

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

**APPLICATION NO. Y/YL-HTF/3**

- Applicants** : Ling To Monastery and Ling To Tsz Management Limited represented by Masterplan Limited
- Plans** : Draft Ha Tsuen Fringe (HTF) Outline Zoning Plan (OZP) No. S/YL-HTF/11 and Draft Hung Shui Kiu and Ha Tsuen (HSK and HT) OZP No. S/HSK/1 at the time of submission
- Approved HTF OZP No. S/YL-HTF/12 and Approved HSK and HT OZP No. S/HSK/2 currently in force
- Application Site** : Lots 1363 RP (Part), 1364 (Part), 1365 (Part), 1366 (Part), 1373, 1374, 1375, 1376, 1377, 1378 (Part), 1393 (Part), 1399 S.A (Part), 1399 S.B (Part) and 1401 (Part) in D.D. 125 and adjoining Government Land, San Wai, Ha Tsuen, Yuen Long
- Site Area** : About 12,808m<sup>2</sup> (including about 3,613m<sup>2</sup> of Government Land (GL))
- Lease** : (a) Private lots (about 9,195 m<sup>2</sup> or 72% of the Site)
- (i) Old Schedule Agricultural Lots
- (ii) No structures are allowed to be erected without the prior approval of the Government
- (b) Government land (about 3,613 m<sup>2</sup> or 28% of the Site)
- Zoning** : “Green Belt” (“GB”) (about 10,702 m<sup>2</sup> or 84% of the Site) and Area shown as ‘Road’ (about 2,106 m<sup>2</sup> or 16% of the Site)
- (at the time of submission and remains unchanged on the extant Approved HSK and HT OZP No. S/HSK/2)
- Proposed Amendment** : To rezone the application site from “Green Belt” (“GB”) to “Government, Institution or Community” (“G/IC”) and area shown as ‘Road’

**1. The Proposal**

- 1.1 The application site (the Site) comprises two portions, i.e. development site (Site

A) for the proposed 'Religious Institution' and 'Columbarium' uses for a proposed temple extension of the Ling To Monastery (靈渡寺) and columbarium, and proposed access road (Site B) (**Plans Z-1, Z-2a, Z-2b and Z-3**). The applicants propose to rezone Site A from "GB" to "G/IC" zone and Site B from "GB" to area shown as 'Road'<sup>1</sup> (**Plan Z-1**). According to the Notes of the OZP for "G/IC" zone, 'Religious Institution' is always permitted under Column 1 while 'Columbarium' is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

Site A (Proposed Temple Extension of the Ling To Monastery and Columbarium)

- 1.2 The Site is located about 100m away from the existing Ling To Monastery (**Plans Z-1, Z-2a, Z-2b, Z-3 and Z 4-f**). Details of the applicants' proposal are as follows:
- (a) a 1-storey (13.4m high) structure for temple hall and ancillary office and washroom at the northeast portion of Site A (**Drawings Z-2, Z-3 and Z-4**). The temple would adopt Chinese architectural features related to the existing Ling To Monastery that would have a high head-room for large space to hold events and ceremonies (**Drawings Z-5, Z-20 and Z-21**);
  - (b) two 3-storey (16m high) structures (with one basement level for emergency and maintenance (E&M) facilities) for columbarium use for not more than 10,332 niches (for 10,332 urn places) at the southwest portion of Site A (**Drawings Z-2 to Z-4**);
  - (c) a courtyard of 1,500m<sup>2</sup> at the centre of Site A between the temple and columbarium (**Drawings Z-2, Z-22 and Z-24**). The central courtyard will be used for religious functions on temporary basis and would be open for public enjoyment on non-function days; and
  - (d) to pursue a land exchange application with Lands Department for the proposed temple extension and columbarium development at Site A.

Site B (Proposed Access Road)

- 1.3 Site A is currently accessible via a substandard local single track leading to Ha Tsuen Road to the further northeast about 950m away with a section running underneath the elevated Kong Sham Western Highway (KSWH) (**Plans Z-1, Z 2-a, Z-3 and Z-4a**). The applicants propose a new access road at Site B. Site B is in form of a 400m-long 7.3m-wide 2-lane carriageway with 2 roundabouts and lay-bys for coaches and private cars/ taxis together with a section of public road running underneath KSWH (**Drawing Z-6 and Z-10**).
- 1.4 As shown on **Drawing Z-8**, for the existing public road section underneath KSWH (coloured yellow), the applicants propose to widen and upgrade it

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<sup>1</sup> A portion of Site B (16% of the total site area) currently falls within an area shown as 'Road'. For this portion of land under 'Road' zone, the applicants propose to widen and upgrade an existing public road section underneath Kong Sham Western Highway (KSWH) which forms an integral part of the development proposal.

(coloured red) for interim connection to the external road network before the completion of Road P1 (coloured grey) proposed under the Hung Shui Kiu New Development Area (HSK NDA)<sup>2</sup>. The applicants claim that they are willing to borne the construction cost for the proposed public road section and hand back to the Government for long-term management and maintenance (coloured yellow and green at **Drawing Z-7** / the hatched area at **Drawing Z-9**) if the HSK NDA advance infrastructure work is yet to be commenced.

- 1.5 As regards the proposed access road, as indicated on **Plan Z-2b**, it currently comprises unleased and unallocated GL (coloured grey), private land owned by the applicants (i.e. the applicants' lots) (coloured pink) and private land not owned by the applicants but various Tsos/Tongs (i.e. Tsos' lots) (coloured yellow). For the Tsos' lots, the applicants propose to obtain right-of-way (ROW) arrangement with the Tsos/Tongs managers and claim that they have already obtained the consent of all the concerned Tsos/Tongs managers (**Annex Ie**). For the unleased and unallocated GL, the applicants propose to include the unleased and unallocated GL as 'Yellow Area' or 'Brown Area' under the proposed land exchange to become a non-exclusive ROW to Site A or the unleased and unallocated GL could be leased on a periodic tenancy basis to form part of the access to Site A.

Notional Scheme

- 1.6 The development parameters of the notional scheme are detailed as follows:

Total Site Area	about 12,808 m <sup>2</sup>	
<b>Development Site (Site A)</b>		
Site Area	about 4,449 m <sup>2</sup>	
Gross Floor Area (GFA)	Temple Extension	about 300m <sup>2</sup>
	Main Temple	205 m <sup>2</sup>
	Office	84 m <sup>2</sup>
	Washroom	10 m <sup>2</sup>
	Columbarium	about 1,342 m <sup>2</sup>
	Niches Hall 1	894 m <sup>2</sup>
	Niches Hall 2	448 m <sup>2</sup>
	Total: about 1,642 m <sup>2</sup>	
Plot Ratio	not more than 0.37	
Site Coverage	not more than 17%	
No. of Buildings	3	
Building Height	Temple Extension	not more than 13.4m or 1 storey
	Columbarium	not more than 16m or 3 storeys with 1 basement level
No. of Niches and Urn Places	Not more than 10,332 niches (for 10,332 urn places) (accommodated in columbarium buildings only)	

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<sup>2</sup> Road P1 proposed under the HSK NDA is an indicative alignment. Detailed design of Road P1 is yet to be worked out by concerned Government departments. Road P1 will connect the existing Ha Tsuen Road which will be replaced by Road D5 in the future (**Plans Z-1 and Z-3**).

Private Open Space	about 1,500 m <sup>2</sup>
No. of Parking Spaces	2 (private cars)
No. of Loading/Unloading Spaces	1 (light goods vehicle / coach)
<b>Proposed Access Road (Site B)</b>	
Site Area	about 8,359 m <sup>2</sup> (including GL of about 3,613 m <sup>2</sup> )
Pick-up/Drop-off Area	10 spaces for coaches 30m-long for private cars/ taxis

Traffic Impact Assessment (TIA) and Traffic Management Proposal

- 1.7 According to the TIA (**Annex Ia**) and traffic management proposal (**Annexes Ic and Id**), visitors are observed in surge flows on the festival days (i.e. Ching Ming and Chung Yeung Festivals) as well as their shadow weekends (i.e. 3 Saturdays and Sundays before and after) and there would be only minimal visitors during the off-peak seasons. The applicants propose to adopt the following traffic management plan/crowd management measures during the peak seasons:
- (a) reservation system with admission control that only visitors with valid appointment can enter the Site;
  - (b) shuttle bus services to/from the MTR Siu Hong Station will be provided for the visitors (**Drawing Z-12**); and
  - (c) control gates will be set up (**Drawing Z-11**) and private cars/ taxis are restricted to access the columbarium and visitors are required to drop off/pick up at the lay-bys and walk to/from the columbarium (**Drawing Z-11**).
- 1.8 Based on the traffic survey conducted during Ching Ming Festival in 2017, the typical person trip generation for the proposed 10,332 niches is estimated to be 1,550 per hour per direction during the peak seasons, and it is estimated that the vehicular trip generation is estimated to be 124 private cars/ taxis and 25 shuttle coaches per hour per direction during the peak hours of the festive seasons.

Landscape Master Plan (LMP)

- 1.9 According to the LMP (**Drawings Z-18 and Z-19**) and Tree Preservation Plan (**Annex Ic**), there are 289 trees within and immediately adjacent to the site boundary. They are common native and exotic species and no old and valuable trees (OVT) are identified. 200 trees will be retained, 9 trees will be transplanted and 80 trees (including 2 dead trees) will be felled. 80 trees for compensatory planting are proposed to be provided within the Site (**Drawings Z-18 and Z-19**). The applicants propose visual enhancements and landscape mitigation measures to the proposed development and access road, including tree protection and transplanted during construction phase, adopting aesthetically pleasing and responsive design for the proposed temple and columbarium structures, and applying 1:1 ratio for compensatory planting within the development site.

Environmental, Drainage and Sewerage Impact Assessments

- 1.10 According to the Environmental Assessment (EA) (**Annex Ic**), there are no air/noise sensitive receivers in the vicinity and it is suggested that both ritual papers and joss sticks will be burnt using a smokeless joss paper furnace provided within Site A. According to the Drainage and Sewerage Impact Assessment (DSIA) (**Annex Ia**), the office will provide a toilet with septic tank for employees' usage. During peak season, 30 mobile toilets will be provided at Site A for visitors' usage.
- 1.11 In support of the application, the applicants have submitted the following documents:
- (a) application form and attachments received on 20.7.2018 (**Annex I**)  
*and 1.8.2018*
  - (b) supplementary planning statement (including TIA, EA, (**Annex Ia**) DSIA, Visual Impact Assessment (VIA), Tree Preservation Proposal, and LMP) received on 20.7.2018
  - (c) further information (FI) received on 18.12.2018 and 24.12.2018 providing responses to departmental comments, enclosing revised EA, revised Sewerage Impact Assessment (SIA), revised Ecological Impact Assessment (EcoIA), revised VIA, revised photomontages, revised tree preservation proposal, revised traffic management proposal, revised drainage proposal, revised Master Layout Plan (MLP) and clarification that revision to the proposed access road should not be considered as material change  
*[accepted but not exempted from publication and recounting requirements]*
  - (d) FI received on 31.5.2019 providing responses to departmental comments, enclosing revised MLP, revised EA, revised EcoIA, revised traffic management proposal, revised VIA, revised DSIA, Landscape Impact Assessment (LIA), revised tree preservation proposal and revised LMP  
*[accepted but not exempted from publication and recounting requirements]*
  - (e) FI received on 18.9.2019 providing responses to departmental comments, enclosing replacement pages for EcoIA, VIA, LIA, traffic management proposal, TIA, EA and DSIA  
*[accepted and exempted from publication and recounting requirements]*
  - (f) FI received on 26.11.2019 providing responses to departmental comments, enclosing replacement pages for EcoIA  
*[accepted and exempted from publication and recounting requirements]*
- 1.12 Revised MLP, section plan, elevation plan, plans for the proposed access road, traffic management plans, photomontages, LMP, landscape perspectives and

landscape section plans submitted by the applicants are at **Drawings Z-1 to Z-24** respectively.

- 1.13 On 19.10.2018, 22.3.2019 and 16.8.2019, the Board agreed to the applicants' request to defer making a decision on the application for two months respectively, to allow time for the preparation of FI to address departmental comments. Subsequently, the applicants submitted FI to address comments from Government departments. The application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in part 12 of the supporting planning statement (**Annex Ia**) and FIs (**Annexes Ib, Ic, Id and Ie**). They can be summarized as follows:

- (a) The proposal is in line with the columbarium policy. It would alleviate the huge public and local demand for columbarium facilities in a sensible and legal manner according to the future licensing scheme.
- (b) The proposal is complementary to the nearby HSK NDA. It would not create any adverse impact to the future NDA, and in fact the proposal could support the community needs of the future residential population. The planned road infrastructure under the elevated KSWH could improve the traffic access and arrangements of the proposed temple extension and columbarium operation.
- (c) The proposal is in line with the general planning intention of the HTF OZP. The proposed minor decrease in the aggregate "GB" zone would not affect the planning intention of the "GB" zone to control urban sprawl and provide suitable locations for passive recreational uses. The proposal is located at a rural area far away from residential settlements. The proposed development would utilize the Site for a needed community and religious facility, with abundant landscaping to improve the rural character and a courtyard that would be open for public enjoyment.
- (d) The proposal complies with the Town Planning Board Guidelines No. 10 (TPB PG-No. 10) "Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance". The proposal is compatible in scale and land use with the rural character and burial grounds of the surroundings. The technical assessments demonstrated that the proposal would not have significant traffic, noise, air quality, sewage, drainage, landscape and visual impacts. There is no other alternative location in the valley. The Site is private land owned by the applicants and is suitable for the proposed development.
- (e) The Ling To Monastery has a long history as a major temple in the district, with cultural and religious links to the local community. The temple has served the local community for many generations and it is a place for community worship and cultural festivities. The temple extension would provide more space for religious worship to cater to the demand of the local community. The multi-purpose courtyard also offers more leisure space for public enjoyment in the valley for locals and visitors. The proposed temple extension is fully

supported by the local community and is an aspiration and charity of the Ling To Monastery.

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

The applicants are one of the current land owners. In respect of the other current land owner(s), the applicants have 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 posting site notice and giving notification. Detailed information would be deposited at the meeting for Members’ inspection. As for the Government land portion, the “owner’s consent/notification” requirements are not applicable.

**4. Background**

The Site is currently not subject to planning enforcement action.

**5. Previous Rezoning Application**

There is no previous application on the Site.

**6. Similar Rezoning Application**

There is no similar application within the same “GB” zone on the OZP.

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

7.1 The Site:

- (a) comprises two parts, i.e. development site (Site A) and proposed access road (Site B);
- (b) Site A is covered by private lots which is currently covered by lawn with trees generally along the boundary; and an existing temporary structure is located at the southwestern portion (**Plans Z-2a, Z-2b, Z-4e, Z-4f and Z-4g**);
- (c) Site B is covered by private lots and government land in D.D. 125 and part of the public road underneath the elevated KSWH. Site B mainly comprises vacant land and a pond and is partly hard paved with some trees; Site B also adjoins a natural/semi-natural stream (**Plans Z-2a, Z-2b and Z-4a to Z-4d**); and
- (d) accessible via a local track leading to Ha Tsuen Road to the further northeast about 950m away with a section running underneath the elevated KSWH (**Plans Z-1 and Z-4g**);

7.2 The surrounding areas have the following characteristics (**Plans Z-1, Z-2a, Z-3, Z-4f, Z-4g and Z-4h**):

- (a) the Site is situated in a valley amongst a rural setting with lush vegetation and some active farmland to the northeast of Site B;
- (b) a permitted burial ground is situated on a vegetated knoll to the northwest of Site B and there are clusters of graves scattered to the northwest and east of Site B (**Plan Z-2a**);
- (c) a “Conservation Zone” (“CA”) stretching from the north of Tsing Shan Firing Range to KSWH is located 50m southwest of Site A (**Plan Z-1**);
- (d) the elevated KSWH runs along the northeast of the Site and the HSK NDA is located to the further northeast across the KSWH; and
- (e) the Ling To Monastery (**Plan Z-4h**) is located about 100m south from the Site and there is a trail southwest of the Site linking to Yuen Tau Shan to its further southwest.

## **8. 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.

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

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

### **Land Administration**

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The structures of the existing Ling To Monastery are located on Government Land and covered by Squatter Control survey No. SST/841 and SST/842 (**Plans Z-2a, Z-2b and Z-4h**).
- (b) For Site A, preliminary land status check reveals that the rezoning proposal involves 5 numbers or part thereof of private lots all in D.D.125. All private lots are old schedule agricultural lots held under Block Government Leases which contain the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (c) For Site B, preliminary land status check reveals that the rezoning proposal involves various private lots all in D.D.125, GL, Ha Tsuen Road and the existing road underneath KSWH. The private lots are old schedule agricultural lots held under Block Government Leases which contain the restriction that no structures are allowed to be erected without the prior approval of



the Government. The existing roads are under TD and HyD's management and maintenance respectively.

- (d) As stated in the planning statement (**Annex Ia**), the application is for a temple extension of the Ling To Monastery. However, it is noted that the Site is located about 100m from the Ling To Monastery (**Plan Z-3**). The Site is located geographically far away and not directly adjoining or connected to the Ling To Monastery.
- (e) It is noted that the proposal comprises 2 sites, namely Site A (development) and Site B (access road) and Site A itself does not immediately abut onto any public road. Notwithstanding that Site B is proposed to be formed as a new access road in the scheme, there is no guarantee that any right of access over GL will be given.

#### Site A

- (f) It is noted that the application is a newly proposed temple and columbarium development and the applicants are reminded to follow the relevant procedures and guidelines for the licensing scheme under the Private Columbaria Ordinance (Cap. 630), if applicable. It is stated that a total number of columbarium niches of 10,332 will be provided. Under the Private Columbaria Ordinance, the number of sets of ashes kept in niches and the number of those kept otherwise than in niches are limited to the respective maximum numbers shown in the plans approved under the Ordinance.
- (g) It is noted that the applicants will pursue an application for a land exchange to facilitate the development on Site A. As ownership of the lots within Site A may involve Tsos/Tongs, the applicant is required to clarify with relevant authority if land exchange can be materialized.
- (h) If planning permission is given to the proposed temple and columbarium development, the applicants are required to follow relevant procedures and guidelines in the licensing scheme under the Private Columbaria Ordinance before applying to LandsD for a land exchange. The land exchange application will only be considered upon receipt of formal application to his office by the applicants and he must stress that there is no guarantee that the application for a land exchange (in particular the granting of additional GL) will be approved. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion, it will be subject to such terms and conditions including, among others, the payment of premium and administrative fee as may be imposed by LandsD.
- (i) Noting that the total GFA of the temple extension is about 300m<sup>2</sup>, the applicants are advised that unless there is policy support from Home Affairs Bureau for the proposed temple at concessionary

premium, in the event the proposed land exchange is to be approved, it would be subject to premium at full market value basis.

- (j) The actual area of the Site, ownership particulars and permitted uses of the lots will be subject to verification in the land exchange stage if any land exchange is applied for by the applicants to LandsD.

#### Site B

- (k) The applicants have advised that they would submit an application for land exchange upon approval of the rezoning proposal. It is noted that Site B comprising private lots and GL and proposing to be rezoned to area shown as 'Road' will serve as proposed access road to Site A. It involves part or whole of private lots including 5 private lots held by various Tsos (these 5 private lots are hereinafter referred to as "Tsos' lots") (the area coloured yellow at **Plan Z-2b**). DO/YL's comment on inclusion of Tsos' lots in the proposed land exchange is requested. It is observed that not all the private lots of Site B are owned by the applicants, they should demonstrate how to implement the proposed scheme if the proposed rezoning application is approved by the Board. Under Item 2(a) in page 8 of **Annex Ic**, the applicants explained that it is not their intention to include the Tsos' lots and the entire Site B in the proposed land exchange application. Apparently, the applicants considered that their proposed ROW arrangement with the Tsos' lots is already sufficient by including isolated small pieces of unleased and unallocated GL as 'Yellow Area' or 'Brown Area' for the proposed land exchange of Site A. However, DLO/YL, LandsD considers the applicant should further clarify how to materialise the proposed ROW arrangement.
- (l) According to his preliminary land status checking, there are various isolated pieces of GL in between the Tsos' lots and the private lots owned by the applicants within Site B. If the applicants do not apply for land exchange, they are in no position to form an access road on those unleased and unallocated GL.
- (m) The applicants advised that they have acquired the ROW to and from Tsos' Lots/private lot(s) by private agreements signed between the applicants and the owners of the Tsos' lots/private lot(s). He must stress that he is not in a position to comment on such arrangement for acquisition of right of access. The applicants are required to demonstrate how to materialize the unleased and unallocated GL as 'Yellow Area' or 'Brown Area' under their proposed land exchange with other private lots which are to be formed as ROW noting that the unleased and unallocated GL are scattered bit by bit and some are not directly connected to Site A where a building for use as private columbarium is proposed and to be constructed.

- (n) Instead of including isolated small pieces of unleased and unallocated GL for the proposed land exchange of Site A as mentioned in para. (k), the applicants also propose an alternative proposal of granting periodic tenancy for the unleased and unallocated GL which could only be materialized subject to relevant policy support from relevant bureau(x) or department(s).
- (o) There is an existing narrow “one lane-two ways” road under the KSWH which is under the management and maintenance of TD and HyD respectively. The applicants propose to widen a section of this existing road underneath the KSWH (including an area coloured green in **Drawing Z-7**) and will be maintained and managed by themselves. As the proposed ROW may affect and connect existing public road and pavement, the applicants are required to clarify with relevant authority about the gazettal procedure to materialize the works affecting public road and pavement with agreement on their subsequent management and maintenance responsibilities. The applicants are also reminded that the area coloured green on **Drawing Z-7** is unleased and unallocated GL. However, if they do not apply for land exchange for Site B, the area coloured green in **Drawing Z-7** will remain as unleased and unallocated GL but not any standard ‘Green Area’ in some Conditions of Exchange. The applicants should not be in any position to maintain or manage this piece of land as it is unleased and unallocated GL.
- (p) In **Drawing Z-11**, the applicants propose to set up control points (i.e. gates) for restricted access to the columbarium during peak seasons for permitted vehicles only. In this way, public access to the unleased and unallocated GL will inevitably be blocked. The applicants will not be allowed to restrict members of public to access any unleased and unallocated GL. In the event the applicants can form a ROW as proposed, it is no point for the applicants to set up control points as it is contradictory to the proposed non-exclusive ROW, the applicants may need to further elaborate in this aspect.
- (q) If the applicants wish to form a ROW, there is no guarantee that Government will direct grant additional UUGL as ‘Yellow Area’ or ‘Brown Area’ or under periodical tenancy. In view of uncertainty of ROW and if it is served as EVA to Site A, relevant authority’s comment e.g. FSD and BD should first be sought. In addition, LandsD is not in a position to comment on the ROW agreements and have no knowledge of the validity of such agreements.
- (r) The land exchange application will only be considered upon receipt of formal application to his office by the applicants and he must emphasize that there is no guarantee that the application for a land exchange for the development (in particular, the granting of GL adjoining private lots/Tsos’ Lots) will be approved. Such application, if received by LandsD, will be considered by LandsD

acting in the capacity as the landlord at its sole discretion, it will be subject to such terms and conditions including, amongst others, the payment of premium and administrative fee as may be imposed by LandsD.

### **Religious Policy**

#### 9.1.2 Comments of the Secretary for Home Affairs (SHA):

- (a) He has no objection to the proposed temple from the religious point of view.
- (b) As to the arrangement for concessionary land premium, he notes that the applicants are not registered under section 88 of the Inland Revenue Ordinance (IRO). The prevailing policy is that he will consider granting policy support for concessionary premium to cases where the applicants are a bona fide religious and charitable organisation under section 88 of the IRO and the facilities concerned are for places of worship and ancillary use.

### **Licensing**

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

- (a) The Private Columbaria Ordinance (the Ordinance), which regulates the operation of private columbaria through a licensing scheme, has come into effect on 30 June 2017 upon gazettal.
- (b) Under the Ordinance, only private columbaria that have obtained a licence may sell or newly let out niches. Any private columbarium which applies for a licence must comply with the Town Planning Ordinance (Cap. 131) and other requirements prescribed in the Ordinance or specified by the Private Columbaria Licensing Board (the Licensing Board), 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 Licensing Board 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.
- (c) In determining whether to approve an application for a licence, the Licensing Board must have regard to the public interest and may have regard to any other relevant considerations.
- (d) The Licensing Board did not receive any application for specified instruments from the concerned private columbarium called Ling To Monastery so far.

## Traffic

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

- (a) The TIA submitted by the applicants has demonstrated feasibility of the proposed development from traffic engineering point of view.
- (b) He has no adverse comment on the rezoning proposal from traffic engineering point of view.
- (c) If the proposed road is a private road, it is acceptable to Transport Department (TD) that the applicants set up control points at grave-sweeping seasons at the private road.
- (d) For improvement works at the existing carriageway being managed by TD, TD has no objection in principle to take up the management responsibility, provided that HyD agrees to take up maintenance works and the road works are designed and constructed according to relevant standards. Given that the proposed development is subject to S16 application under Town Planning Ordinance, relevant approval condition for design and construction of the road works can be incorporated under the approval condition.

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

- (a) The access arrangement and road widening proposal should be commented by TD. Please seek TD's advice on the need of road widening for the existing road underneath the KSWH. If TD agrees on the proposal, the applicant should submit details of the road widening for the existing road underneath KSWH to TD and HyD for comment.
- (b) The vehicular access proposed to connect to the existing road (the area coloured red in **Drawing Z-8**) should not and will not be maintained by his office.
- (c) If the proposed access arrangement is agreed by TD, a proper run-in/out or road connection to the public road underneath KSWH should be constructed to the satisfaction of TD and HyD.
- (d) His office will not take up the maintenance role if there is no recurrent cost for the new road.
- (e) Any damage done to the public carriageway, footpath, road drainage and other street furniture due to the works shall be made good to the satisfaction of HyD at the applicants' own cost.
- (f) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.

- (g) HyD shall not be responsible for the maintenance of the proposed new road connecting the Site and the public road underneath KSWH.

9.1.6 Comments of the Commissioner of Police (C of P):

- (a) The proposed traffic management plan is acceptable to his office.
- (b) Double yellow lines indicating 24-hour no stopping zone shall be painted on the existing carriageway beneath KSWH and the proposed new site access road to ensure smooth traffic (**Drawing Z-8**).
- (c) It is noted that the existing carriageway beneath KSWH and the proposed new site access road would be upgraded to a 2-lane road and footpath for pedestrian with standard width would be built on the proposed new site access road.
- (d) The exact route map with each stops of the shuttle bus as well as its mode of publicity should be made known to the public.

**Natural Conservation and Agriculture**

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

- (a) It is noted that the proposed rezoning involves a new access road and 3 blocks of 1-3 storeys (building height not exceeding 16m) with plot ratio of 0.37 (Site A) to facilitate a religious institution with columbarium use. Although the application is largely disturbed/formed, there is a pond within the proposed access road, a natural/semi-natural stream abutting the proposed access road, as well as active agricultural land to the northeast of the Site and hillside shrubland/woodland surrounding the application.
- (b) It appears that unauthorized development had been conducted in the Site and adjoining lots, and it is suspected that the subject application involves 'destroy first, develop later' approach. He trusts the Board would take into account the site history and the applicants' clarifications among others when considering the application as appropriate.
- (c) It is noted that an EcoIA has been prepared for the proposed development and ecological impacts to adjacent habitats with higher ecological values are not expected.

**Environment**

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

**Environmental Assessment (EA) (Annex Ib)**

- (a) The applicants have demonstrated no insurmountable environmental issue associated with the proposed development, thus DEP has no in-principle objection to the application.
- (b) It is noted that there will be burning of ritual papers and joss sticks. The applicants are reminded to observe the “Guidelines on Air Pollution Control for Joss Paper Burning at Chinese Temples, Crematoria and Similar Places”.

#### Sewerage Impact Assessment

- (c) Toilet fitted with septic tank and soakaway system would be provided at the proposed office. On festival periods, mobile toilets would be provided for the visitors with clean-ups twice a day.

### **Urban Design and Landscape**

#### 9.1.9 Comments of Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

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

#### General

- (a) The applicants proposed to amend the zoning of the Site from “GB” to “G/IC” and area shown as ‘Road’ on the approved Ha Tsuen Fringe OZP No. S/YL-HTF/12 and approved Hung Shui Kiu and Ha Tsuen OZP No. S/HSK/2 to facilitate development of columbarium and temple together with an access road. The proposal mainly consists of erecting one block of a single-storey temple (about 13.4m), two blocks of 3-storey (about 16m) of niche halls at Site A. The proposal also involves development of an access road at Site B linking the religious institution and columbarium to the KSWH to the northeast of the Site.
- (b) Compared to the existing paved access road, the proposed 400m-long 7.3m-wide 2-lane carriageway access road with pedestrian footpath on the sides, together with two roundabouts, would be of a larger scale compared to the existing condition. The proposed road would likely bisect the vegetated land and farmland, and disrupt the integrity of the area’s rural character.

#### Visual Impact Assessment

- (c) It is noted that the applicants have provided photomontages in the VIA to illustrate the potential visual impact of the proposed development and the effectiveness of the mitigation measures under different scenarios (**Drawings Z-13 to Z-16**). With the proposed mitigation measures in place (**Drawing Z-17**), such as new planting along the proposed access road for screening purpose and use of colour and finishes for architectural facades of

temple and columbarium structures, etc., significant visual impact is not anticipated.

*Landscape:*

- (d) He has no objection to the application from landscape planning perspective.
- (e) The Site, to the south west of KSWH lies mainly in an area of “GB” zone and partly in an area shown as ‘Road’ on the approved HTF OZP No. S/YL-HTF/12 and approved HSK and HT OZP No. S/HSK/2. The current application seeks planning permission to rezone the Site to “G/IC” and an area shown as ‘Road’ to facilitate a religious institution with columbarium use.
- (f) The proposal mainly consists of erecting one temple (about 13.4m) and two 3-storey niche halls (about 16m) at Site A, and the proposed access road at Site B. 1,500m<sup>2</sup> of private open space is proposed at Site A.
- (g) With reference to the aerial photo of 2018, Site A is observed to be covered by lawn with trees generally along the boundary. An existing temporary structure is located at the south western portion of Site A. Site B mainly comprises vacant areas and partly hard paved, with some existing trees within and adjoining the proposed road alignment. The Site is situated in an area of settled valley landscape character dominated by treed areas and active farms but disturbed by open storage yards. The proposed use is not entirely incompatible with the surrounding landscape character.
- (h) As per the submitted tree survey, there are 289 no. trees identified (56 no. within, and 233 no. outside the Site), with 80 no. trees proposed to be felled, 9 no. trees to be transplanted and 200 no. trees to be retained. 80 no. new semi mature trees would be planted within Site.
- (i) As there is a general presumption against development within “GB” zone, consideration should be given to provide measures to respond to the surrounding landscape and enhance the environment.
- (j) The applicants are advised that approval of the s.12A application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. Applicants are reminded to approach relevant authority/ government department(s) direct to obtain the necessary approval on tree works.

**Drainage**

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



He has no objection in principle to the proposed application from a drainage point of view.

**Building Matters**

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

- (a) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (b) If the Site does not abut on a specified street having a width of not less than 4.5m, the development intensity shall be determined under B(P)R 19(3) during plan submission stage. He reserves his comment on the proposed maximum plot ratio, site coverage and building height at this stage.
- (c) Noting the proposed development is a columbarium, the premises should comply with specified design and construction requirements for columbarium facilities as outlined in PNAP APP-154.
- (d) Detailed checking of plans will be carried out upon formal submission of building plans.
- (e) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (f) If there are existing structure which had been erected on leased land without approval of the Buildings Department (not being a New Territories Exempted House), they are unauthorised under the Building Ordinance and should not be designated for any approved use under the captioned application unless such are permissible under the Private Columbaria Ordinance (Cap 630).
- (g) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (h) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.

- (i) If the proposed use under application is subject to the issue of a license, please be reminded that any existing structures on the Site intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

### **Electricity Safety**

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

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to 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 in the vicinity of the electricity supply lines.

### **Fire Safety**

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

- (a) He has no objection in principle to the proposal subject to water supplies for firefighting and fire service installations being provided to the satisfaction of Director of Fire Services.
- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.
- (c) Furthermore, the EVA provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by the Buildings Department.

### **Heritage**

#### 9.1.14 Comments of the Executive Secretary (Antiquities & Monuments), Antiquities and Monuments Office (ES(A&M), AMO):

The Site is about 100m away from the Ling To Monastery, which is a Grade 3 historic building confirmed by the Antiquities Advisory Board on 31 August 2010. He has no adverse comments on the subject rezoning application from the heritage conservation perspective, provided that the

proposed development and associated works arising from or in connection with the rezoning application will not cause any adverse impact on, disturbance or damage to this graded historic building.

**Others**

9.1.15 Comments of Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD):

- (a) Part of the Site (the proposed widening and upgrading of an existing public road section underneath KSWH (coloured yellow and green on **Drawing Z-7** / hatched area on **Drawing Z-9**)) falls within the boundary of HSK NDA. According to the planning and engineering (P&E) study for HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. advance works and stage 1 to stage 4. Some of the lots concerned fall within a site under advance works stages. While the detailed implementation programme for the project is still being formulated, based on the P&E study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.
- (b) The proposed development is targeted for completion in 2023. The proposed access road as well as the existing road would likely be affected by the subsequent Road P1 construction. The applicants claimed that part of the proposed access road in GL will form part of the advanced infrastructure works of the HSK NDA. He advises that the detailed design of Road P1 has yet to commence and the interface issues between existing road/proposed access road and Road P1 shall only be resolved in the detailed design stage.

9.1.16 Comments of the Director of Leisure and Cultural Services (DLCS):

He has no particular comment on the application. The applicants are reminded that in case any tree will be affected, every possible effort should be made to preserve existing trees within and adjacent to the Site and minimize the adverse impact to them during the operation period from tree preservation point of view. If trees are inevitably affected, Tree Preservation and Removal Proposal (TPRP) should be submitted for approval in accordance with DEVB TC(W) No. 7/2015.

**District Officer's Comments**

9.1.17 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

- (a) He did not receive any locals' comment and has no comment from departmental point of view.

- (b) According to his record, the lots as stated in page 16 of the attached Table R4 & Annexes (**Annex Ie**), except item no. 15 and 22, are all held under the name of respective Tsos/Tongs. The information provided by the applicants relating to right-of-way agreements with the Tsos/Tongs managers do not have any implication that the DO/YL has given consent to the proposed ROW. In accordance with the provision of s. 15 of the New Territories Ordinance (Cap. 97), the respective Tsos/Tongs managers should seek consents to enter into a Deed of Grant of ROW from District Officer in respect of the lots concerned. Up to this moment, this office has not received any applications for such consents from the managers of Tsos/Tongs concerned.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (b) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD).

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

- 10.1 On 3.8.2018, 11.1.2019 and 31.5.2019, the application and the FI were published for public inspection. During the first three weeks of the statutory public inspection periods which ended on 24.8.2018, 1.2.2019 and 21.6.2019 respectively, a total of 97 public comments were received from Alliance for the Concern over Columbarium Policy, Kadoorie Farm and Botanic Garden (KFBG), World Wide Fund for Nature Hong Kong (WWF), and Hong Kong Bird Watching Society (HKBWS) and private individuals. Out of them, 85 public comments support the application, while the remaining 12 comments raise objection to the application (**Annex II**).
- 10.2 Majority of the commenters (i.e. 85 commenters (mainly individuals in standard letter)) support the application, on the following grounds:
  - (a) the proposed development would not generate adverse traffic, environmental and visual impacts;
  - (b) the Site is far away from residential settlements and there are graves scattered in the valley surrounding the Site. The proposed religious institution and columbarium uses are not incompatible with the surrounding environment; and
  - (c) there is acute demand for columbarium in the Yuen Long district.
- 10.3 Other 12 commenters (including Alliance for the Concern over Columbarium Policy, KFBG, WWF, and HKBWS and individuals) object to the rezoning proposal, on the following grounds:
  - (a) the proposed development is not in line with the planning intention in the “GB” zone;

- (b) the proposed development would cause adverse traffic, ecological and environmental impacts;
- (c) the proposed development is a “Destroy First, Build Later” development as there are suspected pond filling, illegal river channelization and unauthorized developments; and
- (d) approval of the application would set an undesirable precedent for further columbarium development within a religious institution leading to encroachment and degradation of the “GB” zone.

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

- 11.1 The Site comprises two portions, i.e. development site (Site A) for the proposed temple extension of the Ling To Monastery (靈渡寺) and columbarium with a total of 10,332 niches (for 10,332 urn places), and proposed access road (Site B). The applicants propose to rezone Site A from “GB” to “G/IC” and Site B from “GB” to area shown as ‘Road’. While ‘Religious Institution’ use is always permitted in “G/IC” zone, ‘Columbarium’ use is a Column 2 use under the proposed “G/IC” zone requiring planning permission from the Board.
- 11.2 The existing Ling To Monastery is located about 100m from the Site to the south, which is not directly adjoining the Site and outside the current rezoning application site. It is also accessible via the same local track leading to Ha Tsuen Road (**Plan Z-1**). The Ling To Monastery is currently managed by a Tso manager. The structures of Ling To Monastery are located on Government Land and covered by Squatter Control survey No. SST/841 and SST/842 (**Plans Z-2a and Z-2b**). The Ling To Monastery is in the form of a traditional Qing vernacular building and is a grade 3 historic building (**Plan Z-4h**).

### **Planning Intention**

- 11.3 The Site falls mainly within an area zoned “GB” and an area shown as ‘Road’. The subject “GB” zone is a stretch of land in an extent of about 1.35km-long and 500m-wide. It lies in between the KSWH and the HSK NDA to its northeast and the “Conservation Area” of natural landscape, Yuen Tau Shan and Tsing Shan Firing Range to its southwest (**Plans Z-1, Z-4f and Z-4g**). The subject “GB” zone mainly comprises vegetated knolls, cultivated agricultural land and the permitted burial ground (**Plans Z-1, Z-3 and Z-4g**). 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.
- 11.4 The existing Ling To Monastery is located about 100m from the Site to the south and is not directly adjoining the Site (**Plans Z-2a and Z-3**). Although the applicants claim to rezone the Site from “GB” to “G/IC” and area shown as ‘Road’ mainly for the extension of the Ling To Monastery and the columbarium uses, the applicants’ proposal is indeed to develop a new temple cum columbarium with a new access road in the “GB” zone. There is no strong justification for the piecemeal rezoning of the subject “GB” zone to facilitate the proposed temple and columbarium uses and associated new access road in the area.

### Land Use Compatibility

- 11.5 According to the notional scheme of the applicants, a 1-storey temple (GFA of 300m<sup>2</sup>) and two blocks of 3 storeys (with 1 level basement) for columbarium use (GFA of 1,342 m<sup>2</sup>) are proposed at Site A. The total plot ratio of the development is 0.37 with a maximum building height of 3 storeys. Site A is currently accessible via a local single track leading to Ha Tsuen Road to the further northeast about 950m away with a section running underneath the elevated KSWH. Instead of using the existing access, the applicants propose to develop Site A for a temple cum columbarium use for not more than 10,332 niches and have to connect Site A with a proposed access road (Site B) which is a 400m-long, 7.3m-wide 2-lane carriageway.
- 11.6 The Site is situated in a valley amongst a rural setting with lush vegetation and some active farmland. There is a permitted burial ground to the northeast of the Site and there are graves scattered in the valley (**Plan Z-2a**). Although the site area for Site A (the development site) for the proposed temple cum columbarium development is about 4,449m<sup>2</sup>, the site area for Site B for the proposed access road is about 8,359m<sup>2</sup> which is about 187% of the development site area. Whilst 'Religious Institution' may not be incompatible with the surrounding land uses, the proposed development, comprising columbarium use, in terms of its scale of accommodating not more than 10,332 niches and an access road of about 400m long with 2 roundabouts and lay-bys for coaches and private cars/taxis would bisect the vegetated land and farmland and may disrupt the integrity of the area's rural character.

### Access Road

- 11.7 To facilitate the proposed development at Site A, the applicants propose to rezone an area (Site B) from "GB" to an area shown as 'Road' for a new access road of about 400m long, 7.3m wide with pedestrian footpath of 1.2m wide (**Drawing Z-1**). The proposed access road is currently situated on (i) unleased and unallocated GL, (ii) private land owned by the applicants (i.e. the applicants' lots) and (iii) private land not owned by the applicants but various Tsos/Tongs (i.e. Tsos' lots) (**Plan Z-2b**). The applicants propose to obtain right-of-way (ROW) arrangements with the Tsos' lots and to include the unleased and unallocated GL in their proposed land exchange/ periodic tenancy as non-exclusive ROW to form the proposed access road to Site A.
- 11.8 Noting that the applicants would not apply for land exchange for the entire access road, DLO/YL, LandsD considers that the applicants fail to demonstrate how to materialize their proposal of only adopting ROW arrangement for the Tsos' lots portion and applying land exchange/ periodic tenancy for the GL portion to form the proposed access road as a non-exclusive ROW. Firstly, as regards the proposed ROW arrangement for the Tsos' lots portion, although the applicants claimed that they have already obtained the consent of all the concerned Tsos/Tongs managers, DLO/YL, LandsD advises that the Government does not guarantee any ROW to the Site which consists of various isolated pieces of unleased and unallocated GL as well as Tsos' lots not owned by the applicants. DO/YL, HAD also indicates that they have not received any applications for Deed of Grant of ROW from the managers of Tsos/Tongs concerned up to this moment. Secondly, with regard to the proposed land exchange application for the GL

portion, noting that the unleased and unallocated GL are scattered bit by bit and some are not directly connected to Site A, DLO/YL, LandsD considers that the applicants fail to demonstrate how to materialize the unleased and unallocated GL in their proposed land exchange. Thirdly, regarding the periodic tenancy of the unleased and unallocated GL, the applicants have not provided information of policy support from relevant bureau(x) and department(s). Lastly, concerning the applicants' proposal of forming a non-exclusive ROW as a whole, DLO/YL, LandsD considers that the applicants' proposal of setting up control points for restricted access to the columbarium is contradictory to the applicants' non-exclusive ROW arrangement of the proposed road access.

- 11.9 As regards the applicants' proposal to widen and upgrade the existing single-lane carriageway underneath KSWH for interim connection to the external road network before the completion of Road P1 proposed under the HSK NDA (the area coloured red in **Drawing Z-8**), DLO/YL, LandsD considers the unleased and unallocated GL (area coloured green in **Drawing Z-7**) will remain as unleased and unallocated GL if the land exchange application cannot be materialized, and the applicants should not be in any position to do any road widening works at this piece of unleased and unallocated GL. Besides, HyD has not agreed to take up maintenance works of this section of the proposed access road.
- 11.10 In view of the above, the applicants have yet to address the concerns of LandsD and HyD on the responsibility to construct and maintain the proposed access road. Also, the applicants have yet to address the concerns of LandsD and DO/YL on the ROW arrangement. As a whole, the implementability of the proposed access road is doubtful and rezoning from "GB" to 'Road' is not justified. Without the proposed access road, the proposed temple and columbarium development cannot be materialized.

#### Crowd Management

- 11.11 The applicants estimate that the typical person trip generation for the proposed 10,332 niches is estimated to be 1,550 per hour per direction during the peak seasons, and it is estimated that the vehicular trip generation is estimated to be 124 private cars/ taxis and 25 shuttle coaches per hour per direction during the peak season. The applicants propose 10 lay-by spaces for coaches and 30m-long lay-by for private cars/ taxis along Site B (**Drawing Z-10**). The applicants also propose to adopt traffic management plan/crowd management measures during the peak seasons with a reservation system for visit, provision of shuttle bus services to/from the MTR Siu Hong Station, and setting up control gates for restricted access to the columbarium for private cars/taxis (**Drawing Z-11**). The applicants propose to construct the access road as a non-exclusive ROW. DLO/YL states that the applicants are in no position to set up control points along the access road to restrict public access to this non-exclusive ROW. In this regard, even though C for T and C of P in principle accept the crowd management proposal, the applicants fail to demonstrate that the crowd management proposal is implementable as the proposals of non-exclusive ROW and setting up control gates are in contradiction.

#### Other Technical Aspects

- 11.12 Other relevant Government departments, including C for T, DEP, DAFC and CTP/UD&L, PlanD have no objection to or no adverse comment on the

application. C for T has no adverse comment on the rezoning proposal from traffic engineering point of view should the proposed road be a private road. DEP has no in-principle objection to the application and notes that toilet fitted with septic tank and soakaway system would be provided at the ancillary office of the proposed temple and mobile toilets would be provided for the visitors during festival periods. DAFC indicates that the submitted EcoIA has demonstrated that ecological impacts to adjacent habitats with higher ecological values are not expected. CTP/UD&L, PlanD indicates that, with the proposed mitigation measures in place, such as new planting along the proposed access road for screening purpose and use of colour and finishes for architectural facades of temple and columbarium structures, etc., significant visual impact is not anticipated. The 80 felled trees would be compensated by 80 no. new semi-mature trees within Site and significant landscape impact is also not anticipated.

### Previous Application

11.13 There is no previous application on the Site and there is no similar application within the same “GB” zone on the OZP. Notwithstanding that the visual and landscape impacts of the proposed development itself can be addressed through the adoption of appropriate design/mitigation measures to certain extent, approval of the application on a piecemeal basis may attract similar applications within the subject “GB” zone and set an undesirable precedent. CTP/UD&L, PlanD has observed that significant disturbance to the existing landscape resources and character has taken place. Besides, the proposed road works would further incur clearance of vegetation beyond the application boundary. The applicants fail to demonstrate the proposed access road is implementable. Approval of the application with unresolved issues would set an undesirable precedent.

### Public Comments

11.14 There are 97 public comments received. 85 individuals support the application on the grounds stated in paragraph 10.2. Other 12 comments object to the rezoning proposal on the grounds stated in paragraph 10.3. In this regard, the planning assessment and comments of Government departments above are relevant.

## **12. Planning Department’s Views**

12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department does not support the proposed rezoning of the Site from “GB” to “G/IC” and area shown as ‘Road’ for the following reasons:

- (a) the Site forms an integral part of the “GB” zone which is a stretch of land lying in between the Kong Sham Western Highway and Hung Shui Kiu New Development Area to its northeast and the “Conservation Area” of natural landscape, Yuen Tau Shan and Tsing Shan Firing Range to its southwest. The “GB” zone mainly comprises vegetated knolls, cultivated agricultural land and the permitted burial ground. The proposal to rezone the Site from “GB” to “G/IC” and area shown as ‘Road’ would bisect the vegetated land and farmland and may disrupt the integrity of the area’s rural character. There is no strong planning justification for piecemeal



rezoning to facilitate the proposed temple cum columbarium development and the associated access road;

- (b) the applicants fail to demonstrate that the proposed access road is feasible and implementable. There is no strong justification to rezone a long stretch of land in the “GB” zone to area shown as ‘Road’; and
- (c) approval of the application would set an undesirable precedent for other similar rezoning applications within the “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

12.2 Alternatively, should the Committee decide to agree / partially agree to the subject application, the proposed amendments to the Ha Tsuen Fringe OZP would be submitted to the Committee for approval prior to gazetting under Section 5 of the Town Planning Ordinance upon reference back of the OZP.

### 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 reasons for the decision should be given to the applicants.

### 14. Attachments

<b>Annex I</b>	Application form and attachments received on 20.7.2018 <i>and</i> 1.8.2018
<b>Annex Ia</b>	Supplementary planning statement received on 20.7.2018
<b>Annex Ib</b>	FI received on 18.12.2018 and 24.12.2018
<b>Annex Ic</b>	FI received on 21.5.2019
<b>Annex Id</b>	FI received on 18.9.2019
<b>Annex Ie</b>	FI received on 26.11.2019
<b>Annex II</b>	Public Comments
<b>Drawing Z-1</b>	Revised Master Layout Plan
<b>Drawing Z-2</b>	Ling To Monastery Master Layout Plan
<b>Drawing Z-3</b>	Ling To Monastery Basement Plan
<b>Drawing Z-4</b>	Ling To Monastery Section
<b>Drawing Z-5</b>	Ling To Monastery Elevation
<b>Drawing Z-6</b>	Comparison of Original and Revised Alignment of Access Road (Site B)
<b>Drawing Z-7</b>	Management Arrangement of Proposed Access Road
<b>Drawing Z-8</b>	Interim Arrangement of Proposed Access Road Underneath Kong Sham Western Highway
<b>Drawing Z-9</b>	Future Management Arrangement of Proposed Works at North Portion of Site B
<b>Drawing Z-10</b>	Layout Plan of Proposed Access Road
<b>Drawing Z-11</b>	Proposed Special Traffic Arrangement during Peak Season
<b>Drawing Z-12</b>	Proposed Shuttle Bus Services to Siu Hong MTR Station
<b>Drawing Z-13</b>	Photomontage 1

<b>Drawing Z-14</b>	Photomontage 2
<b>Drawing Z-15</b>	Photomontage 3
<b>Drawing Z-16</b>	Photomontage 7
<b>Drawing Z-17</b>	Landscape Mitigation Measures
<b>Drawing Z-18</b>	Landscape Master Plan 1
<b>Drawing Z-19</b>	Landscape Master Plan 2
<b>Drawing Z-20</b>	Landscape Perspective 1
<b>Drawing Z-21</b>	Landscape Perspective 2
<b>Drawing Z-22</b>	Landscape Section A-A'
<b>Drawing Z-23</b>	Landscape Section B-B'
<b>Drawing Z-24</b>	Open Space

<b>Plan Z-1</b>	Location Plan
<b>Plans Z-2a and Z-2b</b>	Site Plan
<b>Plan Z-3</b>	Aerial Photo
<b>Plans Z-4a to Z-4h</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2019**