management plan in Tsing Shan Tsuen on grave sweeping festival day
<b>Drawing A-4</b>	Proposed traffic arrangement at Tsing Shan Monastery Path
<b>Drawing A-5</b>	Proposed shuttle bus routes
<b>Plan A-1</b>	Location plan
<b>Plan A-1a</b>	Location of applications for columbarium in Tsing Shan Tsuen
<b>Plan A-1b</b>	Location of columbarium which have submitted applications for specified instruments to the PCLB
<b>Plan A-1c</b>	Access to the application premises
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a to A-4f</b>	Site photos

**PLANNING DEPARTMENT  
JANUARY 2021**