

Section 12A Rezoning Application from “V” to “G/IC (3)”

for Regularisation of a Pre-cut-off Columbarium Ancillary to Buddhist Cheung Ha Temple

Lot Nos. 1087 and 1130 in D.D. 6 and Adjoining Government Land, Tai Po

Planning Statement



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Executive Summary

This planning application under section 12A of the Town Planning Ordinance is submitted by Toco Planning Consultants Ltd. on behalf of Buddhist Cheung Ha Temple Ltd. (the Applicant), which is the land owner of Lot Nos. 1087 and 1130 in D.D. 6, Kam Shan, Tai Po. It is for the agreement of the Town Planning Board to rezoning the site covering the aforesaid private lots and adjoining Government land, from "Village Type Development" to "Government, Institution or Community (3)" ("G/IC(3)") on the Approved Tai Po Outline Zoning Plan No. S/TP/30. The proposed "G/IC(3)" zone will permit the Applicant to submit the subsequent planning application under section 16 of the Town Planning Ordinance to regularise the current Pre-cut-off Columbarium with 11,726 niches ancillary to the religious institution at the application site, namely Buddhist Cheung Ha Temple (BCHT). 2,000 niches have been reserved for selling to the local residents.

BCHT was established at the upper part of Kam Shan area in 1928. It is a bona fide religious organisation which has been active in holding ceremonies and events to promote Buddhism, as well as participating in charity works. In view of their religious principle and the strong demand of columbarium niches in Hong Kong over the past decades, the columbarium ancillary to BCHT has been in operation since the 1970s to serve the deceased members and the followers of BCHT, as well as people who were homeless and in financial difficulties. Until 1987, BCHT has been selling columbarium niches to the general public to maintain its daily operation. In response to the latest requirements of Private Columbaria Ordinance (PCO) which came into effect on 30.6.2017, the Applicant had submitted the private columbarium licensing application for the Pre-cut-off Columbarium for BCHT to the Private Columbaria Licensing Board on 28.3.2018. The Applicant had also fulfilled a series of requirements and obtained the Approval-in-principle Temporary Suspension of Liability (TSOL) on 21.9.2022. During the 3 years validity period of TSOL, the Applicant has to comply with all statutory and government requirements, including town planning, land lease and building safety.

This planning application is submitted to comply with the town planning requirements of PCO. It is in line with the Government's policy to resolve the historic problem of Pre-cut-off Columbaria under a pragmatic and sensitive approach. It will also help meeting part of the demand for columbarium niche spaces at this inconspicuous and tranquil location. The application site is suitable for columbarium use since it is segregated from the village houses with an appropriate distance and site level difference (also BCHT is not in the direct sightline of the village houses), and is visually obstructed by slopes and mature trees. It is within a short walking distance to Tai Wo MTR Station and other major public transport facilities. The present application will not propose any new building and all the existing low-rise developments and landscape features within the site would remain unchanged. Additional landscape features have been proposed along the main operational area of BCHT to provide a natural screening buffer for BCHT. In order to avoid any potential unnecessary disturbance to the neighbouring developments during the grave sweeping occasion, visitors will be directed by staff to access/ leave BCHT via the staircase (the least usage rate by the villagers) east of the site. Traffic management measures are proposed to ensure BCHT can be run in a safe, orderly and smooth fashion during the festive event.

Planning and technical assessments have been have indicated that the subject development will not result in any significant impacts on land use, traffic, environmental, drainage, sewerage, landscape, visual and geotechnical aspects of the locality. In view of its long history, inconspicuous location, appropriate scale and new policy initiatives, the application will not set an undesirable precedent for similar applications in the area. Nevertheless, the Applicant has decided to reduce 1,700 niches, which is the same niche number of Cheung Ha Ching Shea near the site, to relieve the concern on cumulative effect (if any).

行政摘要

(內容如有差異，應以英文版本為準)

佛教長霞淨院有限公司 (申請人) 為丈量約份第 6 約地段第 1087 及 1130 號之土地業主，現透過達材都市規劃顧問有限公司，根據城市規劃條例第 12A 條向城市規劃委員會遞交修訂圖則申請，將上述私人地段及毗連政府土地 (申請地點)，由現時在大埔分區計劃大綱核准圖編號 S/TP/30 內之「鄉村式發展」地帶改為「政府、機構或社區(3)」地帶，以准許其後根據城規條例第 16 條作出規劃申請，將申請地點內名為佛教長霞淨院 (下稱「廟宇」) 的附屬截算前骨灰安置所，共 11,726 個靈灰位規範化，當中 2,000 個靈灰位將會預留出售給當地居民。

廟宇於 1928 年在錦山半山建立，長久以來提供宗教拜祭及活動以宣揚佛法，並行常參與慈善工作，是一所正規的宗教組織。基於其宗教原則及過去香港對骨灰存放位供不應求的情況，廟宇的附屬靈灰安置所在 70 年代開始運作，以供給廟內已逝去之僧侶及善信使用，並且會提供給無家可歸及有經濟困難的人。直至 1987 年，廟宇開始出售靈灰位給公眾至今，以協助廟內的日常運作得以持續。申請人因應在 2017 年 6 月 30 日生效的私營骨灰安置所條例之最新要求，已於 2018 年 3 月 28 日向私營骨灰安置所發牌委員會提交了截算前骨灰安置所之牌照申請，並已經符合了一系列的要求，在 2022 年 9 月 21 日獲得了原則上同意暫免法律責任書。申請人必需在暫免法律責任書生效的三年寬限期內符合城市規劃、土地契約及建築安全等要求。

是次規劃申請迎合上述牌照申請之城規要求，完全符合了政府政策把截算前骨灰安置所這些歷史問題以務實和體恤的方式處理，並且滿足公眾人士對骨灰存放位的強烈需求。申請地點位置寧靜隱蔽，四周被山坡、樹木和護土牆所包圍，與附近村屋相隔著適當距離和地形水平的差距 (而且村屋的方向亦不是直接朝向廟宇)，加上鄰近太和地鐵站及其他主要公共交通設施，因此很適合用作靈灰安置所用途。此外，是次申請不會在地盤加設新的建築物，而廟宇的現存低密度建築和園林綠化將保留不變，並會在界線邊緣加強綠化元素以作廟宇的天然視覺屏障。另外，為盡力解決在春秋二祭所產生任何對附近居民造成滋擾的可能性，訪客將由工作人員引領到申請地點以東，最少居民使用的樓梯通道前往或離開廟宇。

規劃及工程研究認為本計劃不會對區內及附近的土地利用、交通、環境、排水、排污、園景、視覺景觀及岩土造成不良影響。基於廟宇的長久歷史、隱蔽位置、合適規模和最新政策措施，本申請不會對類似申請構成不良先例。儘管如此，申請人決定減少 1,700 個靈灰位 (與附近祥霞精舍的靈灰位數目相同)，以緩解累積效應的影響。

PART I- MAIN REPORT



1. INTRODUCTION

1.1 Purpose of Submission

This planning application under section 12A of the Town Planning Ordinance (s.12A application) is submitted by Toco Planning Consultants Ltd. on behalf of Buddhist Cheung Ha Temple Ltd. (the Applicant), which is the land owner of Lot Nos. 1087 and 1130 in D.D. 6, Kam Shan, Tai Po. It is for the agreement of the Town Planning Board (TPB/the Board) to rezone a site covering the aforesaid private lots and adjoining Government land (the application site) from "Village Type Development" ("V") to "Government, Institution or Community (3)" ("G/IC(3)") on the Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/30 (see **Plan A**). The proposed "G/IC(3)" zone will permit the Applicant to submit the subsequent planning application under section 16 of the Town Planning Ordinance (s.16 application) to regularise the current Pre-cut-off Columbarium⁽¹⁾ with 11,726 niches ancillary to the religious institution at the application site, namely Buddhist Cheung Ha Temple (BCHT/佛教長霞淨院).

1.2 The Application's Background

BCHT, previously named Mei Chuen Tong (美全堂), is a religious institution of trai-lokya buddham (三寶佛) established at the upper part of Kam Shan area in 1928. It is a bona fide religious organisation which has been active in holding ceremonies and events to promote Buddhism. The ancillary columbarium use within the compound of BCHT have been in operation since the 1970s to serve the deceased members and the followers of BCHT, as well as people who were homeless and in financial difficulties. This practice has remained up to the present moment. In view of their religious principle and the strong demand of columbarium niches in Hong Kong over the past decades, the Temple has been selling columbarium niches to the general public to maintain its daily operation since 1987 (see **Appendix II**).

In response to the latest requirement of Private Columbaria Ordinance (PCO) enacted on 30.6.2017 (see **Annex I of Appendix I**), the Applicant had submitted the private columbarium licensing (PCL) application for BCHT to the Private Columbaria Licensing Board (PCLB) on 28.3.2018 (see **Annex II of Appendix I**). The Applicant had fulfilled a series of requirements and obtained the Approval-in-principle (AIP) Temporary Suspension of Liability (TSOL) on 21.9.2022 (see **Annex III of Appendix I**). During the 3 years validity period of TSOL, the Applicant has to satisfy the town planning, land lease and building safety requirements in order to obtain the Columbarium Licence. Hence, the Applicant herein submits the s.12A application, partly to comply with the licensing requirements under the PCO and partly to satisfy the town planning requirements.

⁽¹⁾ "Pre-cut-off columbarium" means a columbarium that was in operation, and in which ashes were interred in niches, immediately before the "cut-off time" (i.e. 8 a.m. on 18.6.2014)

1.3 The Improved Scheme in Responses to the TPB's Concerns

The application site is the subject of a previous s.12A rezoning application (Application No. Y/TP/29) from "V" to "G/IC(3)" zone to regularise the existing columbarium at the site (hereafter refer as "the previous application"). The previous application was rejected by the Board mainly on the grounds in relation to land use incompatibility and precedent issues arising from the development. Hence, the consultant team has comprehensively studied the previous application and the Applicant has made utmost effort to address the above TPB's concerns by way of the present improved scheme, including:

Improvement to Address Landuse Compatibility

(a) Access which Minimises Disturbance to Nearby Residents

In order to avoid unnecessary disturbance to the neighbouring developments during the Festival Periods, visitors will be directed by staff to access/ leave the application site via the staircase east of the site (the main temple access), which is mainly be used by BCHT and House No.57-58. The Applicant has already obtained no objection letter from the tenants of House No. 57-58.

(b) Additional Visual and Landscape Buffer for the Temple

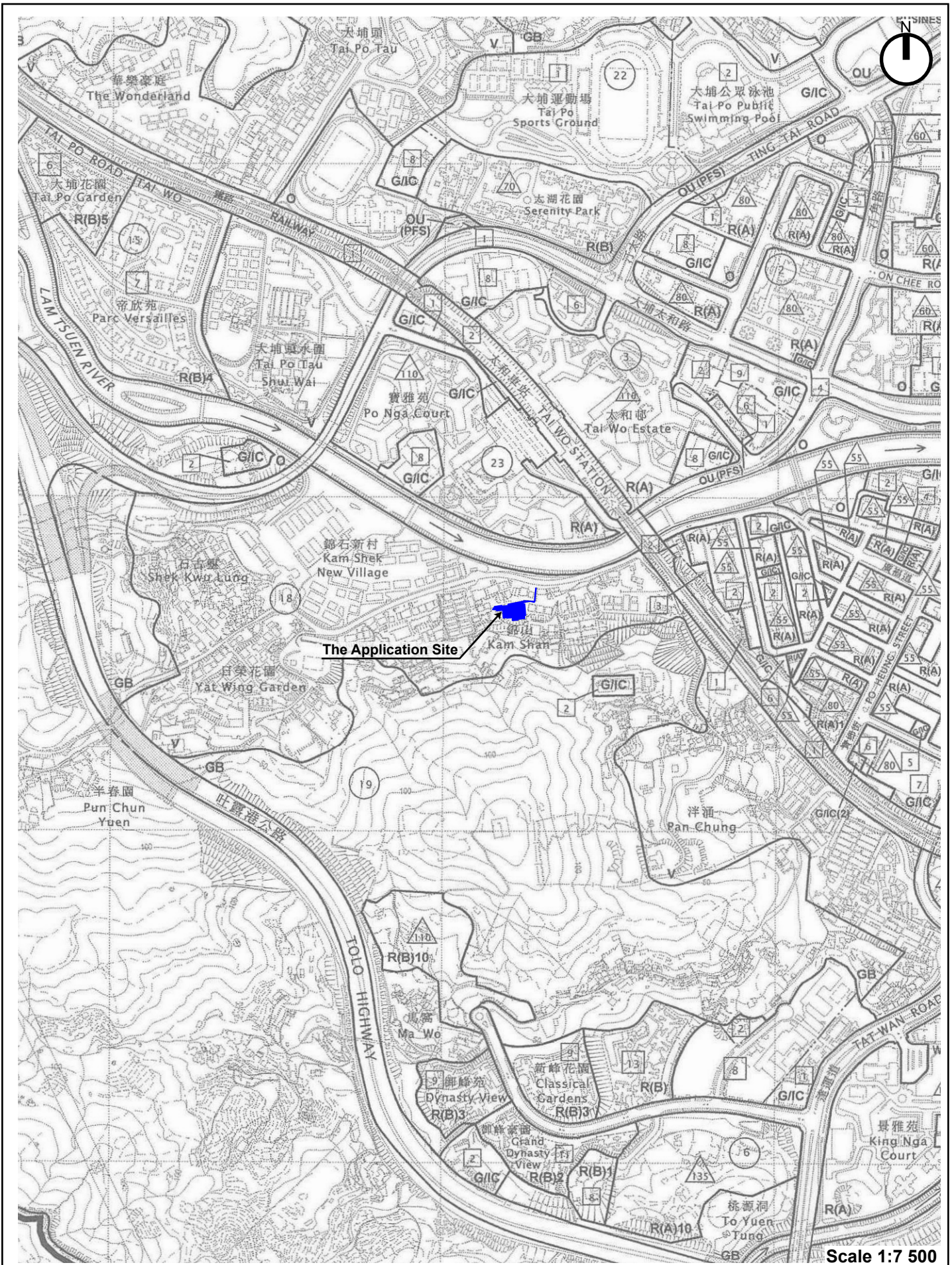
Urban Design Unit and Landscape Unit of Planning Department (PlanD) had no objection to the previous application from visual and landscape planning perspectives. In order to further relieve the concerns of the local villagers on any possible visual and psychological impacts of the existing columbarium, additional landscape features have been proposed along the boundary edge to provide a natural screening buffer for BCHT. Therefore, the low-rise buildings (and the visitors) within the site will be hardly visible from outside.

(c) Full Planning Control

The Applicant proposes to amend the zoning of the application site from "V" to "G/IC(3)" and 'Columbarium' will be put under column 2 of the schedule of uses in the proposed zoning. This will allow the relevant Government departments to strictly control the number of niches and the development scheme by approval conditions of the s.16 application. The rezoning boundary has been largely reduced and it is in line with the application boundary under the PCL application.

(d) Further Management Measures

A Management Plan which was prepared based on details in the previous Traffic Impact Assessment (TIA) report, has been submitted to the PCLB. Both Transport Department (TD) and Hong Kong Police Force (the Police) considered the crowd management measures as proposed under the previous application was acceptable. Further management measures as proposed in the attached Management Plan will ensure the Temple will eliminate the possibility of causing disturbance to the local villagers, in particular during the festive event.



Plan A: Zoning and Location Plan

Extract of Approved Tai Po Outline Zoning Plan S/TP/30

Improvement to Address Precedent Effect

(e) Reduction of 1,700 Niches

During the deliberation session of the previous application, some TPB's members were concerned that approval of the application would set a precedent for similar application within the same "V" zone, i.e. Cheung Ha Ching Shea near the site. Although detailed planning assessment has already demonstrated that it was not the case, the Applicant has decided to reduce 1,700 niches, which is the same niche number of Cheung Ha Ching Shea as recorded on 30.6.2017, to relieve the concern on cumulative effect.

(f) Good Relationship with the Local Villagers and Benefits to the Locality

A number of support letters have been received from the local residents and local organisations (see **Appendix III**). In order to benefit the local community, the religious and recreational courtyard will be continuously open to public for passive recreational use during normal days of the operation hours of the Temple. In addition, the Applicant has decided to reserve 2,000 niches for selling to the residents of Tai Po District and Kam Shan area. The Temple will continue the practice for offering a certain number of free niches to those people in need.

(g) Environmental Improvement Measure

As Environmental Protection Department (EPD) had no objection to the previous application, the Applicant is committed to follow the operational arrangement as previously proposed.

Planning and technical assessments have indicated that the application is well justified based on the following reasons:

- (a) BCHT and its ancillary columbarium have been in operation before the gazettal of the first Tai Po OZP. Approval of this case will support BCHT to continuously participate in religious and charity works (see **Appendix IV**);
- (b) the proposed "G/IC(3)" zone is in line with the Government's policy and the requirements of PCO to regularise the Pre-cut-off Columbarium at BCHT;
- (c) the proposed (existing) development is in line with the Government's intention to relieve part of the urgent demand for columbarium niche spaces. 2,000 niches have been reserved for selling to the local residents;
- (d) the site is suitable for religious and columbarium uses as it is located at a tranquil and inconspicuous location. It is hardly visible from outside in view of the major level difference from the surrounding area, retaining wall, slopes and mature trees;
- (e) the site is within a short walking distance to public transportation. Management measures have been proposed to encourage visitors to use the existing staircase east of House no. 57-58 to reduce disturbance to neighbouring developments;

- (f) the buildings at the site are low-rise in nature and they are compatible with the local land use character, which is dominated by a mix-use of religious institutions, small houses, columbaria and schools. Additional landscape features are proposed to provide a natural screening buffer for the Temple;
- (g) the proposed scheme will not result in adverse impact on "V" zone due to sufficient land for small house development and strong supports from the local residents;
- (h) it will not result in any significant impact on land use, traffic, environmental, drainage, sewerage, landscape, visual and geotechnical aspects of the locality. Traffic management measures are proposed to ensure the Temple can be run in a safe, orderly and smooth fashion during the festive event; and
- (i) the proposed new zoning is tailor-made for BCHT and it will not set an undesirable precedent for similar applications. Nevertheless, the Applicant has decided to reduce 1,700 niches, to relieve the concern on cumulative effect.

The above planning justifications will be explained in detail in the following sections. Besides, detailed planning assessments to address the above TPB's concerns on land use compatibility and precedent issues have been conducted, as detailed in **Section 7**. Details of various technical assessments are attached in **Appendices V to VIII**.

2. PLANNING BACKGROUND

The location, accessibility, site condition, adjacent land uses, planning history and land status of the application site will be presented in this section.

2.1 Site Location and Accessibility (Plan A and Plan B)

The application site is located at the upper part of Kam Shan, Tai Po (**Photo 1**). It is bounded by the medium platform area and slope with mature trees to the north; slope with some trees and house nos. 41-42 (living quarters for staffs/associated persons of BCHT) to the east; vegetated slope to the south; and the religious office of BCHT and landscape garden to the west. The site is situated in a tranquil and inconspicuous location shielded by slopes and mature trees and, due to the major level difference between the site and the adjacent area, it is hardly visible from outside.

The application site is located within a 600-radius catchment area (about 7-8 minutes walking time) from Tai Wo MTR Station, major bus stops, green minibus/ public light bus (GMB/ PLB) stops, taxi stands, public car parks and pick-up/ drop-off spaces (**Photo 15** and **Photo 16**). It is accessible from Kam Shan Road via footpaths/stairs with varying width from about 1.4m to 1.8m. Kam Shan Road is a single two-lane carriageway linking to the major road network via Pak Shing Street and Kwong Fuk Road. A new administrative arrangement has been adopted by BCHT recently that all visitors of BCHT only use the stairs to the east of house nos. 57-58 connecting from Kam Shan Road to the main entrance of BCHT as the main temple access (**Photo 6**).

2.2 Site Condition (Plan B)

The application site is occupied by a religious institution named BCHT, which is a bona fide religious organisation established in 1928. It has a total area of about 1,052.4m² and is covered by two platform areas situated in a level of 18.4mpD (namely the medium platform) and 20.6mPD (namely the upper platform) respectively (**Photo 4** and **Photo 5**). The upper platform area consists of two 2-storey temple-cum-columbarium structures (namely Building A and Building B) (**Photo 2** and **Photo 3**) and an open-air courtyard related to the religious and columbarium operation of BCHT, while the medium platform area covers some access area connecting the main temple access (**Photo 5** and **Photo 6**). The ancillary columbarium use within the temple-cum-columbarium structures has been in operation since the 1970s (**Photo 8**).

The entire site is characterised by a religious and tranquil environment. There are three existing trees planted around the northern edge and western edge within the application site. A strip of potted bamboos have been planted along the eastern side of the site to serve as a visual buffer between BCHT and the adjacent village houses (**Photo 7**). In order to provide a convenient gathering place for the local people, the religious and recreational courtyard has been open to public for passive recreational use, such as Tai Chi exercise, during normal days of the operation hours of BCHT.

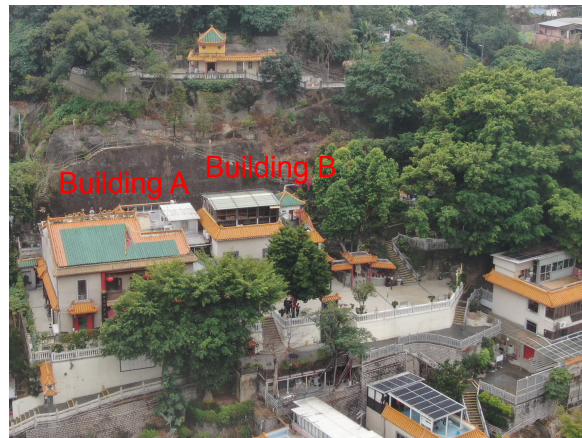


Photo 1: Buddhist Cheung Ha Temple.



Photo 2: Building A.



Photo 3: Building B



Photo 4: Upper platform area.



Photo 5: Medium platform area.



Photo 6: Tha Main Temple Access.



Photo 7: Bamboos along the side of Building A.



Photo 8: The columbarium hall.

- The Application Site
- The Main Temple Access
- Religious & Columbarium Building
- Building Ancillary to Religious or Related Uses
- Lower Platform Area
- Medium Platform Area
- Upper Platform Area
- G/IC Use/ Tsz Tong
- Slope Area
- Supporters / No Objection
- Existing Trees in the Vicinity



Plan B: Site Plan



2.3 Adjacent Land Uses (Plan C)

The application site falls within the Kam Shan area, which has a special land use character dominated by religious institutions, village houses, columbaria and schools. Adjacent land uses of the site are described below:-

- (a) North – To the immediate north of the site is covered by the medium platform area and slope area with mature trees, which could serve as an effective buffer for the village houses further north of the site (**Photo 9**). In fact, those village houses are sited at the level of 8.8 mPD, which is about 11m lower than the upper platform with temple-cum-columbarium structures. A columbarium namely Cheung Ha Ching Shea (**Photo 10**) is located along Kam Shan Road further north of the site.
- (b) East – To the further east of the site across a strip of slope area with some trees is House Nos. 41 and 42 of Kam Shan Village, which are occupied by the living quarters for staff/associated persons for BCHT (**Photo 11**). The users of House Nos. 41 and 42 and their adjacent neighbours have their own pedestrian access route.
- (c) South – To the immediate south of the site is the vegetated slopes. A religious institution called Yan Lo is located further south of the site (**Photo 12**).
- (d) West – To the immediate west of the site is the religious office of BCHT (**Photo 13**) and landscape garden. To the further west across the religious office is the vegetated slope composed of village houses, footpaths and some communal uses such as Norwegian International School (**Photo 14**).

Although the application site is situated within Kam Shan Village, BCHT has maintained a good relationship with its adjacent neighbourhood. A number of support letters from the local villagers, Tai Po residents, reputable persons, representatives and organisations in the area have been received (see **Appendix III**).

2.4 Planning History

The application site falls within "V" zone on the Approved Tai Po OZP No. S/TP/30. According to the Notes of the OZP, the planning intention of this zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Other commercial, community and recreational uses may be permitted on application to the Board.

The application site has been used for religious and ancillary columbarium uses long before the gazette of the first Tai Po OZP on 12.12.1980 (see **Appendix II**). According to the TPB Guidelines No. 24D, a use in existence before the publication of the first plan which has continued since it came into existence. Thus, the facilities in BCHT could be regarded as "existing uses" and planning permission from the Board is not required.

However, it is difficult to obtain sufficient historical evidence to support the claim under the legal procedure in a short period of time. In particular taking photographs of the niches inside a columbarium in the past decade is considered very disrespectful to the deceased according to the traditional religious principle. Therefore, the Applicant has decided to go through the planning application system in order to comply with the town planning requirement for the columbarium licensing application.

The application site is partly the subject of a previous s.12A application (Application No. Y/TP/29) from "V" to "G/IC(3)" zone to regularise the existing columbarium with 13,426 niches at the site. Whilst majority of the Government departments had no adverse comment on the application, it was rejected by the Board on 4.9.2020 mainly on the reasons that the columbarium use at the site was not compatible with existing village setting of the area; and approval of the application would set an undesirable precedent for other similar application within the "V" zone.

In order to address TPB's concerns, a new s.12A application with an improved scheme and detailed planning assessments on land use compatibility and precedent effect is herein submitted for consideration of the Board.

2.5 Land Status (Plan D)

The application site covers private Lot Nos. 1087 and 1130 in D.D. 6 and adjoining Government land. Land status of the application site is described as follows:-

(i) The Private Lots

The private lots with a total area of about 390.2m² at the site are entirely owned by the Applicant. They are mostly covered by Building A and Building B. Lot Nos. 1087 and 1130 are held under New Grant No. 4961 and TP5543 respectively as Building Lots subject to General Conditions of Sale and Special Condition No. 2(a) published in Government Notification No. 570 of 1924 and are restricted to: 2 storeys in height; no grave nor human remains be interred in, or deposited on the Lots; and not used as a "Chai Tong" or for any other purpose of a similar nature except with the written consent of Lands Department (LandsD).

(ii) The Government Land

The Government land within the application site is about 662.2m². It is mainly occupied by the waiting area, religious and landscape courtyard and the main pedestrian access to BCHT, while part of Building A and Building B are built on Government land.

If the s.12A application and the subsequent s.16 application are approved by the Board, the Applicant will apply to LandsD for a temporary waiver of any breach of lease conditions covering the private lots at the application site. An application for Short Term Tenancy (STT) covering the adjoining Government land will also be submitted to LandsD in order to allow the use of the Government land.



Photo 9: Major level difference and mature trees.



Photo 10: Cheung Ha Ching Shea.



Photo 11: Staff/associated persons for BCHT.



Photo 12: Yan Lo Temple (隱廬).



Photo 13: Religious office of BCHT.



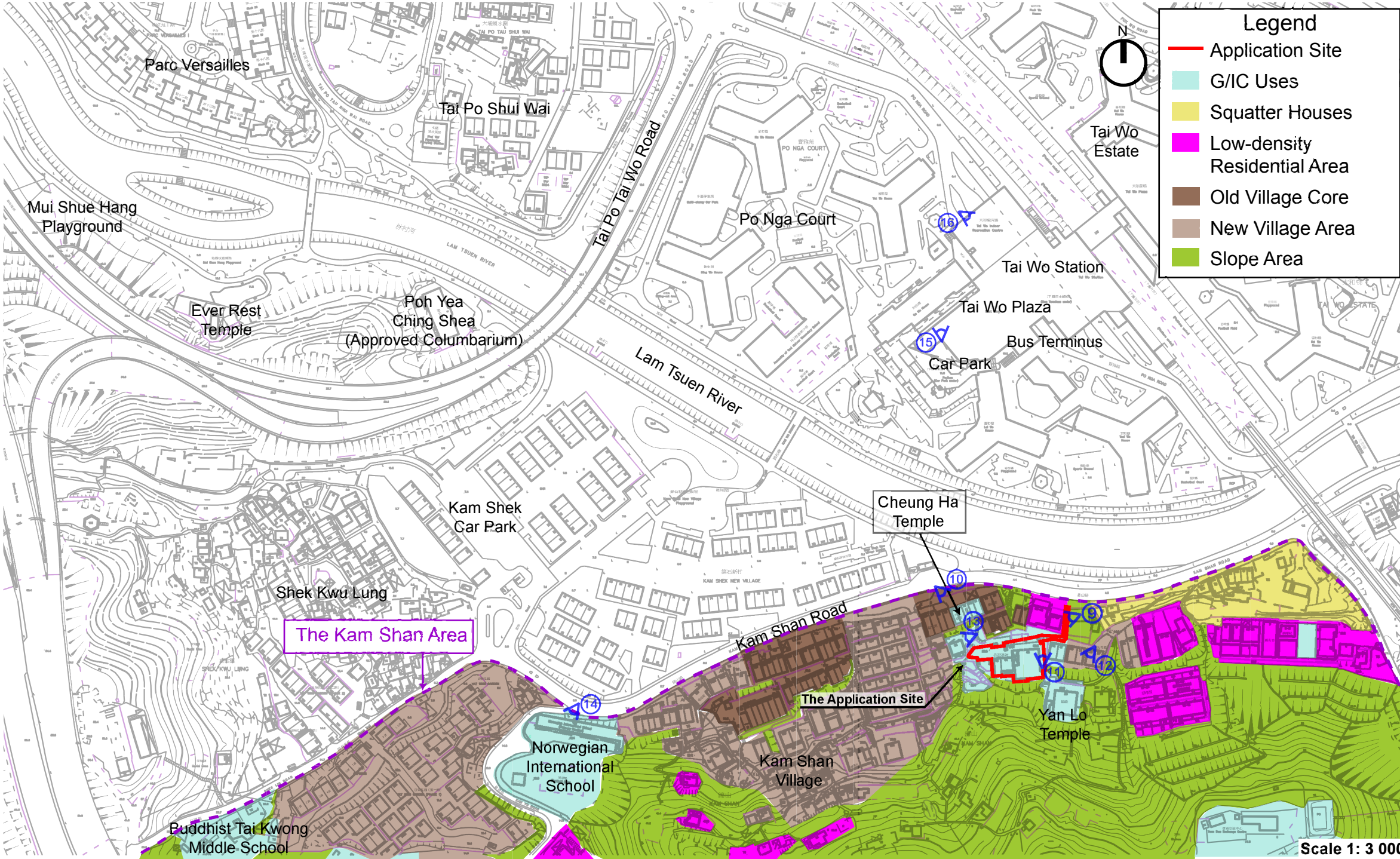
Photo 14: Norwegian International School.



Photo 15: Carpark at Tai Wo Plaza



Photo 16: Taxi stand at Tai Wo Plaza



Plan C: Site and Adjacent Land Use Plan



3. REZONING PROPOSAL

3.1 Proposed Amendments to the Outline Zoning Plan

This s.12A application involves the following amendments to the current approved Tai Po OZP No. S/TP/30:-

(i) **Amendment Item 1 – OZP (Plan E)**

It is proposed to rezone the zoning of the application site covering Lot Nos. 1087 and 1130 in D.D. 6 and adjoining Government land from "V" to "G/IC(3)". As previously advised by the relevant departments, the planning application (or the rezoning) boundary shall be tally with the PCL application boundary. Moreover, those areas related to the columbarium operation (i.e. columbarium premises, main access and waiting area) shall form part of the licensing boundary to ensure enforceability by the Private Columbaria Affairs Office (PCAO). Therefore, the rezoning boundary under this application is the same boundary as proposed under the PCL application for BCHT.

(ii) **Amendment Item 2 – Schedule of Uses (Table 3.1)**

Since 'Religious Institution' use at BCHT has been in existence long before the statutory town plan of this area came into force, it is therefore suggested that 'Religious Institution' use could be put under column 1 of the schedule of uses in the proposed "G/IC(3)" zone. On the other hand, 'Columbarium' use has been included under column 2 of the schedule of uses in the proposed "G/IC(3)" zone so as to allow the subsequent submission of a s.16 application for the regularisation of the columbarium ancillary to BCHT.

Most uses that are currently fall under column 1 or column 2 of the schedule of uses in the "V" zone, such as 'Agricultural Use' and 'House (New Territories Exempted House only' etc., will be excluded to be put under the schedule of uses in the proposed "G/IC(3)" zone. They are not related to the current operation or future improvement plan of BCHT.

(iii) **Amendment Item 3 – Planning Intention and Remarks (Table 3.1)**

It is proposed to specify this new zoning is intended for religious institution and columbarium use. The maximum number of columbarium niches within this zone as a whole shall not exceed 11,726 niches (a reduction of 1,700 niches from 13,426 niches as of 30.6.2017). A maximum building height restriction of 2 storeys has also been imposed.

The proposed "G/IC(3)" zone will facilitate the relevant departments to properly control the number of niches and the development scheme by approved conditions of the s.16 application. This special zoning is tailor-made for BCHT and it will not set a precedent case for other similar applications in the area. It should be noted the provision of a new columbarium should be defined as the "Post-cut-off Columbarium".

3.2 Basis of the Proposed Rezoning

The Government has emphasised in many public occasions that they are prepared to adopt a pragmatic and sensitive approach to resolve the historic problem of these Pre-cut-off Columbaria so as to minimise any social disruption arising from people who have purchased these niches and massive displacement of interred ashes before the introduction of regulatory regime (see **Annex I of Appendix I**). On 30.6.2017, the PCO came into effect and the private columbarium in Hong Kong must be covered with a Columbarium Licence, Exemption or TSOL. The policy objectives aim at stipulating proper regulation on private columbaria so that they could complement the public columbaria to meet the social needs for ancestral worshipping, to add supply and choice of niches and related services. Therefore, the Applicant had submitted the PCL for BCHT before the expiry date on 29.3.2018.

The Applicant had fulfilled a series of requirements and obtained the AIP TSOL on 3.9.2021 (see **Annex III of Appendix I**). During the 3 years validity period of TSOL, the Applicant has to satisfy, including but not limited to, town planning, land lease and building safety. To comply with the town planning requirements, PlanD advised in the letter that the Applicant is required to submit the s.12A application or s.16 application unless the columbarium is an "Existing Use" (in existence before the publication of the first statutory town plan in Tai Po, i.e. 12.12.1980) (see **Annex IV of Appendix I**).

Although the ancillary columbarium have been in operation since the 1970s, it is difficult to trace back the evidence on the date of first interment in niche for the columbarium as stated **Section 2.4**. Therefore, the Applicant has decided to go through the planning application system in order to comply with the town planning requirement for the PCL application. However, 'Columbarium' use does not fall under Column 1 or Column 2 of the current "V" zone. The Applicant has to submit a s.12A application to amend the zoning of the site to "G/IC(3)" with 'Columbarium' listed under column 2. After the plan marking procedure by TPB is completed, then the Applicant could submit a s.16 application for columbarium use so as to in compliance with the town planning requirements.

In view of the above, the proposed rezoning is an essential mechanism to facilitate regularization of the columbarium in BCHT. It is in line with the Government's intention to take care of the sentiment of the descendants, in particular their wish not to upset the resting place of the deceased as far as practicable. Moreover, it will facilitate the future improvement plans of promoting religious and charitable services (see **Appendix IV**).

Table 3.1 Proposed Schedule of Uses for "G/IC(3)" Zone

GOVERNMENT, INSTITUTION OR COMMUNITY (3)

Column 1 Uses always permitted	Column 2 Uses that may be permitted with or without conditions on application to the Town Planning Board
Government Use (not elsewhere specified) Religious Institution	Columbarium (specified number of niches in paragraph (d) under Remarks) Eating Place Public Convenience Public Utility Installation Shop and Services Utility Installation for Private Project

Planning Intention

This sub-zone is intended primarily for the provision of religious institution and associated columbarium use serving the needs of the local residents as well as the general public. Any development within this zone shall be low-density and low-rise in nature and shall be compatible and blend in harmoniously with its surrounding environment.

Remarks

- (a) No new development, or addition, alteration and/or modification to or redevelopment of an existing building shall result in a total development and/or redevelopment in excess of the maximum building heights of 2 storeys or the height of the existing building, whichever is the greater.
- (b) In determining the maximum number of storeys for the purposes of paragraph (a) above, any basement floor(s) may be disregarded.
- (c) Based on the individual merits of a development or redevelopment proposal, minor relaxation of the building height restriction stated in paragraph (a) above may be considered by the Town Planning Board on application under section 16 of the Town Planning Ordinance.
- (d) The maximum number of niches for columbarium use within this zone as a whole shall not exceed 11,726.

4. DEVELOPMENT PROPOSAL

4.1 Master Layout Plan and Development Schedule

4.1.1 Design and Planning Consideration

The application site is partly the subject of a previous s.12A application (Application No. Y/TP/29) from "V" to "G/IC(3)" zone for regularising the existing columbarium at the site. It is noted that the following Government departments had no objection to the application and key observations on the Rural and New Town Planning Committee (RNTPC) Paper are as summarised as follows:

- (a) Food and Environmental Hygiene Department (FEHD) noted that the total number of niches and ash interment capacity proposed for the columbarium licensing application was in line with that under the planning application and they had no comments on the Applicant's proposed 'pre-booking system' arrangement;
- (b) Home Affairs Bureau (HAB) confirmed that Buddhist Cheung Ha Temple is a bona fide religious organisation;
- (c) LandsD had no objection to the application and advised the Applicant to submit a waiver and STT application after the planning approval is obtained;
- (d) TD had no in-principle objection to the application from traffic engineering point of view and the Police considered the crowd management plan is acceptable;
- (e) EPD and Drainage Services Department (DSD) had no objection to the application from environmental and public drainage viewpoint;
- (f) Both Urban Design Unit and Landscape Unit of PlanD had no objection on the application from urban design (visual) and landscape perspectives;
- (g) Fire Services Department (FSD) and Buildings Department (BD) had no objection to the application from the fire safety and building matters point of view;
- (h) Home Affairs Department (HAD) had no comment on the application and only a commenter raised concerns on the case was received; and
- (i) Agriculture, Fisheries and Conservation Department (AFCD), Water Supplies Department (WSD), Highways Department (HyD), Geotechnical Engineering Office (GEO), Civil Engineering and Development Department (CEDD), Electrical and Mechanical Services Department (EMSD) had no objection on the application.

Since majority of the Government departments had no objection on the previous application, this application will not propose any change in the overall building form of the existing buildings and no additional building has been proposed at the site.

4.1.2 Master Layout Plan

The Master Layout Plan, which reflects the latest proposed layout plan for the PCL application for BCHAT, is shown at **Plan F**. The development scheme in support of this s.12A application is intended to comply with the requirements of PCO for regularising the existing columbarium ancillary to BCHAT at the application site. The existing facilities are indicated on the Master Layout Plan are summarized as follows:-

- two 2-storey temple-cum-columbarium structures (with toilet facilities);
- religious and recreational courtyard; and
- the main temple access

It is noticed from the latest previous s.12A application (Application No. Y/TP/35) that the two major issues for the BCHAT case are mainly the **site boundary clarification** and **land use compatibility**. Subsequently, the Applicant and the consultant team had spent effort (with several rounds of discussion with the relevant departments) to address those issues. In February 2023, the Applicant had submitted a revised layout plan for the PCL application to the PCAO (same as the Master Layout Plan under this application) and the aforesaid scheme has the following improvements (see **Plan G**):

(a) Site Boundary

As advised by the relevant departments, the planning application boundary shall be tally with the PCL application boundary. Moreover, those areas related to the columbarium operation (i.e. main access and waiting area) shall form part of the site boundary to ensure enforceability by the PCAO and to facilitate the subsequent land application. Hence, the revised PCL drawings with an updated boundary were submitted to the PCAO in February 2023, and the Applicant had been informed that the site boundary under the PCL application was acceptable.

(b) Land Use Compatibility

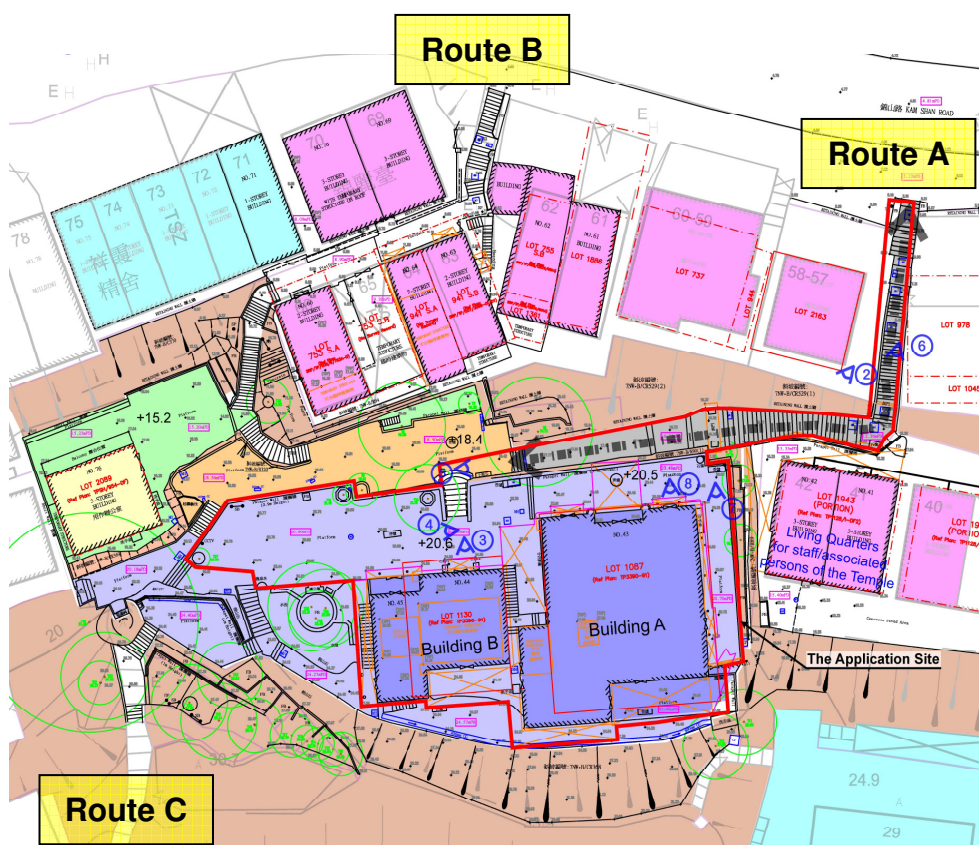
Based on the Applicant's understanding, the concern on the land use compatibility issue is mainly related to the sharing the same access with the villagers, BCHAT operation imposes potential nuisance to the villagers and visual impact. The Applicant has identified some possible courses of action to address the issue:

- **The Main Temple Access**

The application site can be accessible from Kam Shan Road via three footpath/stairs, i.e. stairs to the east of Nos. 57-58 Kam Shan Village (referred as Route A); footpath/stairs to the east of No. 69 Kam Shan Village (referred as Route B); and footpath/stairs to the east of No. 144 Kam Shan Village (referred as Route C). As an administrative arrangement adopted by BCHAT in 2022, all visitors of BCHAT only use Route A as the ingress/egress routes for BCHAT as the main temple access. Since then,

BCHT has regularly sent messages to inform the visitors on the new access arrangement.

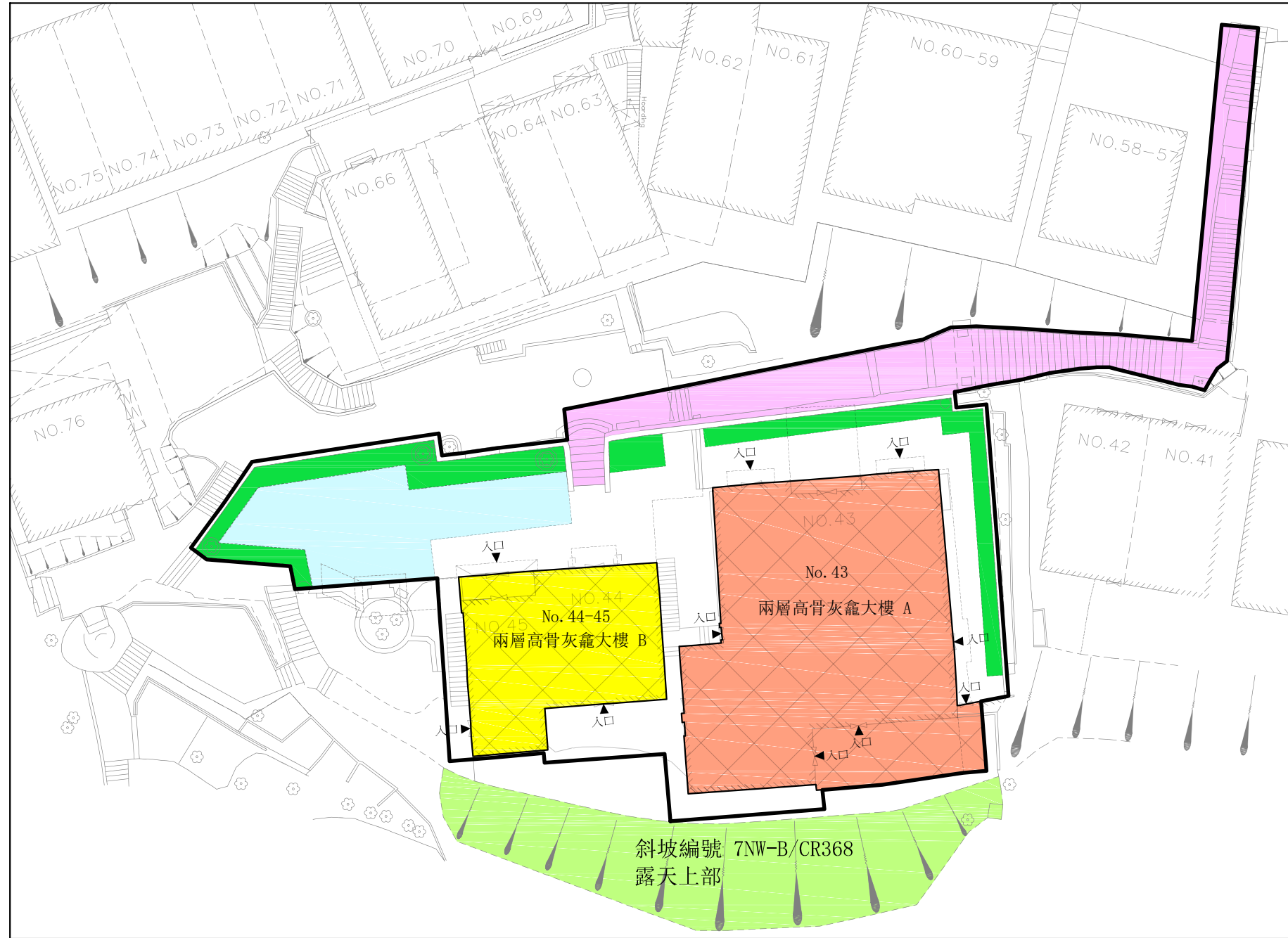
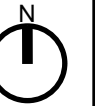
In the 2024 of Ching Ming Festival and shadow period, BCHT has implemented the Management Plan and sufficient staffs have been stationed in Kam Shan Road to provide access guidance. In order to test the workability of this new administrative measure, traffic surveys along Route A, Route B and Route C have been conducted by MVA Hong Kong Ltd. in 2024 of Ching Ming Festival Day.



The traffic survey conducted on 2024 Ching Ming Festival Day recorded 454 visitors during peak hour and a total of 2,308 visitors throughout the festival day. It indicates that around 95% of the visitors, both during peak hour and throughout the festival day, have followed the new access arrangement. Based on the survey results, only a few visitors (less than 5% of the visitors throughout the festival day) using Route B to leaving/ entering BCHT. In addition, it was observed that a very few visitors using Route C to walk around and come back to BCHT. This is a very **satisfactory** result for the first go and, nevertheless, the Applicant will spare no effort to ensure all visitors to absolutely follow the arrangement in future.

Furthermore, with the new planters proposed along the eastern side of the application site, BCHT will be completed separated from further east area of

建議布局圖
就截至前骨灰安置所的牌照申請



圖例:

	場地界線
	可核證建築物 (符合《私營骨灰安置所條例》附表 2 第 3(1)(b) 條規定)
	可就截至前骨灰安置所核證的構築物 (符合《私營骨灰安置所條例》附表 2 第 4(3) 條規定)
	斜坡範圍
必要配套設施	
	行人通道/行人路徑/出入口及樓梯
	種植區
	等候區

(A3 圖紙 1:300 比例)
建議布局圖 (圖則編號: 002)

骨灰安置所名稱: 佛教長霞淨院
地址: 新界大埔錦山村 43-45號, 丈量約份第6約地段第 1087 號及第 1130 號及毗鄰政府土地

27/02/2023
日期 (日/月/年)

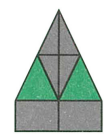
潘冠球
獲授權人士 姓名及簽署

27/02/2023
日期 (日/月/年)

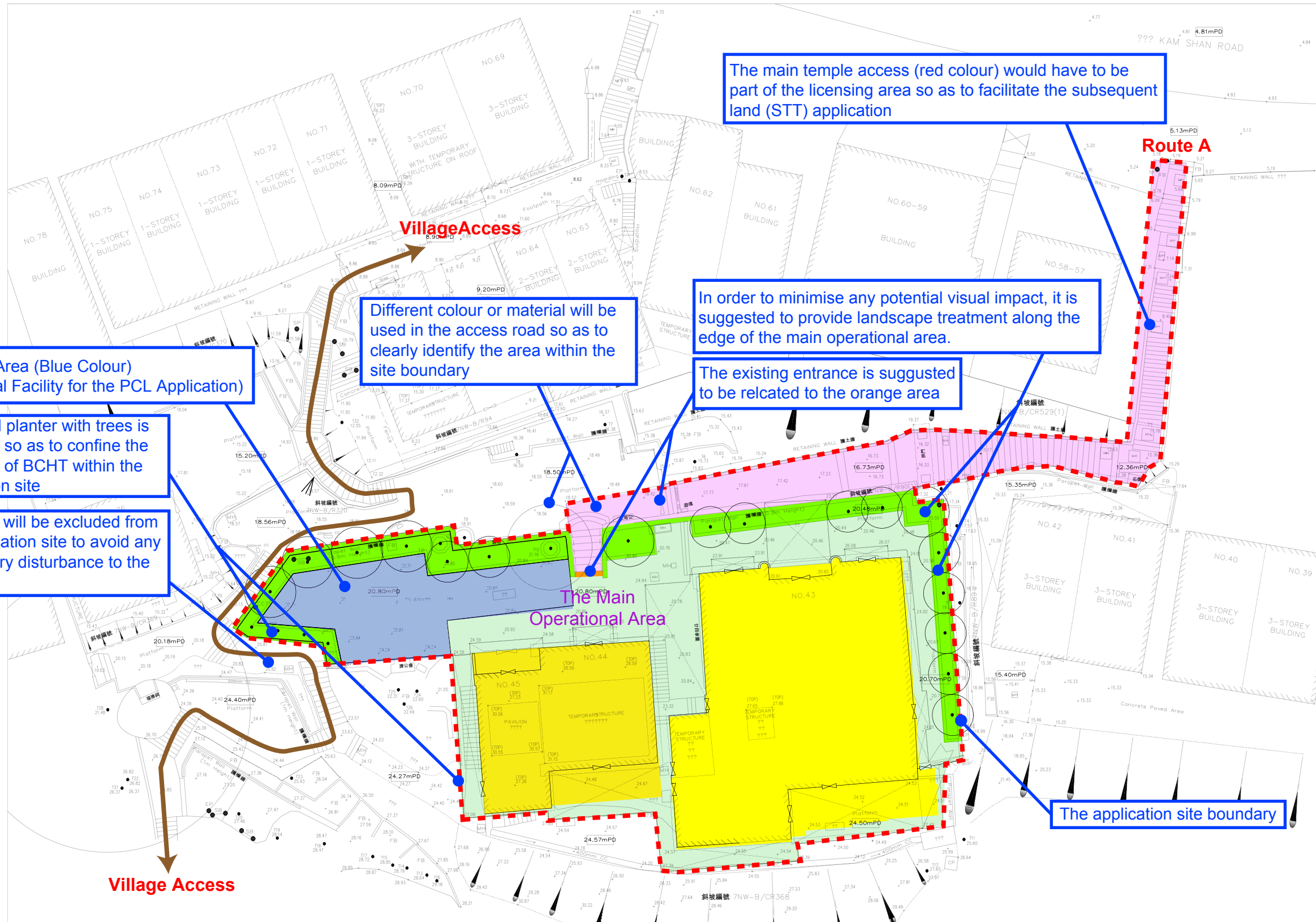
邵冠開
認可人士/註冊結構工程師 姓名及簽署
[認可人士/註冊結構工程師指根據《建築物條例》(第 123 章)第 3 條註冊的人士]

香港身份證號碼

註冊編號#: AP(E) 98/82 RSE 98/82 註冊有效期滿日期#: 31/12/2025



Plan F: Master Layout Plan



Waiting Area (Blue Colour)
(Essential Facility for the PCL Application)

Proposed planter with trees is proposed so as to confine the operation of BCHT within the application site

This area will be excluded from the application site to avoid any unnecessary disturbance to the villagers

Different colour or material will be used in the access road so as to clearly identify the area within the site boundary

In order to minimise any potential visual impact, it is suggested to provide landscape treatment along the edge of the main operational area.

The existing entrance is suggested to be related to the orange area

The main temple access (red colour) would have to be part of the licensing area so as to facilitate the subsequent land (STT) application

The application site boundary

Scale 1:300



Plan G: Proposed Improvements Over the Previous Scheme

the upper platform. The distance between the entrance gate of BCHT (after relocation) and Kam Shan Road via Route B and Route C will be longer in future:

- **Route A:~40m**
- Route B:~65m
- Route C:~220m

Therefore, visitors will have less incentive to use Route B and Route C for entering/leaving BCHT because they will be longer routing under the current development scheme.

- **Confined into a Smaller Operational Area**

Although the only peak event of BCHT is the main day of Ching Ming Festival, the Applicant has decided to limit the operational area to the columbarium premises and its adjoining area (i.e. part of the upper platform area). In comparison with the previous application, the application site (or operational area) has been largely reduced. Large part of the middle platform and the lower platform will no longer be used, thereby freeing up more Government land.

In order to implement the above arrangement, the original entrance gate will be relocated to the stairwell to the upper platform, and the operational area will be completely confined by the existing and proposed planters and retaining walls. Since the religious and columbarium activities will be confined at a smaller area, where the area is segregated from the nearby village houses with reasonable buffer distance and (existing and proposed) vegetation, the potential nuisance to the villagers and visual impact posed by the BCHT's activities is expected to be insignificant.

- **Visual Compatibility Enhanced by Additional Landscape Features**

A properly-designed columbarium with appropriate development intensity and landscape features is essential to help minimise visual impact of the development and nuisance to neighbouring residents. While Urban Design Unit and Landscape Unit had no objection to the previous application, this proposal involves the retention of existing low-rise buildings and additional landscape features have been proposed to enhance the landscape value of the site and to help minimise the potential visual impact to the locality. In view of the temple-cum-columbarium structures are located at a reasonable distance away from the village houses and they are well screened off from them by the existing and proposed trees, the proposed scheme could be locationally and visually compatible with the surrounding environment. Details of the landscape proposal will be mentioned in **Section 4.2**.

- **Reduction of 1,700 Niches to Address Precedent Effect**

During the deliberation session of the previous application, some TPB's members were concerned that approval of the application would set a precedent for similar application within the same "V" zone, i.e. Cheung Ha Ching Shea near the site. Detailed planning assessment in **Section 6.10(c)** has already demonstrated that BCHT is totally different to Cheung Ha Ching Shea. Nevertheless, in order to further address such TPB's concerns, the Applicant has decided to reduce 1,700 niches, which is the same niche number of Cheung Ha Ching Shea as recorded on 30.6.2017. Hence, this application has taken into account the anticipated cumulative impact arising from the proposed development.

- **Reservation of 2,000 Niches for Selling to Local Community**

Currently, Kam Shan Village has a population of about 6,000 and there are several amounts of niches within BCHT which stored the cremated ashes of the local residents. As advised by the village representatives of Kam Shan Village, there is not enough suitable land within the permitted burial ground site to meet the future demand for funeral related facilities for the local villagers. Therefore, the Applicant has decided to reserve 1,000 niches for selling to the residents of Kam Shan area and 1,000 niches for selling to the residents of Tai Po District. BCHT will continue the practice of offering a certain number of free niches to those people who are homeless and in financial difficulties.

Internal layouts of each building at the application site are shown in **Plan H** and **Plan I**. Adequate spaces have been reserved inside the buildings and the religious and recreational courtyard so as to facilitate the visitors to worship the ancestors, in particular during the grave sweeping occasions. Fire fighting facilities such as fire extinguishers have been provided in the buildings in order to ensure fire safety.

4.1.3 Development Schedule and Number of Niches

Development schedule and breakdown of gross floor area (GFA) calculation for the proposed scheme are shown in **Table 4.1** and **Table 4.2** respectively. The Applicant does not propose any new building or change in the building form of the existing buildings. The discrepancy of GFA calculation between the present application and the previous application is mainly based on the Applicant didn't include the covered access adjoining Building A and Building B in the past.

Since the columbarium niches in BCHT will be reduced from 13,426 to 11,726 (i.e. reduction of 1,700 niches), new arrangement on distribution of the niches for the Temple is shown in **Table 4.3**.

Table 4.1: Development Schedule for the Proposed Scheme

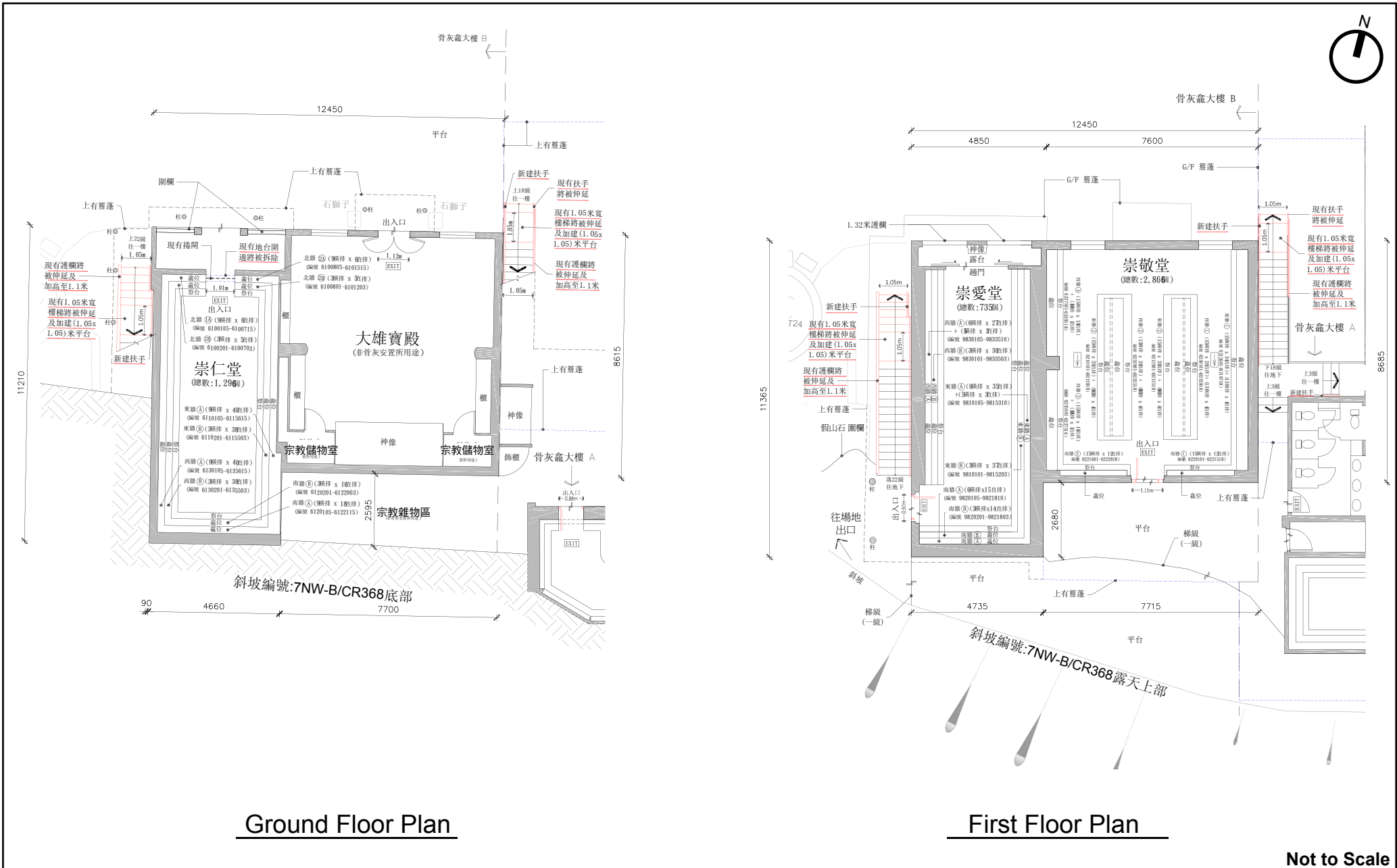
Application Site				
Site Area (m ²)	About 1,052.4m ²			
Plot Ratio	0.92 (approximate)			
Proposed GFA (m ²) and Maximum Building Height (BH)	Block	Use	Proposed GFA	Maximum BH
	Total		Not exceeding 969.1m ²	10m
	Building A	Religious Use	155.7m ²	10m (2 storeys)
		Columbarium	348.9m ²	
		Supporting Facilities	24.5m ²	
		Covered Access	149.2m ²	
	Building B	Religious Use	86.8m ²	8m (2 storeys)
Columbarium		172m ²		
Covered Access		32m ²		
Site Coverage	55.2% (approximate)			
No. of Block(s)	2			

Table 4.2: Breakdown of GFA (in m²) Calculation for the Proposed Scheme

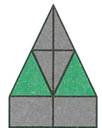
Blg.	Room	GFA	Use	Blg.	Room	GFA	Use
G/F				1/F			
A	觀音殿	68.7	Religious	A	思孝堂及後堂	68.7	Religious
A	崇德堂 崇禮堂	76.4	Columbarium	A	崇孝堂	76.4	Columbarium
A	崇本堂	38.7	Columbarium	A	崇節堂	38.7	Columbarium
A	崇義堂	26.5	Columbarium	A	崇逸堂	22.7	Columbarium
	男洗手間	10.2	Supporting	A	室內通道	14.0	Access
A	崇廉堂	24.1	Columbarium	A	崇恩堂	28.6	Columbarium
A	崇思堂	16.7	Columbarium	A	女洗手間	14.3	Supporting
A	宗教雜物房	14.5	Religious	A	宗教雜物房	3.9	Religious
A	簷蓬 / 有蓋通道	40.5	Access	A	簷蓬	94.7	Access
B	大雄寶殿	67.2	Religious	B	崇敬堂	65.5	Columbarium
B	崇仁堂	52.7	Columbarium	B	崇愛堂	53.8	Columbarium
B	宗教雜物區	19.6	Religious	B	簷蓬	13.3	Access
B	簷蓬	18.7	Access				

Table 4.3: Columbarium Niches and Memorial Tablets under New Arrangement

Classification	Single-urn	Double-urn	Triple-urn	Quadruple-urn	Sextuple-urn	Total
Total No. of Niches	3,907	7,369	252	192	6	11,726
• Lot No. 1087	2,671	5,360	45	155	0	8,231
• Lot No. 1130	1,246	2,002	204	37	6	3,495
Total No. of Sold Niches	1,788	3,576	70	73	1	5,508
• Occupied	1,131	2,895	56	58	1	4,141
• Not Yet Occupied	657	681	14	15	0	1,367
No. of Niches Available for Sale	2,119	3,793	182	119	5	6,218
Total No. of Memorial Tablets	N/A	N/A	N/A	N/A	N/A	3,049
• Sold						2,044
• Available for Sale						1,005



Plan I: Floor Plans (Building B)



4.2 Landscape Proposal

The application site is a Chinese temple setting backed by a wooded hill on its south. The Applicant has decided to improve the landscape quality of the site by providing greenery in front of the Building A and Building B along the upper platform. The Landscape Master Plan is prepared in **Plan J** and the proposed introduction of trees would be a positive contribution to the landscape character of the whole area by:

- planting for long term greening, and promoting of a more robust landscape structure through the use of new planted trees to promote more sustainable woodland habitats;
- creating shade and shelter to the edge of balcony, screening to the adjacent village and estate opposite the site; and
- providing a high quality and aesthetic appearance in greenery scene to the site.

By having the proposed landscape features strategically located within the site, the view from the adjacent local villagers will be directed to the proposed trees at the site and the existing slopes with mature trees surrounding the site rather than the buildings. This connectivity with the overall landscape framework is designed to create a greater sense of landscape and visual integration. Thus, the visual impact (or potential psychological impact if any) will be significantly reduced. The Tree Planting Proposal is in **Plan J** and the summary of the proposed trees to be planted at the site is shown in **Table 4.4** below:-

Table 4.4: Summary of Introduced Trees

Species	Chinese Name	Number of Specimens	Height (m)	Spread (m)	DBH (mm)	Quantity
<i>Bischofia trifoliata</i>	重陽木	22	5-6m	4	100	2
<i>Celtis sinensis</i>	朴樹	17	5-6m	4	100	3
<i>Cinnamomum burmannii</i>	陰香	3	4-5m	3	75	4
<i>Cinnamomum camphora</i>	樟樹	5	5-6m	4	100	1
<i>Elaeocarpus apiculatus</i>	尖葉杜英	1	4-5m	2.5-3	75	2
<i>Khaya senegalensis</i>	非洲楝	4	5-6m	4	100	3
<i>Liquidambar formosana</i>	楓樹		5-6m	4	100	1
<i>Litsea glutinosa</i>	潺槁樹		4-5m	3	75	2
<i>Michelia alba</i>	白蘭	2	4-5m	2.5-3	75	1




The proposed tree planting would be unobtrusive and could provide a screening effect to the periphery of the application site be enhanced where possible through the utilization of landscape buffer planting linked to the overall landscape framework. This connectivity with the overall landscape framework is designed to create a greater sense of landscape and visual integration. The species selection for the proposed landscape buffer planting would be commonly found in Hong Kong.

A more comprehensive package of proposals will be formulated during the detailed design stage of the project.

Tree Schedule

	Species	Chinese Name	Number of Specimens	Height (m)	Spread (m)	DBH (mm)	Quantity
①	<i>Bischofia trifoliata</i>	重陽木	22	5-6m	4	100	2
②	<i>Celtis sinensis</i>	朴樹	17	5-6m	4	100	3
③	<i>Cinnamomum burmannii</i>	陰香	3	4-5m	3	75	4
④	<i>Cinnamomum camphora</i>	樟樹	5	5-6m	4	100	1
⑤	<i>Elaeocarpus apiculatus</i>	尖葉杜英	1	4-5m	2.5-3	75	2
⑥	<i>Khaya senegalensis</i>	非洲楝	4	5-6m	4	100	3
⑦	<i>Liquidambar formosana</i>	楓樹		5-6m	4	100	1
⑧	<i>Litsea glutinosa</i>	潺槁樹		4-5m	3	75	2
⑨	<i>Michelia alba</i>	白蘭	2	4-5m	2.5-3	75	1



 Existing Trees
 Proposed New Plants Tree
 Application Site Boundary

Scale 1:250



Plan J: Landscape Master Plan

4.3 Operation and Management of Buddhist Cheung Ha Temple

BCHT is a popular Buddhist religious institution established at the application site in 1928. It has its own management team (23 full-time staffs) to undertake the management and maintenance of the facilities within the site. Up to the present moment, the management team has demonstrated that the smooth operation of BCHT and its facilities at the site are always up to satisfactory standard.

The operation hour of BCHT is from 9:00am to 5:30pm during the normal days (including Saturday, Sunday and public holiday) and from 7:00am to 7:00pm during the traditional grave sweeping festival days (i.e. Ching Ming Festival and Chung Yeung Festival) and its shadow period (one weekend before and after festive days, including holiday(s) in between the shadow period).

No furnace facility is, or will be, provided with the Temple. Burning of joss paper and/or paper offerings within the site is strictly prohibited. Communal toilet facilities are provided inside Building A.

In order to operate the Temple in a safe, orderly and smooth fashion without creating any crisis during the grave sweeping occasions, a Management Plan for the Temple has been proposed as attached in **Appendix VI**. Additional 13 part-time staffs (a total of 36 staffs) will be deployed to meet the sudden increase in demand during festival days. A set of the House Rules has already been implemented within the Temple and they are shown as follows:-

<p style="text-align: center;">佛教長霞淨院 院務守則</p> <ol style="list-style-type: none">各拜祭人士務必遵守此守則。本院裝有 24 小時監控閉路電視保安系統，本院主管會因應人流密度或特別事故，發出指示，請各訪客遵從。敬請跟隨本站崗職員的指示或指示牌，進入及離開本院範圍。在靈室拜祭，敬請保持肅靜，以尊敬神靈；以及不可干擾其他拜祭人仕。本院全年無休，天天開放，每天由上午 9 時至下午 5 時 30 分。清明節，重陽節及盂蘭節則由上午 7 時至下午 7 時開放。本院範圍內，不可抽煙及喝酒。肉類祭品只可在靈室內供奉，不可在本院範圍內食用。如在清明節，重陽節及盂蘭節前來拜祭，程序如下：可致電(852)2652-1134 或(852)2652-1126 預約或可利用本院的手機應用程式(在 iOS 及 Android 作業系統內輸入 Cheung Ha Temple 免費下載)預約拜祭日期及時段：	<ol style="list-style-type: none">根據預約成功的日期及時間向報到處 報到，並出示預約登記號碼；依照職員指示前往靈室拜祭。如有疑問，可向現場站崗職員及寫字樓職員查詢；因本院不設置化寶爐設備，請勿攜帶香燭衣紙來院。本院會向每人派送一炷環保清香(如有需要)以供拜祭；每節預約拜祭時限為 30 分鐘。如超時，本院職員會友善提示拜祭人士離開靈室，以便下一組預約人士參拜；如沒有作預約，本院職員有權拒絕入院拜祭。為照顧海外人士或因其他原因未能前來參拜，本院也設有“網上拜祭”服務。 <p style="text-align: right;">詳情請上本院網址 www.cheunghatemple.org。</p>
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The Applicant has already included the pre-booking system requirement in the House Rules and the pre-booking mobile application has been implemented since 2019 Ching Ming Festival Period. Additionally, the staff assistants already notified the visitors at the site during 2019 Ching Ming Festival Period that the pre-booking mobile application were under operation and advised the visitors to make their reservations for the preferred time slot through the mobile application. QR Code will be generated by pre-booking mobile application/mail/WhatsApp after making their reservations.

4.4 Access Arrangement and Special Traffic Arrangement

4.4.1 Access Arrangement

The application site is well served by public transport services in the vicinity. The pedestrian routes to/from the public transport facilities from/to the site are shown in **Plan K**. At present, the application site has never been served by any vehicular access, and no parking or loading/unloading facility has ever been provided inside the site. All daily deliveries are conducted by hand and this practice will continue in future. All visitors are well aware of this arrangement.

In accordance with statutory requirements as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG), no car parking and servicing provisions have been specified for the of "Columbarium" development.

4.4.2 Traffic and Crowd Management Plan

To minimise the traffic impact during festival period, appropriate traffic management measures are proposed to be implemented in the TIA and the Management Plan (see **Appendix V** and **Appendix VI**). The proposed measures are summarized as follows:-

(a) **Traffic and Public Transport Arrangement**

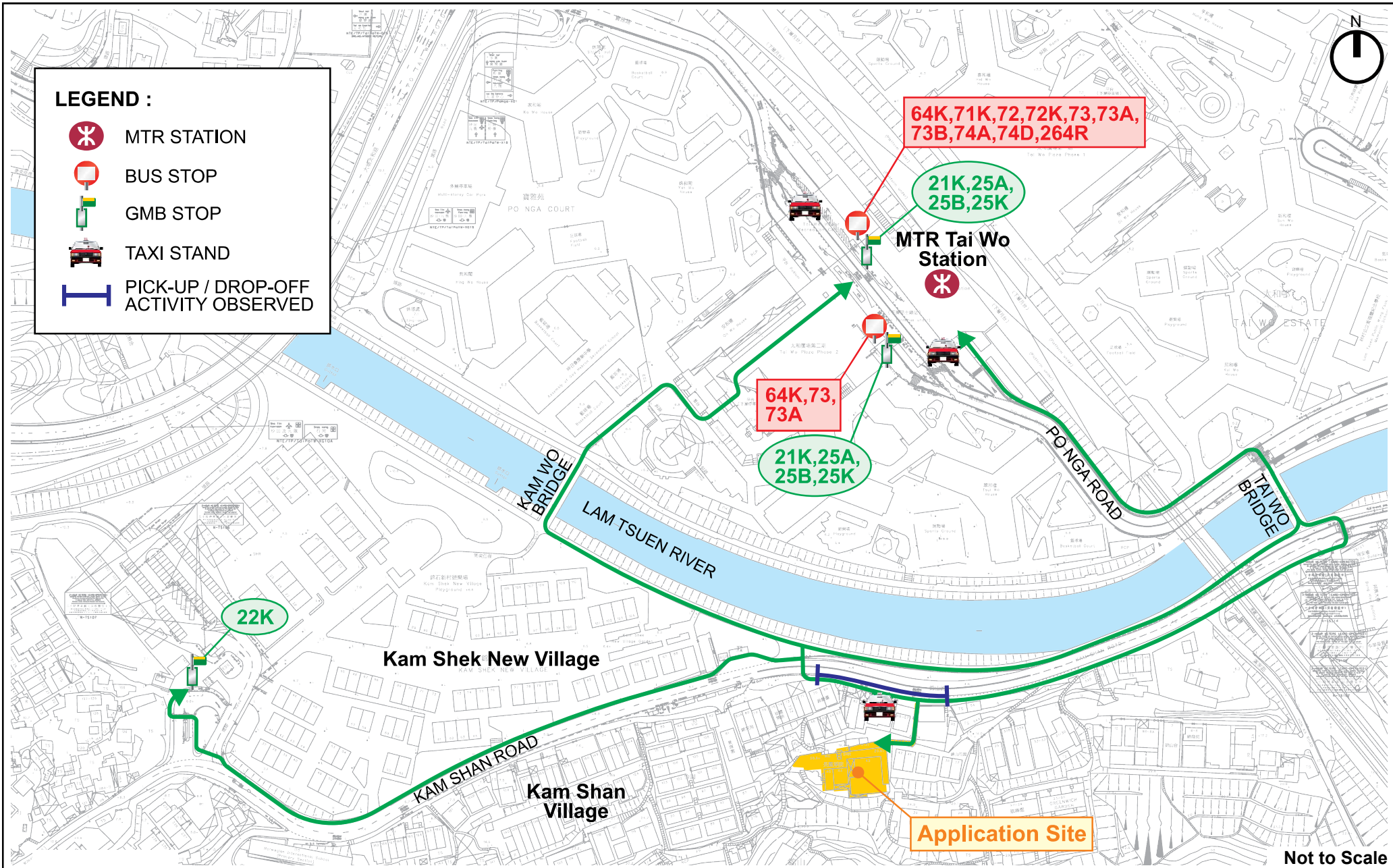
To further promote the access by public transport, the Applicant shall inform visitors the location of public transport facilities and the corresponding access routes one month before Ching Ming/Chung Yeung Festival Day. The Applicant has prepared the website and Pre-booking Mobile Application which provide the major routes from public transport facilities, to encourage the access by public transport to the application site during Ching Ming/Chung Yeung Festival Period. They will be notified and explained in detail of the site location and access arrangement that no on-site parking space is provided for the visitors due to the inherent site constraints.

(b) **Pedestrian Access**

To avoid unnecessary disturbance to the neighbouring developments caused by BCHT related activities, in particular during the grave sweeping occasions, all visitors of BCHT only use the staircase (the least usage rate by the villagers in Kam Shan) to the east of house nos. 57-58 connecting from Kam Shan Road to the main entrance of BCHT as the main temple access. During festival days, visitors will be directed by staffs to access/ leave the application site via this access route.

(c) **Temporary Directional Signs**

In order to guide the visitors, appropriate temporary direction signs would be erected along the proposed visitors' ingress/ egress routing.



(d) Staff Assistants

23 staffs are employed for day-to-day operation during normal days. With foreseeable high number of visitors during the grave sweeping occasions to the application site, additional manpower will be deployed. A total of 36 staffs will be on duty during festival period.

Staff will be deployed at the entrances of the application site and at key points on identified visitors' routes to provide assistance for the visitors so that order and smooth pedestrian flow can be maintained.

(e) Admission Control

Admission control will be adopted at the entrance of the application site. Staff will be stationed at the entrance to ensure only visitors with valid QR code can enter the site. Visitors without prior booking are not allowed to enter the site. Staff will check the visitors' booked time slot upon their arrival to the site. If the visitors arrive earlier than the reserved time slot, they will be asked to wait at the waiting area to await the start of session. If the visitors arrive on time, or the visitors waiting at the waiting area have reached their designated time slot, staff will provide guidance for the visitors to leave the waiting areas in sequence and go into the columbarium.

Visitors arriving 30 minutes or above prior to their reserved time slot are not allowed to enter the application site. Besides, visitors will receive advance notices (i.e. not arrive more than 30 minutes early) from the Applicant via the pre-booking mobile application to advise them not to arrive more than 30 minutes early.

(f) House Rules (Pre-Booking System)

The Applicant shall require the niche purchasers, including visitors who purchased "sold niches" and visitors who will purchase "un-sold niches", to adhere to the House Rules. Pre-booking for the preferred time slot will be required before visiting the site during Ching Ming/ Chung Yeung Festival Days and their shadow periods. The Applicant has already included the pre-booking system requirement in the House Rules and the pre-booking mobile application has been implemented during the 2024 Ching Ming Festival Period. Additionally, the staff assistants already notified the visitors at the site 2024 Ching Ming Festival Period that the pre-booking mobile application were under operation and advised the visitors to make their reservations for the preferred time slot through the mobile application. QR code will be generated by the pre-booking mobile application/ mail/ WhatsApp after making their reservations. The Applicant shall exercise strict control of the number of visitors at a manageable level which would not exceed its holding capacity.

(g) Standing Area

In order to determine the holding capacity, the available standing area of the building is considered. The standing area of the buildings (indoor area for the flow of visitors) is around 425m². To fulfil the requirement from the BD, the holding capacity in each time slot would be 117 persons. Therefore, under the pre-booking system, it allows for a maximum of 117 visitors per 30-minute session (i.e. maximum of 234 visitors per hour).

(h) Waiting Area

In case of early arrival of the subsequent time slot, a waiting area with around 98m² will be provided for visitors within the site. Visitors arriving 30 minutes or above prior to their reserved time slot are not allowed to enter the site. In light of this, the total holding capacity of the waiting areas is 117 persons.

(i) Advance Coordination with the Police

For better coordination with the Police, the Applicant will take an active role to inform the Police, such as operation hours, crowd management measures, etc., before the Ching Ming and Chung Yeung Festival Days and their Shadow Periods. The relevant past letters regarding the Buddhist Festival, Ching Ming Festival and Yu Lan Festival from the Applicant to the Police are attached in the TIA report.

(j) Online Memorial Service

In order to minimise the traffic impact during the peak seasons, the Applicant will provide Online Memorial Services for all visitors in the future. Online memorial service is a virtual platform on the internet for visitors to have niches worshipping activities at any time of the day or night. It is expected that the implementation of online memorial can further reduce the demand of people visiting the site in person, especially during Festival Days and their shadow periods.

Thus, with the implementation of the Management Plan, the columbarium with a reasonable number of visitors per hour accessing the site will not cause any traffic disruption to the roads in the vicinity or to cause any burden to the transport system. Moreover, the possible nuisance caused to the local villagers will be highly remote.

4.5 Environmental Proposal

Since EPD had no objection to the previous application, the Applicant is committed to follow the operational arrangement as previously proposed, i.e.:-

- (a) no furnace facility will be provided within the premises. Burning of joss paper and paper offerings will be strictly prohibited within the premises;
- (b) wastewater generated from the site will be conveyed to public sewerage;
- (c) administrative measures will be in place to control the number of visitors during festival periods; and
- (d) the operation hours of the premises would be between 9:00am and 5:30pm on Monday to Sundays; and would be extended from 7:00am to 7:00pm during Ching Ming/Chung Yeung Festivals and the two weekends before and after these Festival days as well as Yu Lan Festival.

An adequate drainage network exists within the application site. Since this application only involves the regularisation of the columbarium use without affecting the building bulk within the site, it is anticipated that the drainage flow would not be significantly changed.

4.6 Implementation Programme

This s.12A application is intended to regularise the Pre-cut-off Columbarium in BCHT. The Columbarium Licence is anticipated to be obtained from the PCLB by 2029, taking into account the timing for processing this application, TPB's plan making on OZP, the subsequent s.16 planning application, fulfilment of planning approval conditions, land application and compliance of relevant building safety regulation, etc.

5. TECHNICAL ASSESSMENTS

5.1 Minimum Traffic Impact

A TIA has been carried out as presented in **Appendix V**. It has the following conclusions:

- (a) The application site is located at Lot Nos. 1087 and 1130 in D.D. 6 and their adjoining government land, Kam Shan, Tai Po. It is currently occupied by BCHT. The Applicant intends to regularise the existing two temple-cum-columbarium structures within the application site. There are totally 11,726 columbarium niches (i.e. 5,508 being sold and 6,218 being unsold) and 3,049 memorial tables (i.e. 2,121 being sold and 928 being unsold) in two structures at the site.
- (b) Under the present s.12A application, the Applicant has intended to propose the site from "V" zone to "G/IC(3) zone with some changes over the previous application, including reduction of 1,700 niches to address precedent effect.
- (c) At present, the application site is not served by any vehicular access, so there is no parking facilities provided inside the site. In view of the availability of various public transports in the vicinity, the application site is highly accessible by public transport services. The MTR Tai Wo Station is located within 7-8 minutes walking time to and from the application site. Also, various road-based public transports of franchised bus and GMB routes are operating in the vicinity of the site.
- (d) The proposed (existing) columbarium is scheduled to be completed by year 2029 tentatively and hence that the design year of 2032 (i.e. three years after occupation) is adopted in this study for assessment. The design year 2032 traffic and pedestrian flows during Ching Ming and Chung Yeung Festival Period were derived based on the year 2024 observed traffic and pedestrian demand by adopting an appropriate growth rate. The traffic and pedestrian generations and attractions of the proposed (existing) columbarium are estimated under the implementation of pre-booking system, which is one of the crowd management measures as proposed by the Applicant.
- (e) In order to ensure road safety and smooth pedestrian during the Chung Yeung and Ching Ming Festival Period, staff will be deployed on-site or key points on pedestrian routes to guide and provide assistance for the visitors, and temporary management plans for pedestrian would be implemented. Moreover, to minimise the traffic impact during the peak seasons, it is proposed to adopt a pre-booking system for all visitors to the proposed (existing) columbarium during the Chung Yeung/ Ching Ming Festival Days and their shadow periods.

- (f) The operation performance assessments for the identified key junction during Ching Ming Festival Period in the design year 2032 were conducted. The results have indicated that the identified key junction would operate within their capacities. It also proved that the traffic flows generated by the proposed (existing) columbarium does not induce adverse traffic impact to the surrounding pedestrian network.
- (g) The operation performance assessments for the identified pedestrian facilities during Ching Ming Festival Period in the design year 2032 were conducted. The V/C Ratio of staircases and cautionary crossing at the application site access are below 0.85 and the Level of Service (LOS) of identified footpaths surrounding the site are C or above in design year 2032 under difference scenarios. It indicates that under the implementation of crowd management measure, all the identified footpaths near the application site are expected to operate with adequate spare capacities to cater for the future demand during the peak hours under design scenario.
- (h) Based on the parking inventory survey, it is anticipated that the public car park will have adequate parking spaces to cater for the potential parking need of the application site.

For the crowd management, pre-booking system, staff assistant and temporary management plans for pedestrian to be implemented during the Chung Yeung and Ching Ming Festival Period as to enhance the safety and smooth pedestrian flow.

According to the above assessment and the management plans, it can be concluded that the proposed (existing) columbarium development with a total of 11,726 columbarium niches and 3,049 memorial tablets will not cause adverse impact to traffic and pedestrian on adjacent road network and is acceptable from traffic engineering point of view.

A Management Plan, which was prepared based on the crowd management measures as presented in the TIA report, had been submitted to the PCLB. It is noted that TD and the Police considered the crowd management measures as proposed in the TIA report under the previous application was acceptable. Under the present s.12A application, the Management Plan has been further updated as attached in **Appendix VI** so as to reflect the latest crowd management measures as detailed in the updated TIA report.

5.2 Minimum Environmental Impact

The subject development will not result in any significant environmental impact based on the following considerations:

(a) Environmental Consideration

Since EPD had no objection to the previous application, the Applicant is committed to follow the operational arrangement as previously proposed, i.e.:-

- i) no furnace facility will be provided within the premises. Burning of joss paper and paper offerings will be strictly prohibited within the premises;
- ii) wastewater generated from the site will be conveyed to public sewerage;
- iii) administrative measures will be in place to control the number of visitors during festival periods; and
- iv) the operation hours of the premises would be between 9:00am and 5:30pm on Monday to Sundays; and would be extended from 7:00am to 7:00pm during Ching Ming/Chung Yeung Festivals and the two weekends before and after these Festival days as well as Yu Lan Festival.

The Applicant will ensure proper implementation of the proposed environmental mitigation measures and good operational practices, which can be imposed as part of the approval conditions under the subsequent s.16 planning application.

(b) Drainage Consideration

It is noted that DSD had no in-principle objection to the previous application from public drainage viewpoint. There are public stormwater drains maintained by DSD in the vicinity.

There are no plans for new building blocks, expansion, or change in surface inclination with the application site. Due to the reduction of concrete paved area and increase in grassland area, the impact on existing system can be further minimised. Stormwater is conveyed away from the site and discharged at Lam Tsuen River via the existing drainage infrastructure.

The application site is located at a slope of Kam Shan and is about 40m and 50m from Kam Shan Road and Lam Tsuen River downhill, respectively. The existing drainage infrastructure works well and causes no reported impacts to adjacent areas downstream or flooding in the vicinity and, hence, requires no upgrading.

The Applicant will prepare and implement a drainage proposal for the application site and will maintain the existing drainage system properly and rectify the systems if they are found to be inadequate or ineffective during operation.

(c) Sewerage Consideration

A Sewerage Impact Assessment (SIA) has been carried out as presented in **Appendix VII**. Key findings of the assessment are summarised as follows:

- i) As the subject columbarium has been established and in operation within the existing structures for a long time, no construction, addition or alteration works will be required. The columbarium is projected to have a total of 11,726 sold niches after BCHAT has acquired the Columbarium Licence under the PCO from PCLB.
- ii) Public sewers have already been installed within the application site for disposal of sewage generated on-site. Given limited toilet facilities, and observed short stay of visitors, a surge in sewage generation during the peak seasons is not envisaged.
- iii) Results of this SIA, which have taken into account of the increase in visitors after all niches are sold, confirm that the existing sewerage catchment would have enough capacity to handle peak flows from the application site during peak seasons (Ching Ming or Chung Yeung Festivals) as well as peak flows from other relevant catchments. The increase in sewage flow in the receiving public sewers due to the application site would be within the capacities of the downstream pipes. Sewage generated from the site will be conveyed to Tai Po Sewage Treatment Works for treatment.

It is noted that DSD had no in-principle objection to the previous application from public drainage viewpoint. In addition, DSD had no comment on the SIA submitted for the previous application. There are existing public sewers maintained by DSD within the site and public stormwater drains maintained by DSD in the vicinity.

5.3 Minimum Visual and Landscape Impacts

The development scheme will not result in any significant visual and landscape impacts based on the following considerations:

(a) **Visual Consideration**

The present application is intended only to rectify the existing two 2-storey temple-cum-columbarium structures without change in building bulk and building height. Due to the isolated and tranquil location with existing slopes and mature trees surrounding the site, and the level difference between the application site and the public access along Kam Shan Road, the existing small scale development is hardly visible from outside (see **Plan L** and **Plan M**). BCHT is not in the direct sightline of the village houses due to their building orientation.

It is noted that Urban Design Unit of PlanD had no objection to the previous application from urban design (visual) perspective. In comparison with the previous application, the application site boundary has been largely reduced and the present scheme, as stated above, will not have new building blocks to be erected at the site. The building bulk and building height of the existing structures will remain unchanged. Additional landscape features have been proposed along the boundary edge to provide a natural screening buffer for BCHT.

(b) **Landscape Consideration**

The application site is situated in an area of rural landscape character comprising village houses and scattered tree groups. The proposed (existing) development is already built and under operation for a long period of time. According to the previous application, Landscape Unit of PlanD had no objection to the previous application from landscape planning perspective. Similarly, the development proposal under this application would not involve alteration or extension of the existing buildings. The existing trees are not in direct conflict with the applied use. Thus, further significant adverse impact on landscape resources is not anticipated.

As mentioned in **Section 4.2**, additional landscape treatments are proposed under the present application to further relieve the local concern on the possible "psychological impact" of the development. In the traditional Chinese philosophy and belief, 'Harmony with Nature' is an important element and this is also important concept in the design of the religious and columbarium development. The proposed tree planting would be unobtrusive and could provide a screening effect to the periphery of the application site be enhanced where possible through the utilisation of landscape buffer planting linked to the overall landscape framework. The species selection for the proposed landscape buffer planting would be commonly found in Hong Kong.



After Improvement



Before Improvement



Plan L: Visual Improvement (1)

(View from Lai Wo House, Po Nga Court)



After Improvement



Before Improvement



Plan M: Visual Improvement (2)

(View from Hing Wo House, Po Nga Court)

5.4 Minimum Geotechnical Impact

A Geotechnical Planning Review Report (GPRR) has been carried out as presented in **Appendix VIII**. It has the following conclusions:

- (a) No major geotechnical problems are identified during walkover site inspections. Based on the MLP, significant site formation works would not be required when the existing buildings and the existing retaining walls with the retained platforms and slope within and adjoining the site remain unchanged in the foreseeable future.
- (b) The proposed site formation works should include the stability assessments of the existing retaining walls and slopes and the overall stability of the existing and proposed site formation whether their stability to be achieved the current design safety standards, which should not affect and be affected by the subject development.
- (c) Based on the above considerations and preliminary geotechnical assessment, the subject development for the application site is considered to be geotechnically feasible. To implement this development, the following geotechnical engineering works are recommended for further studies and detailed design:
 - i) A detailed site investigation should be carried out at the later design stage to reveal the geological profile, the groundwater table, geotechnical engineering properties and the engineering details of existing retaining walls and slopes within and adjoining the site. The proposed ground investigation works as shown in the site formation plan could be taken into consideration.
 - ii) If necessary, a topographic survey to identify the extent of the existing slopes and walls within and adjacent to the site should be carried out for stability assessment of the existing slopes and walls or geotechnical features.
 - iii) To ensure the proposed site formation for existing features within or adjoining the site that should not affect or be affected the subject development, the further liaison with the maintenance responsible parties and stability studies on the features as stated in the GPRR should be carried out.
 - iv) When the results of the stability analyses for the above features are not achieved the current safety standards, the strengthening works for those features should be included in the proposed site formation, which will be submitted to BD for approval at the implementation stage.
 - vi) All the proposed site formation, foundation or geotechnical works for this development should not affect or be affected by the adjacent access road, slopes and structures.
 - vii) The proposed stormwater drainage works for this development should comply with DSD's requirements.

6. PLANNING JUSTIFICATIONS

(A) MATERIAL PLANNING CONSIDERATIONS

In order to regularise the Pre-cut-off Columbarium for BCHT, a s.12A application with supporting planning and technical assessments was submitted to the TPB (Application No. Y/TP/29). While major departments including TD and the Police had no adverse comment on the application, the Board decided to reject the application on 4.9.2020 based on the following reasons:

- (a) the site falls within an area zoned "V" with the planning intention primarily for development of small houses by indigenous villagers. The columbarium use is considered not compatible with the existing village setting of the area, particularly the residential dwellings located to its immediate north, east and west. There is no strong planning justification for rezoning of the site from "G/IC(3)" to make provision for application for columbarium use. The current "V" zone for the site is considered appropriate; and*
- (b) the approval of the application would set an undesirable precedent for other similar rezoning applications within the "V" zone. The cumulative effect of approving such similar applications would result in further proliferation of columbarium use in the "V" zone, thereby aggravating the land use incompatibility in the village environment.*

On 28.11.2023, the Town Planning Appeal Board (TPAB) provided important guidance to the TPB at the decision concerning the costs awarded to Gig Lok Monastery (GLM) arising from the GLM Appeal Decision No. 5 of 2021 (on costs) (GLM Costs Decision). Relevant guidance in relation to the subject application may be summarised as follows:

- (a) The TPB has a duty to act fairly and reasonably.
- (b) Consistency is a cardinal principle of good administration, and therefore similar cases should be treated in a similar way. Government departments should therefore take positions that are coordinated and consistent with each other, and there is no good reason why the Government should say one thing on the same subject matter, while the TPB should say another on the same subject.
- (c) A Government policy initiative under another regulatory regime such as the PCO can be (and was indeed found to be) highly relevant to ensuring consistency, fairness and good administration.

It is important to highlight that, on 7.5.2021, the TPB considered a s.16 application (No. A/TM/530) for regularising a Pre-cut-off Columbarium in GLM, Tuen Mun. At the TPB hearing, the Chairperson asked whether there were similar cases rejected due to close proximity to residential development and the need to share road access. The

representative from PlanD replied that a s.12A application (No. Y/TP/29) for rezoning the BCHT site in Tai Po for columbarium development was rejected by the Board on 4.9.2020 and the access road for BCHT also had to pass through existing villages and other residential dwellings. Eventually, the TPB decided on review to refuse the planning application for the relatively similar reasons to the BCHT case as follows:

- (a) the proposed development is not in line with the TPB Guidelines No. 16 in that the columbarium use, which is in close proximity to the residential development and sharing the same access road with the adjoining residential development, is not compatible with surrounding areas in land use terms; and*
- (b) approval of the application would set an undesirable precedent for other similar applications within the "G/IC" zone. The cumulative effect of approving such similar applications would cause nuisances to the residential neighbourhood.*

Subsequently, GLM lodged a planning appeal No. 5 of 2021 against the TPB's decision. At the TPAB hearing, the TPB's Counsel made clear that the TPB did not pursue the argument that approval would set an undesirable precedent (i.e. rejection reason (b)). Therefore, detailed discussion during the TPAB hearing was mainly focused on the rejection reason (a) related to the relevant planning intention and TPB Guidelines (i.e. land use compatibility and nuisance issues). On 29.9.2023, the TPAB allowed GLM's appeal and granted GLM the planning approval (GLM Appeal Decision). From the GLM Appeal Decision, some important messages from the TPAB in relation to land use compatibility and the PCO are summarised into **8 planning aspects** below:

- (a) The TPB argues that the Appellant's application to the PCLB under the PCO is "irrelevant". However with respect, that argument is wrong. **(PCO is highly relevant)**
- (b) The TPB's argument that a columbarium does not "meet community needs" is evidently wrong. It also assumes that only Government can and does provide such services, when this is plainly not so. In practice, the provision of columbaria is by Government, and private niches, in combination. **(Columbarium meets the community needs)**
- (c) While Parkland Villas (adjoining residential development) was built around 2000, that development must be viewed in its proper context. On the evidence, columbaria use was already in existence from March 1966 onwards, and by the time of the 1994 OZP – some 28 years later. Furthermore, the situation developed over time, from ancillary use to use requiring planning permission, the fact that planning permission became necessary does not constitute impropriety, misconduct, or moral blame. **(Timing and context are important)**
- (d) When considering public comments, one would usually consider the number in

the majority, and minority, and give effect to the majority view. The TPB's approach to give effect to the minority, and disregard the majority, is both unexplained and unfair. In fact, the Appellant's approach was not to do nothing. He was over-ambitious in making several planning applications including on larger scale, which were scaled down. **(Relevance and weight)**

- (e) The TPAB do not consider the columbarium is a sensitive community facility. This focuses on a mortuary, funeral depots, and funeral parlours – with dead bodies, which raise health and safety issues. In contrast, ashes in an urn pose no health and safety risks. In any event, even if the HKPSG applies (which the TPAB do not accept), there is a sufficient buffer by the trees, and the columbaria are enclosed within a building. **(Columbarium is not a sensitive community facility)**
- (f) In terms of plan making, Tuen On Lane serves not only Parkland Villas, but also the Appellant, and Ching Leung Nunnery (adjoining religious institution). It is also indisputable that there are 3 pedestrian routes or footpaths which serve Parkland Villas and the Appellant. Thus, it is inappropriate for the TPB to focus on vehicle traffic only, without properly considering pedestrian traffic as an alternative. **(No share access problem depending on the actual situation)**
- (g) This ground (alleged nuisance) focuses on traffic. The TPB did not reply on nuisance as a matter of law. In weighing up the evidence, the two Government departments, TD and the Police, in charge of traffic matters consider that the revised traffic management plan is acceptable. Therefore, it is unclear why the TPB as a public body, should take a position that is neither consistent, nor coordinated. Insofar as the TPB relies on such concerns, these appear to be based on speculation, rather than evidence. **(No alleged nuisance subject to the view from TD and the Police)**
- (h) As Hong Kong is densely populated, it is quite common to have cemeteries side by side with residential developments. Moreover, there is no scientific evidence that columbaria or ashes have caused any particular psychological impact on residents at Parkland Villas or elsewhere, and at what distance(s). **(Common for residential properties to be close or adjacent to cemeteries)**

In view of this s.16 application is similar to the GLM case, the Applicant will provide detailed justifications (as presented in subsection B of this chapter) to demonstrate that the present application has already complied with the above **8 planning aspects** and, thus, no land use incompatible and nuisance issues will result from BHCT (in response to rejection reason (a)). This is in line with the TPAB recent guidance on consistency.

On the other hand, in response to the rejection reason (b) on the precedent effect of the development, a planning assessment on precedent case have been conducted as presented in subsection C of this chapter.

(B) LAND USE COMPATIBILITY ASSESSMENT

Hong Kong is a compact city and it is common to find a mixture of uses in the urban area. TPB Guidelines states that the Board recognised there are merits in functionally and physically integrating different types of compatible uses within a building or over a spatial area, in particular when it helps create vitality and diversity in an area. Appropriate planning control should be provided to avoid the possible nuisance and interface problem.

There are many dictionary definitions of 'compatible'. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is in the sense that different users can co-exist subject to technical feasibilities. In response to the rejection reason (a) on land use compatibility, a planning assessment has been conducted to demonstrate that the subject columbarium has complied with the **8 planning aspects** in relation to the PCO and land use compatibility as detailed in Section 5(A). Planning justifications are detailed below:

6.1 Fully Complied with the Private Columbaria Ordinance

The Government has emphasised in many public occasions that they are prepared to adopt a pragmatic and sensitive approach to resolve the historic problem of these Pre-cut-off Columbaria so as to minimise any social disruption arising from people who have purchased these niches and massive displacement of interred ashes before the introduction of regulatory regime (see **Annex I of Appendix I**). In response to the latest requirement of PCO enacted on 30.6.2017, the Applicant had submitted the PCL application for BCHT to the PCLB on 28.3.2018 (see **Annex II of Appendix I**). The Applicant had fulfilled a series of requirements and obtained the AIP TSOL on 21.9.2022 (see **Annex III of Appendix I**). During the 3 years validity period of TSOL, the Applicant has to satisfy the town planning, land lease and building safety requirements in order to obtain the Columbarium Licence. Hence, the Applicant herein submits the s.12A application, partly to comply with the licensing requirements under the PCO and partly to satisfy the town planning requirements.

The importance of the Pre-cut-off Columbaria Policy was noted in both the GLM Appeal Decision and the GLM Cost Decision. The TPAB considered that the TPB as a public body has a duty to act fairly and reasonably, while consistency and fairness are linked concerning Government's policy initiatives for Pre-cut-off Columbaria, i.e.:-

- (a) Government's purpose was to take into account the "overall interests of the community"; to minimise losses and "any social disruption"; and "to avoid affecting the descendants in particular their wish not to disturb the interred ashes of the deceased as far as practicable".
- (b) On how such aims would be achieved, this included reference to the fact that niches were purchased and ashes interred before members of the public knew that Government would introduce a regulatory regime in the PCO, which came into effect on 30 June 2017, and was not retrospective.

The TPAB also raised the point that Government's policy initiative and Press Release are highly relevant. As consistency is a cardinal principle of good administration, a pragmatic and sensitive approach (rather than strict, over legalistic, or literalistic) are appropriate.

6.2 Essential Social Facilities to meet the Community Needs

Burial arrangement is a necessary element to allow family, relatives and friends pay respect to their ancestors and loved ones, which is an important matter for both the departed and the living. The wish of deceased to have their cremated ashes to be properly placed should be respected. According to another TPAB case No. 6 of 2015, which involves the provision of a new columbarium in Au Tau, Yuen Long (Joyous Cheer Appeal Decision), the TPAB has acknowledged a columbarium is a public gain since there is a high demand for niches by the public. FHB has also acknowledged in the PCO the importance of existing private columbaria in the three-pronged strategy for handling cremated human ashes in the past.

It is important to note that the subject application is not concerned with a new or standalone columbarium. Regularisation is necessary to enable the Applicant to apply for a Columbarium Licence under the PCO. The human factor is highly relevant as one is concerned with human ashes, which should be dealt with using empathy, and compassion. However, if the subject application is refused by the Board, it would create social disruption and/or disadvantages to the public due to the following reasons:

- The operator would have to carry out the "prescribed ash disposal procedures" set out in the PCO, including returning the ashes to the eligible claimants, which is not in line with the Government's policy to adopt a pragmatic and sensitive approach towards the consumers who have purchased these niches, and the dedicated persons, to minimise their losses and any social disruption arising from massive displacement of interred ashes. In this case, there are 5,508 niches already sold, among which 4,141 niches are already occupied.
- It would result in losing an extremely rare and unique opportunity to help meeting part of the demand for columbarium niche spaces in Hong Kong. The columbarium in BCHT still has around 6,200 niche spaces available for sale.

On balance, it is considered that the benefits of regularising the Pre-cut-off Columbarium outweigh the above disadvantages. It will also be of advantage to the local residents in the area if planning permission with a list of stringent conditions is given by the Board in the subsequent s.16 application. Moreover, the Applicant is well aware that the planning approval will be revoked by the Board, which will at the same time affect the Columbarium Licence, if the undertakings and approval conditions are breached.

At the present moment, there are about 60 occupied niches in BCHT for keeping the cremated ashes of the local residents while a large portion of the niches were used by people from other villages in Tai Po. In order to further benefit the local community, the Applicant has decided to reserve 2,000 niches for selling to the residents of Kam Shan area and Tai Po District. BCHT will also continue the practice for offering a certain number of free niches to those people who are homeless and in financial difficulties.

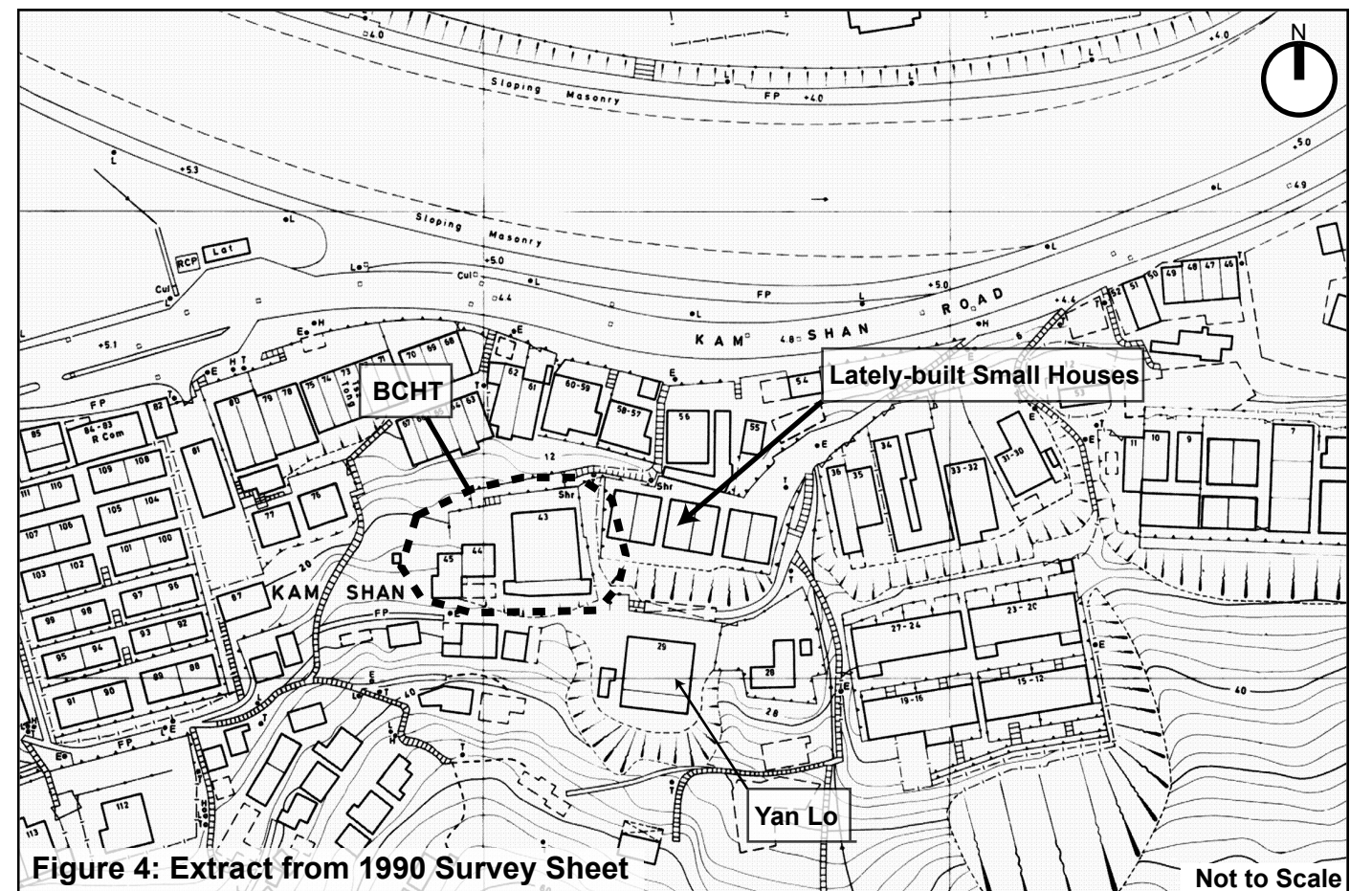
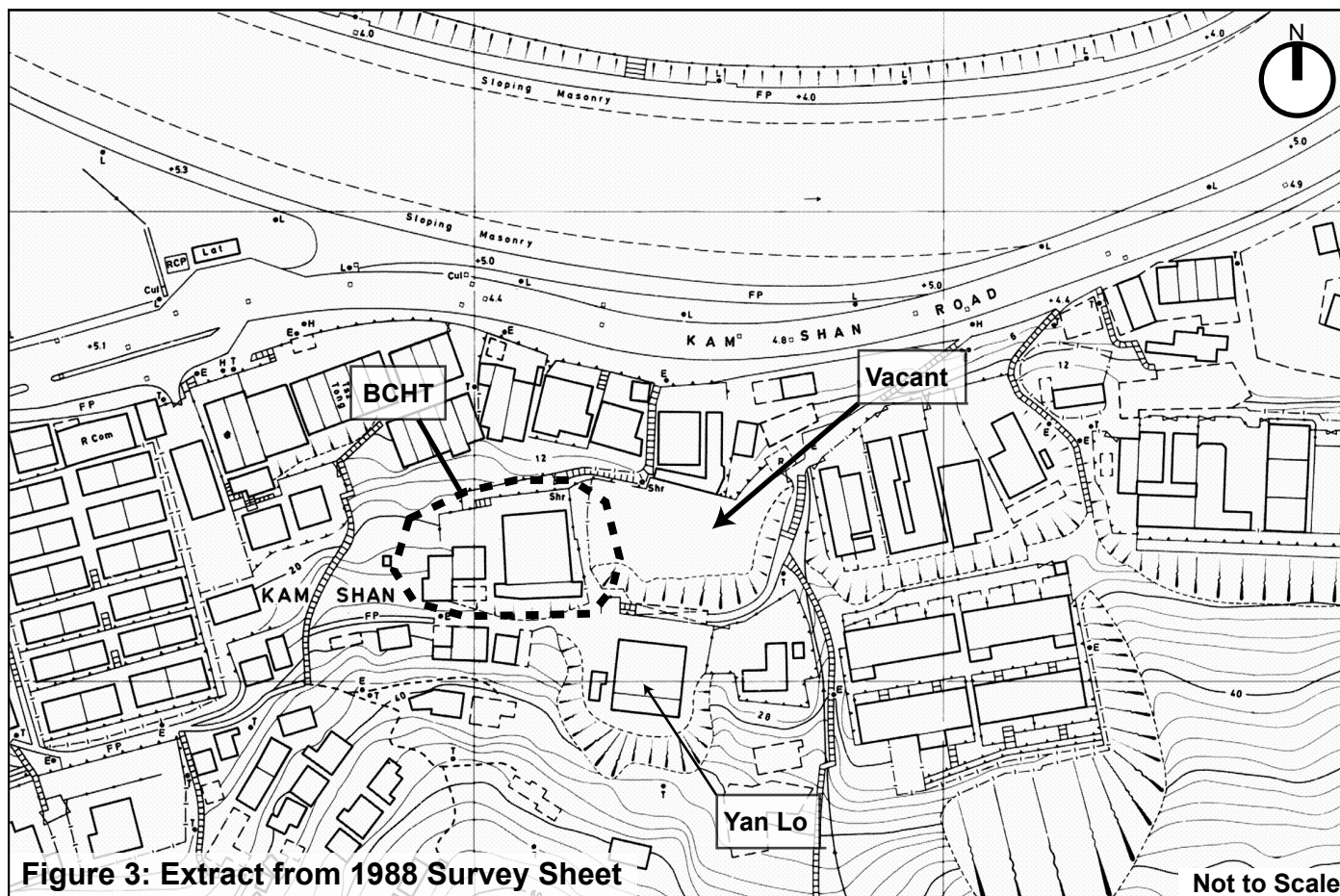
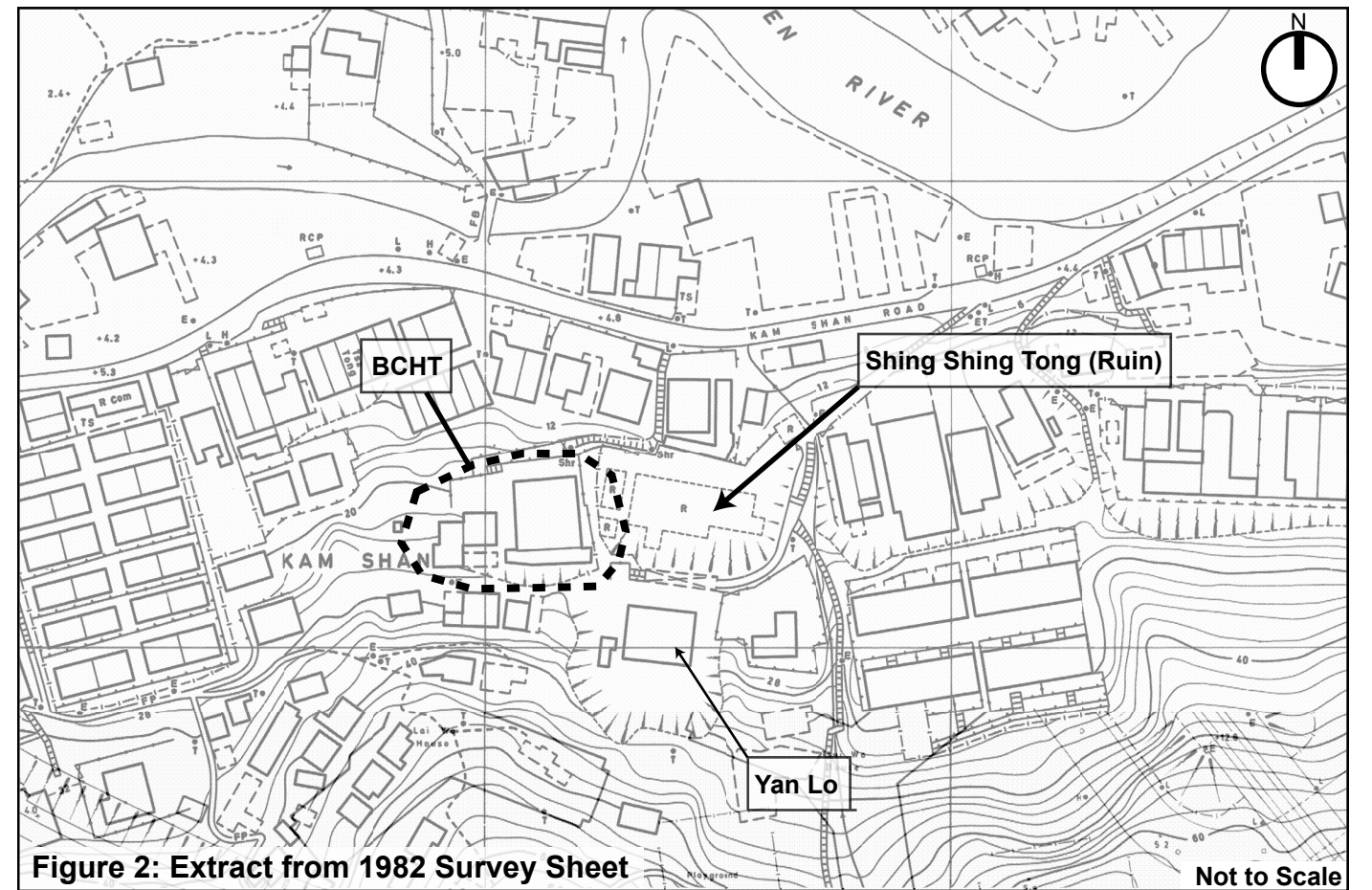
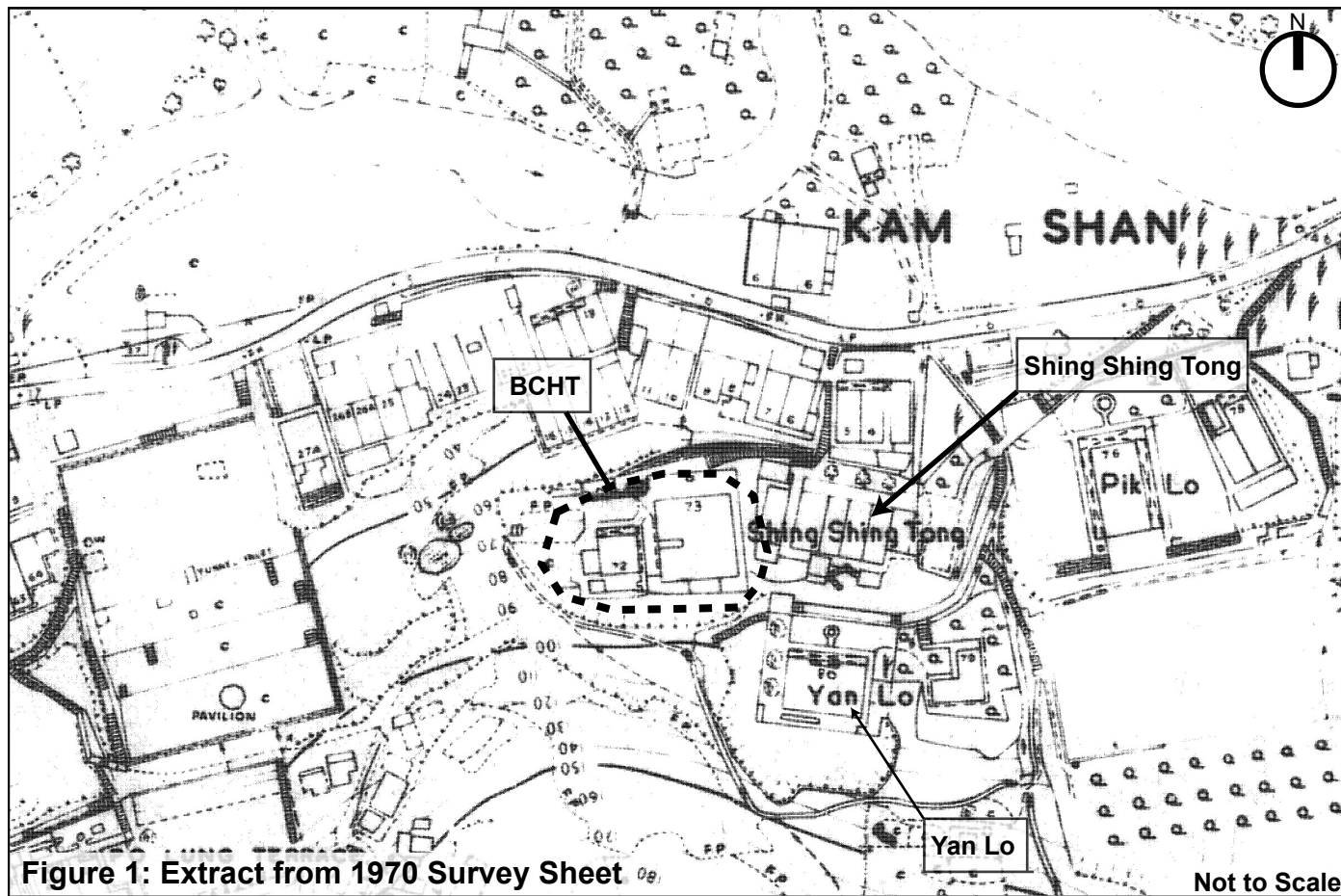
6.3 Columbarium Existed Long Before Later Houses Adjacent

BCHT, previously named Mei Chuen Tong (美全堂), is a traditional Buddhist religious institution established by Sik Cheung Kit (釋昌潔) at the upper part of Kam Shan area in 1928. BCHT and the adjacent Yan Lo and Shing Shing Tong (性成堂) are one of the earliest religious institutions in the area. With a history of over 90 years, BCHT has long been one of the well-known local temples in Tai Po. HAB had confirmed in the previous application that BCHT is a bona fide religious organisation.

The first set of cremated ash kept at BCHT since 1969 was the ashes of Sik Cheung Sin (釋昌善), who is one of the founders of BCHT. Later onwards, the abbots (院長) and the students of BCHT and Mr. Yau – the chief elder of Kam Shan (錦山族長) passed away and their urns had been placed inside the BCHT. In the same decade, the number of cremations in Hong Kong had risen substantially due to the halt of processing applications for private cemeteries by the Government but the progress in providing new public columbaria had been constrained by the limited land supply and public objections. The columbarium in BCHT has been in operation since the 1970s to serve the deceased members and the followers of BCHT, as well as people who were homeless and in financial difficulties. This practice has remained up to the present moment. In view of their religious principle and the continuous strong demand of columbarium niches in Hong Kong over the past decades, BCHT has been selling columbarium niches to the general public to maintain its daily operation since 1987. The history of BCHT and the affirmation from the locals in relation to the historical background of the columbarium is attached in **Appendix II**.

It is common for columbaria to be in and part of a temple. In this instance, there was a religious institution on the site from 1928, which started having urns with ashes within from 1969 – several decades before the adjacent village houses were built in 1990. As show in the Historical plan in 1970 (see **Figure 1 of Plan N**), the time when BCHT started placing cremated ashes, indicated that there are only a few village houses situated in the vicinity of the application site. It is very important to point out that the structures immediate east of BCHT were Shing Shing Tong. According to the description from the University of Hong Kong University Libraries (see **Plan O**), Shing Shing Tong was a **Buddhist temple** in Kam Shan, Tai Po. Until 1982, the said structures had been marked as "ruin" (see **Figure 2 of Plan N**). Historical plans also recorded that Shing Shing Tong was demolished in 1988 (see **Figure 3 of Plan N**) and Houses No. 37-42 were only constructed in 1990 (see **Figure 4 of Plan N**) (remarks: certificate of compliance was obtained on 19.11.1991 as per land register).

According to the GLM Appeal Decision, the TPAB confirmed that timing and context are important because many columbaria existed long before later residential buildings close by or adjacent. In this regard, in 1969 BCHT was mainly surrounded by religious institutions (i.e. Shing Shing Tong and Yan Lo). By 1987 when BCHT started selling columbarium niches to the general public, Shing Shing Tong was still there but in ruin condition and the village houses were still located away from BCHT.



Plan N: Historical Plans in Kam Shan

Shing Shing Tong, Kam Shan, Tai Po 大埔錦山性成堂

大埔錦山的性成堂古廟，是一所佛教庵堂。 Shing Shing Tong, a Buddhist temple in Kam Shan, Tai Po.



Photographer	陳平遠 Chan, Ping-yuen
Date	1961
Subject	Temples, Chinese
Location	Kam Shan, Tai Po District
Source	Chan, Ping-yuen, Reports on the land use survey of Tai Po (unpublished, 1961) Library call number: MSS 333.7095125 C45
Shelf	MSSG-27-029
See Also	http://find.lib.hku.hk/record=HKU_IJ21406412390003414
Accession No	hkid_lus_00027-00029
Resource Type	Image
Source Type	Photography -- B&W
HK District	Tai Po
License	All rights reserved
Rights Statement	In Copyright

Screenshot from digitalrepository.lib.hku.hk



Plan O: Information for Shing Shing Tong

In addition, the TPAB stated in the GLM Appeal Decision that it was unclear whether planning approval was necessary – especially if the columbarium was initially ancillary, as small scale. The situation developed over time, from ancillary use to use requiring planning permission, the fact that planning permission became necessary does not constitute impropriety, misconduct, or moral blame. In this regard, the present s.12A application for BCHT will help the Applicant to re-define clearly the land-use function and the nature of the existing religious and columbarium use from the land use planning standpoint.

6.4 Substantial Support from the Local Residents and Organisations

BCHT is a popular religious institution in Tai Po, which has been active in holding ceremonies and events to promote Buddhism and participated in public welfare and charity activities for the community (see **Plan P** and **Appendix IV**). For example, the Temple has been providing social and charity support to volunteering organisation, rural and village's committees, religious institutions, local sports club, etc. They also donated money in helping the people who suffered from natural disaster. Those famous volunteering organisations include:-

- Doctors Without Borders (無國界醫生)
- Hong Kong Committee for UNICEF (世界兒童基金會)
- Hong Kong Women Development Association (香港婦聯)
- Po Leung Kuk (保良局)
- Tung Wah Group of Hospitals (東華三院)
- Hong Kong Buddhist Association (香港佛教聯合會)

BCHT has maintained a good relationship with the locals, including the Chairman of Village Committee for Kam Shan Village, Indigenous Representatives for Kam Shan Village and the local villagers, in particular those living near the site. In order to further relieve the public concerns on any potential nuisance to the local villagers in this locality, the Applicant has spent utmost efforts on the local communication works (地區聯絡工作). In the previous applications (Nos. Y/TP/29, Y/TP/34 and Y/TP/35), the Applicant recorded that over 8,000 of the public comments were in support of the planning application (see **Table 6.1**).

Table 6.1: Public Comments from Previous Applications

Application No.	Total	Support	Opposite	Neutral	Not Relevant
Y/TP/29 (rejected)	2,521 (100%)	2,108 (83.62%)	413 (16.38%)	0 (0%)	0 (0%)
Y/TP/34 (withdrawn)	5,759 (100%)	5,731 (99.52%)	25 (0.43%)	1 (0.02%)	2 (0.03%)
Y/TP/35 (withdrawn)	1,127 (100%)	1,070 (94.94%)	57 (5.06%)	0 (0%)	0 (0%)
Total	9,407 (100%)	8,909 (94.71%)	495 (5.26%)	1 (0.01%)	2 (0.02%)



Long religious history in the area.



Long religious history in the area.



Holding religious ceremonies.



Holding religious ceremonies.



Religious event.



Grave sweeping occasions.



Good Relationship with the local villagers.



Actively promote charity works.



Plan P: Popular Religious Institution in the Area

Those supporting comments received were mostly from the local residents living in Kam Shan Tsuen and Tai Po District. In addition, a number of reputable persons, representatives and organisations in the area wrote to the Board to express their strong support to the application (see **Appendix V**). They include:-

- 大埔鄉事委員會主席、副主席及代表
- 大埔聯益鄉地區事務委員會副主席及代表
- 養浩安老院代表
- 家樂協會復康宿舍有限公司代表
- 香港新界蘇氏宗親會理事長
- 大埔聯益鄉公所代表
- 大埔元洲仔漁民村公所代表
- 大埔元洲仔大王爺神廟管理演戲委員會有限公司主席
- 黃碧嬌太平紳士 (大埔青年協會永遠會長、樂群義工聯盟主席、大埔各界協會副主席)
- 錦山村村委會主席
- 錦山村村代表
- 錦山村原居民代表
- 區議員
- 大埔天后宮代表
- 新界校長會會長

According to the GLM Appeal Decision, the TPAB pointed out that when considering public comments, one would usually consider the number in the majority, and minority, and give effect to the majority view. In this regard, amongst the public comments received from the previous applications for BCHT, 8,909 (about 95%) supported the applications and only 495 (about 5%) objected. The overwhelming support received, especially majority of the support were from the local residents and the stakeholders of BCHT, illustrates that the general public consider the subject development is favourable and acceptable. However, the TPB could not support the previous application No. Y/TP/29 because a number of local residents had raised objection to the application. The TPB's approach to give effect to the minority (about 16.38%), and disregard the majority (about 83.62%), is both unexplained and unfair.

Furthermore, the Applicant has been over-ambitious in making several planning applications including on larger scale, which were scaled down (see **Table 6.2**). Strong efforts have been made by the Applicant to reduce any potential impact (in particular nuisance to the local residents) from the development.

Table 6.2: Current Scheme vs Previous Scheme (No. Y/TP/29)

	Current Scheme	Previous Scheme
Site Area	1,052.4m ² (including 662.2m ² Government Land)	1,665m ² (including 1,311.8m ² Government Land)
No. of niche(s)	11,726 niches	13,426 niches
Planning Parameters		
• GFA (m ²)	969.1m ²	971.7m ²
• Maximum BH	10m (2 storeys)	10m (3 storeys)
• No. of Block(s)	2	3
Traffic Arrangement	Pre-booking system Limit to 351 visitors per hour Deployment of staff Directional signage and waiting area	Pre-booking system Limit to 434 visitors per hour Deployment of staff Directional signage and waiting area

	Only one main temple access	
Landscape Proposal	Existing trees will be retained in-situ. Additional trees are proposed.	Existing trees will be retained in-situ.
Environmental Proposal	No burning of joss papers.	No burning of joss papers.

6.5 Columbarium is not a Sensitive Community Facility

Columbarium is an essential social facility for the community to allow family, relatives and friends pay respect to their ancestors and loved ones, which is an important matter for both the departed and the living. It is similar in nature and of equal importance as other communal and institutional facilities such as hospital, home for the aged and school. The Government had openly emphasised the importance of dispelling the misconception harboured by some members of the public that graveyards and columbaria are evil and offensive. Hence, columbarium is considered not an incompatible use in the community which can be commonly found in the urban area or adjacent to the flats developments or village houses, i.e. Po Fook Hill in Sha Tin.

According to the court case UNI-Creation Investments Ltd. v Secretary for Justice (HCMP 2166/2015) (hereafter refers as "the Nim Yuen case"), the Court ruled that the word "offensive" does not restrict to be purely physical sensations, offensive to the ear, or the nose or the eye. They opined that there are other private columbaria in Hong Kong and their operation does not constitute an offensive trade. The judge opined that the Lung Ngan Monastery at Tai O and Lung Shan temple near Fanling are columbaria which have resident houses nearby. They also said columbarium itself is not an offensive business, and that legislation has been put in place to regulate such businesses in Hong Kong to make sure they are properly managed.

According to the GLM Appeal Decision, the TPAB also considered that the columbarium is not a sensitive community facility, under the HKPSG. This focuses on a mortuary, funeral depots, and funeral parlours – with dead bodies, which raise health and safety issues. In contrast, ashes in an urn pose no health and safety risks. It is common and a fact of life, for residential properties to be close or adjacent to cemeteries (e.g. Happy Valley and Pokfulam).

More importantly, the columbarium ancillary to BCHT is not a brand-new development but an establishment that has already been in existence and operation in the area for a long time (more than 40 years). In order to meet the planning requirement for the PCL application under the PCO enacted on 30.6.2017, the present s.12A application is submitted only to regularise the existing columbarium with 11,726 niches (a reduction of 13,426 niches as recorded on 30.6.2017) and no additional niches or redevelopment scheme are proposed. It is fully in line with the Government's policy to properly resolve the historic problems of this special nature of use (Pre-cut-off Columbarium) which have accumulated over the years. Moreover, there is a sufficient buffer by the trees, and columbarium niches are enclosed within the buildings.

6.6 Sharing the Same Access Road is Non-issue for the Temple

In the previous application, the Board was concerned that access to the BCHT solely relies on the existing footpaths/stairs shared by the adjoining village houses which would bring nuisance to the local residents. This concern can be divided into two issues: (1) existing access shared by the adjoining village houses; and (2) bring nuisance to the local residents. This section will provide details in response to the first issue on sharing the access road.

With reference to the GLM Appeal Decision, the TPAB considered that timing and context are important as they are not concerned with new columbaria, but columbaria in existence for many years. In terms of plan making, Tuen On Lane (access road to GLM) serves not only Parkland Villas (adjoining residential development), but also the Appellant, and Ching Leung Nunnery (adjoining religious institution). The situation is very similar to the subject BCHT case, because:

(a) **The Main Temple Access is not only to Serve the Village Houses**

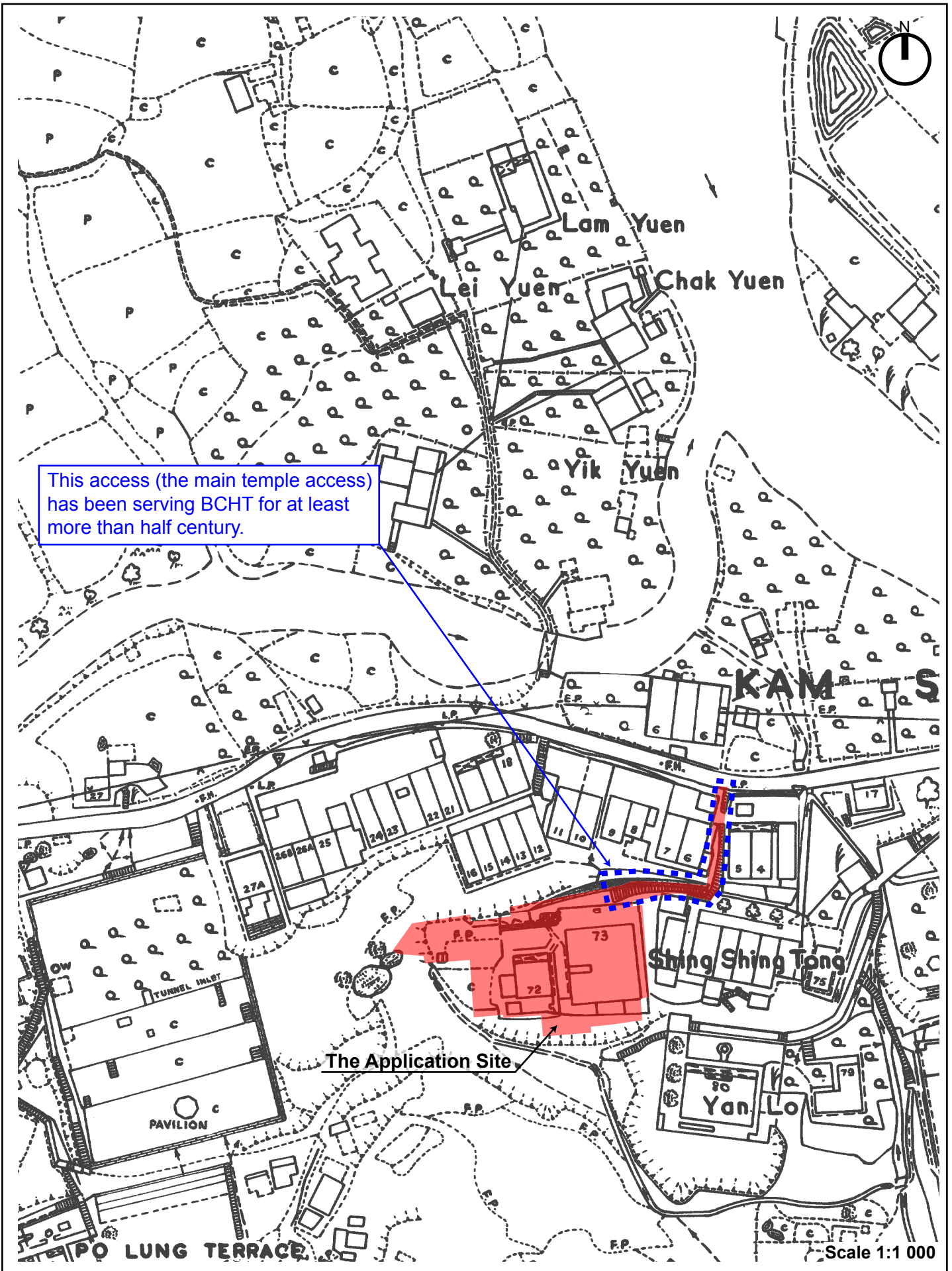
It should be highlighted that the main temple access (i.e. stairs to the east of house nos. 57-58) serves not only the village houses in the area, but also BCHT. The first historical survey plan in the area (i.e. 1957) clearly shows that the said access was serving BCHT, Shing Shing Tong, Houses No. 57 and 58 (previously named as Houses No. 6 and 7) and the two houses (previously named as Houses No. 4 and 5) that had already demonstrated in 1999 (see **Plan Q**). Also, the said access was the only access to BCHT at that time.

This situation was unchanged when the first statutory town plan in the area (No. LTP/47) was gazetted on 12.12.1980. As the said access is a public road, there is no indication in the OZP's planning intention of any priority given to the village houses or any other development, over the Applicant. Subsequently in the 1990s, Shing Shing Tong was demolished and re-developed into 6 village houses, which have their own pedestrian access route. Thus, from the plan making point of view, Houses No. 57 and 58 should share the same existing access road with BCHT.

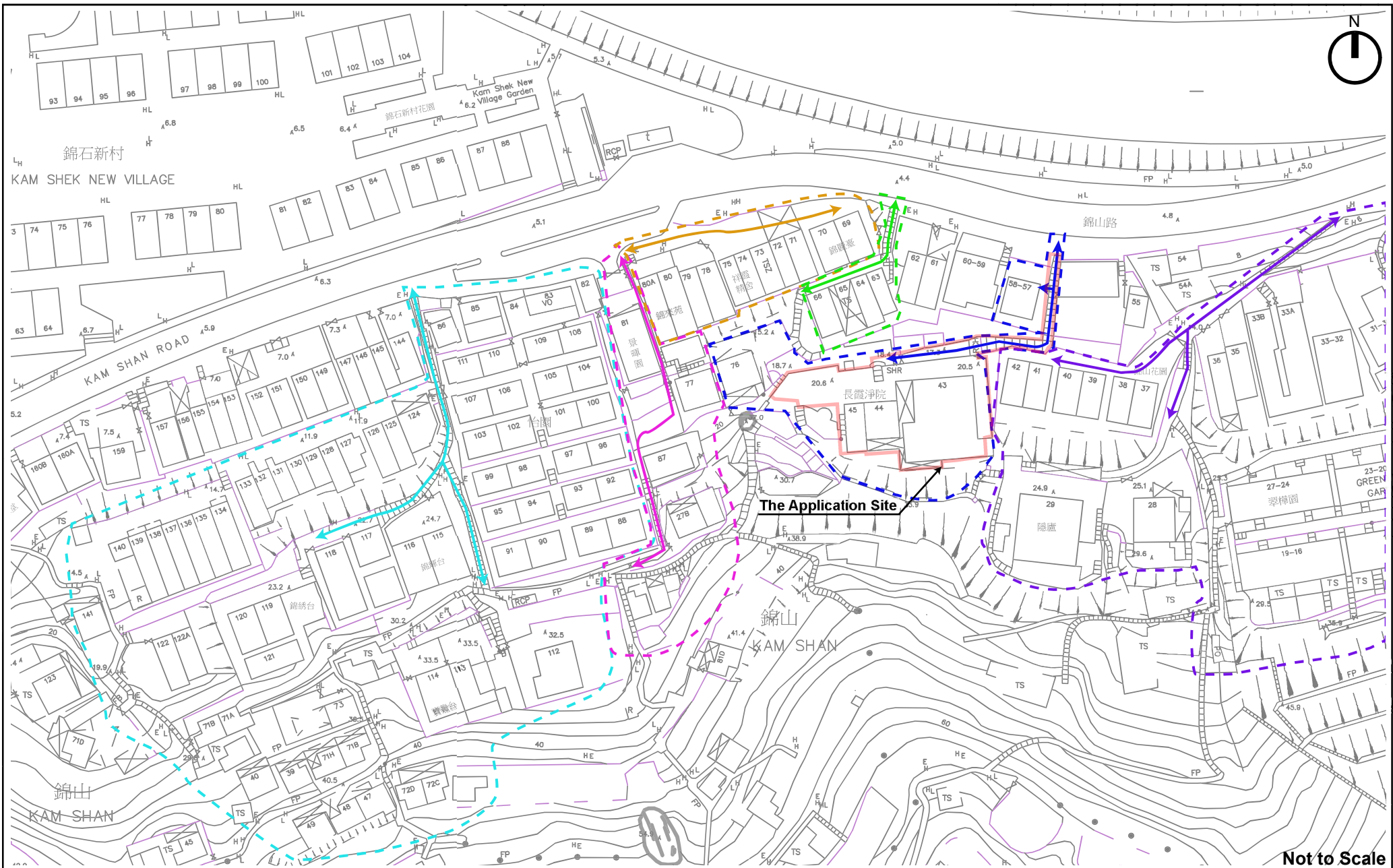
(b) **There are Several Pedestrian Routes Serving the Village Houses**

It is also indisputable that, at the present moment, there are several pedestrian routes or footpaths serving the village houses in Kam Shan (see **Plan R**). In order to avoid any potential unnecessary disturbance to the neighbouring developments caused by BCHT, as a new administrative arrangement adopted by BCHT, all visitors of BCHT only use the main temple access for site entering/ leaving purpose. As detailed above, the main temple access at the present moment only serves BCHT and Houses No. 57 and 58, and both users have been sharing the same access for at least more than half century. The tenants of Houses No. 57 and 58 are in support of the rezoning request for BHCT (see **Appendix III**).

This new administrative arrangement has been incorporated into the latest



Plan Q: The First (1957) Historical Survey Plan in Kam Shan Area



Not to Scale



Plan R: Pedestrian Routes Serving the Village Houses

Management Plan (see **Appendix VI**) and has been "trail-run" by the Applicant in the 2024 of Ching Ming Festival Day. Prior to the festival day, BCHT has actively notified the members by different means (i.e. letters, whatsapp, website, etc.) on the new access arrangement. As detailed in **Section 4.1.2(b)**, the traffic survey conducted in the recent Ching Ming Festival Day indicates that **around 95%** of the visitors throughout the festival day have followed the new access arrangement, which is a very satisfactory result for the first go. Nevertheless, the Applicant will spare no effort to ensure all visitors to absolutely follow the arrangement in future.

6.7 No Alleged Nuisance to the Neighbourhood

In response to the second issue on sharing the same access would bring nuisance to the local residents, it is helpful to make reference from the TPAB's finding of the GLM Appeal Decision. In short, the TPAB considered that the shared access route for GLM was a non-issue because there was no evidence that access to the columbarium during festival dates was causative of any traffic or pedestrian issues. Moreover, both TD and the Police have found the traffic management plan to be acceptable with no significant impact anticipated. In this regard, the Applicant has provided the following factual and expert evidence to demonstrate that BCHT will not result in any significant nuisance to the neighbourhood from sharing the same access road:

(a) The Temple Access Mainly Used by BCHT and Houses No. 57-58

As detailed in **Section 6.6**, the users of BCHT and Houses No. 57-78 have long been sharing the access over 60 years. There are several pedestrian routes or footpaths which serve the other village houses in Kam Shan and, in reality, the tenants of those village houses will unlikely to use the main temple access due to longer walking distance to their houses. Hence, BCHT and Houses No. 57-78 are the main users of the said access. There is no solid information of congestion caused by such pedestrian traffic to and from BCHT in the past.

(b) Management Measures

According to the GLM Appeal Decision, when considering alleged nuisance, the TPAB accepted the Appellant's contentions on the balance of probabilities and, in weighing up the evidence, the two Government departments in charge of traffic matter consider that the revised traffic management plan is acceptable or have no in principle objection. In this regard, although the total number of niches for BCHT is greater than GLM, it should be noted that the visitors will not arrive at BCHT at the same time. The Applicant will implement the traffic management plan to control the number of visitors to a controllable level during the grave sweeping occasion. In fact, pre-booking system for BCHT has already been implemented during the 2024 of Ching Ming Festival Period. Under pre-booking system, the maximum allowed visitor for the columbarium is 351 persons per hours. According to the revised traffic management plan from the TIA of GLM, it is estimated that there will be a total of 643 pedestrian trips (2-way) (332 attraction and 311 generation) during the Ching Ming Festival peak hour, which is double the number of visitors than BCHT.

(c) Expert Evidence – No Objection from Traffic Authorities

According to the previous application (No. Y/TP/29) which applied for 13,426 niches (more niches than the present case), TD and the Police, the responsible Government departments for traffic, found the crowd management measures as proposed in the TIA acceptable or had no in principle objection, highlighted that alleged traffic congestion has no significant impact. Under the present s.12A application, the Applicant has intended to propose changes over previous applications, including: (1) reduction of 1,700 niches; (2) only one temple access arrangement; and (3) reduction of visitors per hour from 424 persons to 351 persons. The proposed scheme had made significant improvements over the previous scheme.

In view of the justifications as presented in **Section 6.6** and **Section 6.7** above, the existing columbarium ancillary to BCHT, with the implementation of crowd management measures, would not cause nuisances to the residential neighbourhood due to the existing access shared between BCHT and House No. 57-58. The TPB concern on the subject columbarium would attract a larger number of grave sweepers to the village causing nuisance and disturbance to the local residents in the village is not supported by factual or expert evidence.

6.8 Compatibility in the Area

In the previous application, the TPB considered that the columbarium was not compatible with the existing village setting in the area, particularly the residential dwellings located in the immediate vicinity. In this regard, the Applicant has provided the following justifications to substantiate the columbarium ancillary to BCHT will not result land use incompatibility issue:

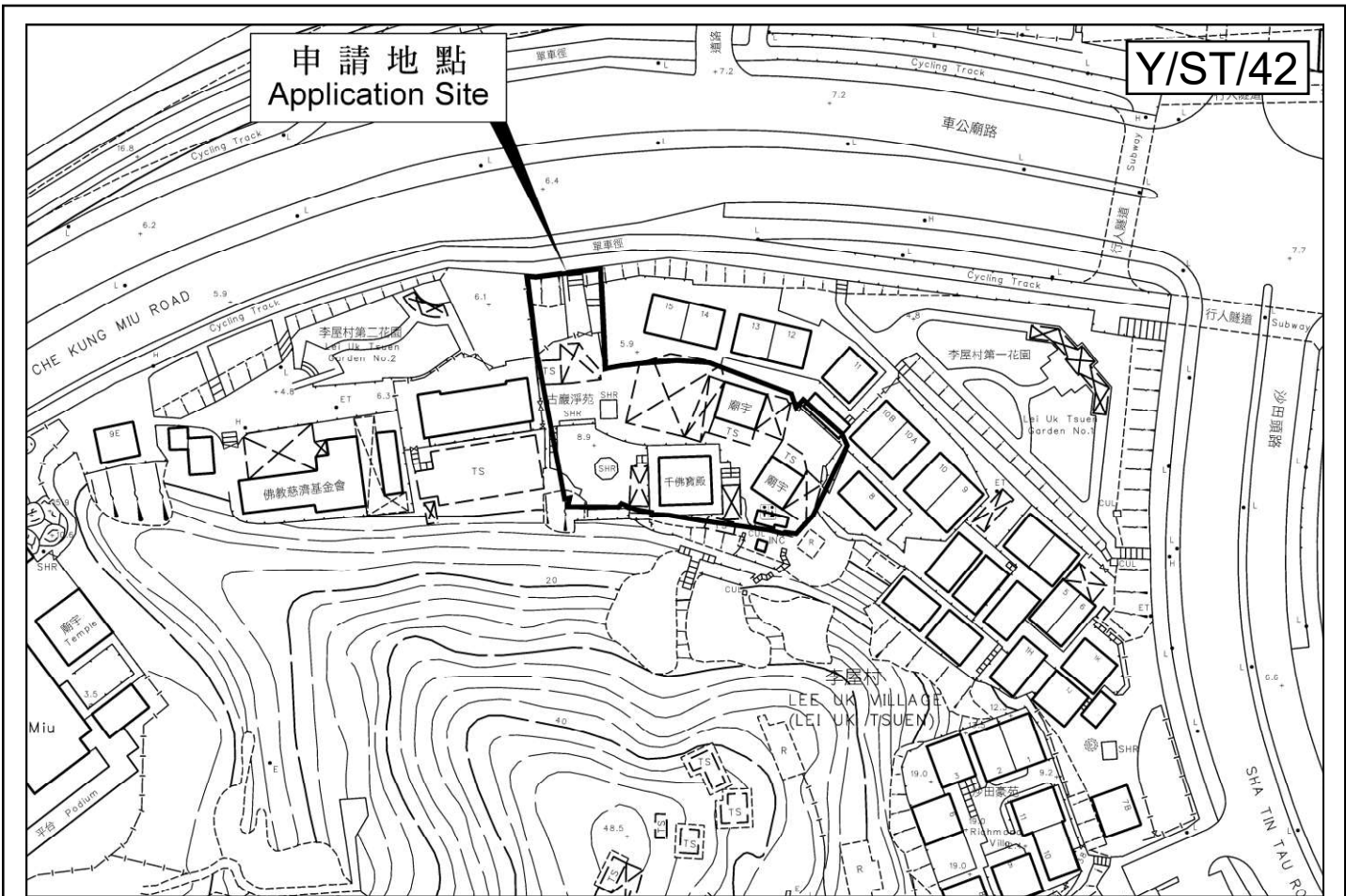
(a) Common for Residential Properties to be Close or Adjacent to Cemeteries

Referencing GLM Appeal Decision, as Hong Kong is densely populated, it is quite common to have cemeteries side by side with residential developments. Moreover, there is no scientific evidence that columbaria or ashes have caused any particular psychological impact on residents at Parkland Villas or elsewhere, and at what distance(s).

It is noticed that the planning circumstances related to the planning applications for columbarium case in close proximity to the village houses within "V" zone has been recently changed. The Board had recently approved two similar applications for regularising the Pre-cut-off Columbarium, namely Ku Ngam Ching Yuen and Memorial Park Hong Kong within "V" zone in Sha Tin on 4.12.2020 and 10.9.2021 respectively (Nos. Y/ST/42 and Y/ST/47) (see **Plan S**). Both columbaria are very close to a cluster of village houses.

(b) Rationalisation of the Existing Land Use Pattern of the Area

In order to facilitate the comprehensive improvement programme of Tai Po



**Plan S: Change in Planning Circumstances
(Similar Cases in "V" Zone)**

District in the 1980s, the first Tai Po OZP was gazetted on 12.12.1980 (No. LTP/47). Kam Shan and the surrounding area had been rapidly put into statutory planning control and entirely zoned as "V". Since BCHT, as well as Yan Lo, is located within the Kam Shan area, it had been included in the larger "V" zone. Similarly in Mui Shue Hang area situated further west of the site, some institutional uses such as Poh Yea Ching Shea and Ever Rest Temple had also been extensively zoned as "Green Belt". ("GB"), and subsequently rezoned to "Open Space" under the draft Tai Po OZP No. LTP/47B on 21.10.1983. Until 21.12.2007, TPB had rezoned Poh Yea Ching Shea to "G/IC" on the draft Tai Po OZP No. S/TP/20 to reflect its existing institutional land use character. An evolution of the land use pattern of the area is shown in **Plan T**.

In reality, BCHT should be zoned as "G/IC" rather than "V" in first place. It has been in operation in the Kam Shan area since 1928, which is similar to Poh Yea Ching Shea established in Mui Shue Hang for a long time (i.e. Year 1915). Therefore, the present application for rezoning the application site to "G/IC(3)" zone is very logical in order to rectify the former broad brush zoning approach and to clearly reflect the existing use of the site and back to its appropriate use.

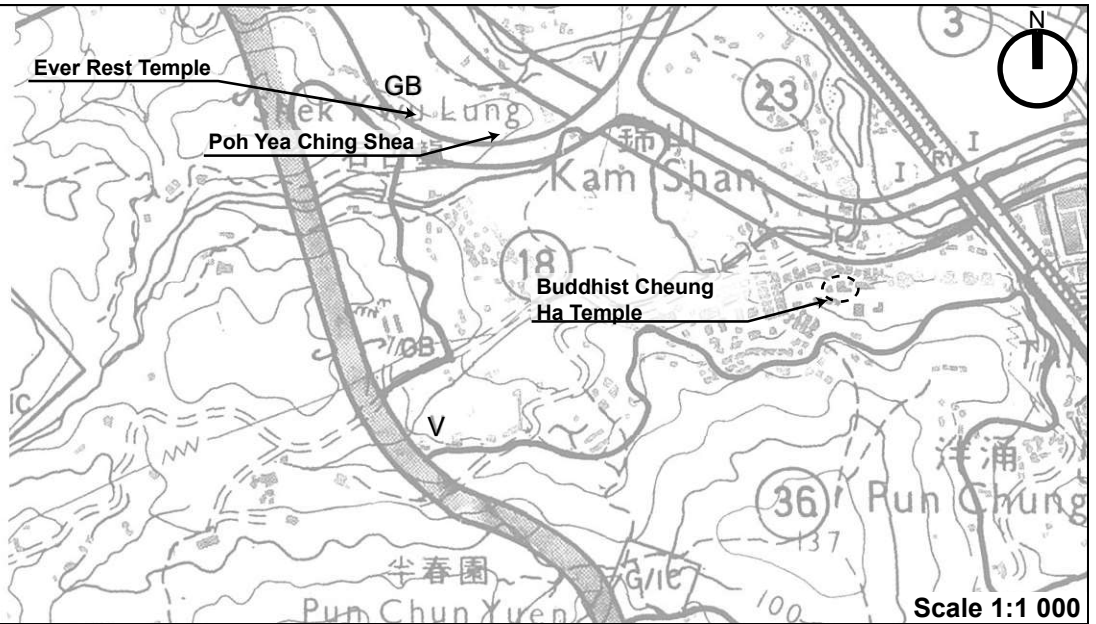
(c) Sufficient Buffer and Segregation

The two 2-storey temple-cum-columbarium structures have long been located at the upper part of Kam Shan area, which is a relatively inconspicuous and tranquil environment. They are surrounded by other religious uses, slopes and existing/proposed trees. The closest houses to the ancillary columbarium, i.e. Nos. 41 and 42 Kam Shan Village, are currently the living quarters for staff/associated persons of BCHT which can also serve as a buffer to segregate the village houses further east of the site (remarks: these houses were constructed after the columbarium in operation). Nevertheless, additional landscape features have been proposed along the boundary edge to provide a natural screening buffer for BCHT.

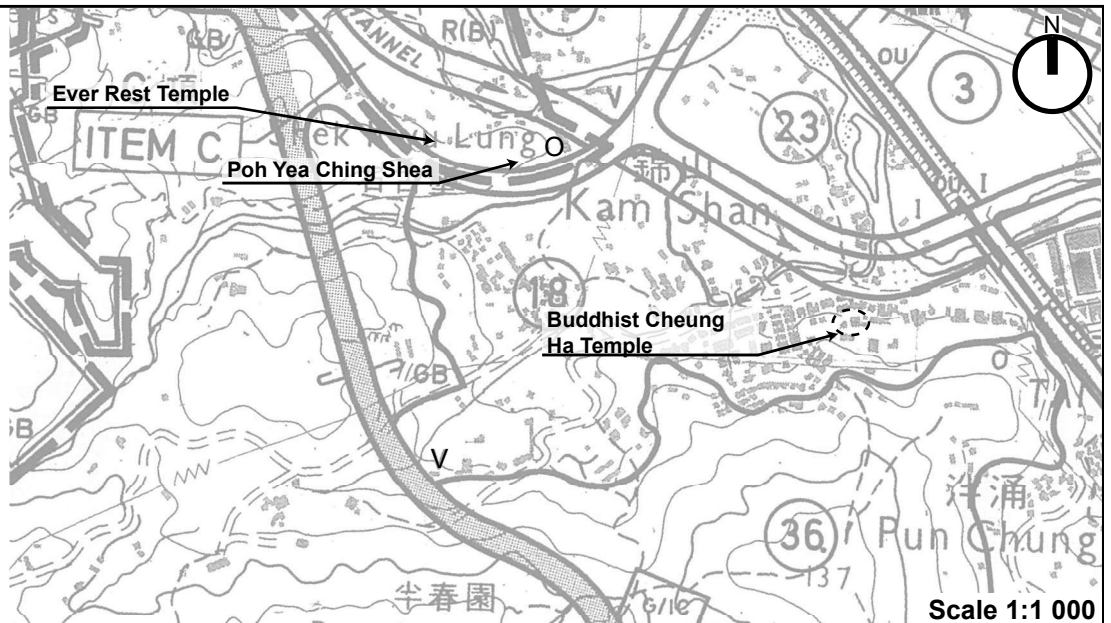
In view of the visual obstruction surrounding the site, major level difference between the site and the adjacent area, and the existing retaining wall built along the BCHT, the existing small scale columbarium structures are hardly visible from outside (see **Plan U**). They are not in the direct sightline of the village houses due to their building orientation. Thus, significant visual impact is not anticipated. It is noted that relevant departments had no objection on the previous application from visual perspective.

Based on the strong justifications above, the small scale columbarium within the temple, which is well screened off from the village houses by visual and landscape buffer, is considered visually compatible with the surrounding area. The BCHT management team will ensure the smooth operation of the temple and good relationship with the adjoining local villagers as usual. The Applicant will strictly and properly implement the Management Plan to ensure the columbarium of BCHT will not create any unnecessary interface issue in Kam Shan, especially during festive seasons.

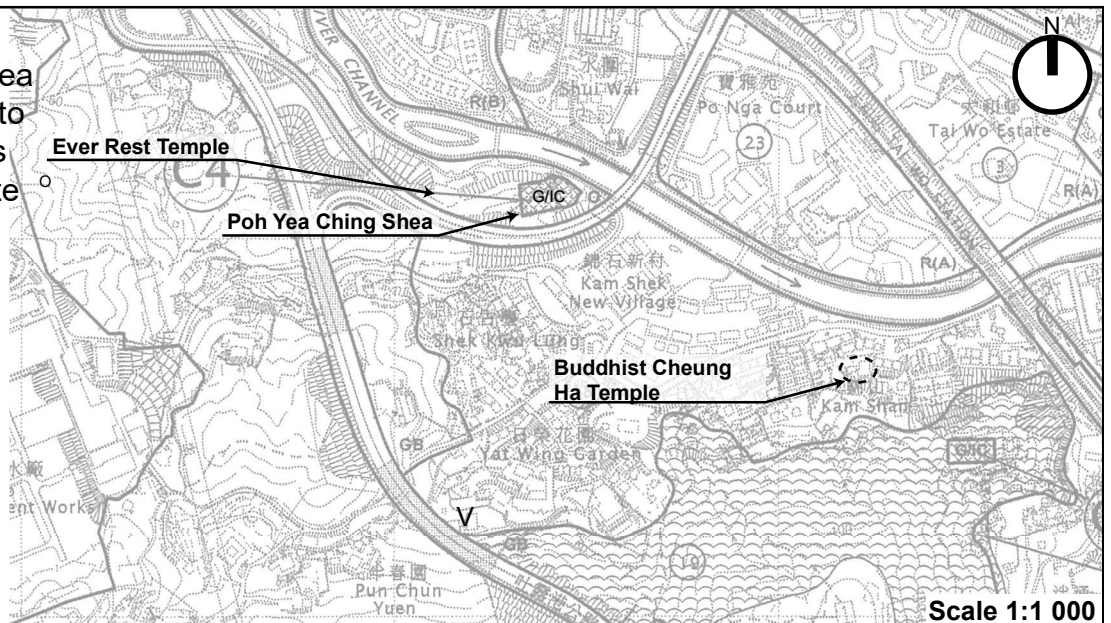
TPB zoned Kam Shan as "V" and at the same time zoned Mui Shue Hang as "GB"



TPB retain Kam Shan as "V" zone, whilst rezoned Mui Shue Hang from "GB" to "O"



TPB rezoned Poh Yea Ching Shea from "O" to "G/IC" to reflect the religious character of the site



Plan T: Evolution of Land Use in Kam Shan Area



After Improvement



Before Improvement



Plan U: Photomontages (3)

CONCLUDING REMARKS ON: (B) LAND USE COMPATIBILITY ASSESSMENT

The TPB was concerned the columbarium in BCHT being located within the village may bring nuisance to or result in aggravation of land use conflict with the adjacent neighbourhood. This planning assessment concluded that departmental concerns on land use compatibility have been satisfactorily addressed with the following conclusion:-

- Government's policy initiative and Press Release are highly relevant. As consistency is a cardinal principle of good administration, a pragmatic and sensitive approach (rather than strict, over legalistic, or literalistic) are appropriate. The Applicant has obtained the AIP TSOL and the current s.12A application for regularizing the existing columbarium is partly to comply with the licensing requirements under the PCO and partly to satisfy the town planning requirements.
- Columbarium is a public gain since there is a high demand for niches by the public. The human factor is highly relevant as one is concerned with human ashes, which should be dealt with using empathy, and compassion. The benefits of regularising the Pre-cut-off Columbarium outweighs the consequences if the subject application is refused by the Board, it would create social disruption and/or disadvantages to the public.
- Historical plans have shown that BCHT and its ancillary columbarium has been in existence before the adjacent village houses were built. Although it is undeniable that the scale of the columbarium has increased over time, from ancillary use to use requiring planning permission, the fact that planning permission became necessary does not constitute impropriety, misconduct, or moral blame.
- When considering public comments, one would usually consider the number in the majority, and minority, and give effect to the majority view. Amongst the public comments received from the previous applications for BCHT, 8,909 (about 95%) supported the applications and were mostly from the local residents living in Kam Shan Tsuen and Tai Po District. This shows that the stakeholders who are allegedly most likely to be affected by the proposed (existing) development, does not consider the proposed (existing) columbarium as a nuisance.
- Columbarium is not a sensitive community facility but an essential social facility which is similar in nature and of equal importance as other communal and institutional facilities. The present s.12A application is fully in line with the Government's policy to properly resolve the historic problems of this special nature of use (Pre-cut-off Columbarium) which have accumulated over the years. Moreover, there is a sufficient buffer by the trees, and columbarium niches are enclosed within the buildings.

- Historical plans have also shown that the main access to BCHT had been a shared access serving BCHT, Shing Shing Tong, and Houses No. 57-58 since as early as 1957. Back then, the said access was the only access to BCHT. Therefore, based on timing and context, the problem of sharing access with residential development is not a concern. The Applicant has already obtained no objection letter from the tenants of House No. 57-58.
- The low-rise religious cum columbarium buildings are well separated from the adjacent village houses by existing slope, existing/proposed mature trees, and retaining wall with level difference. Technical concerns arising from the development have been fully addressed. Visual assessment has demonstrated that the small scale development with appropriate additional landscape treatment and planting will not result in any visual impact on the adjacent development.
- The Applicant has proposed additional management measures and conducted a trial run during the 2024 of Ching Ming Festival Period. The TIA concluded that the existing columbarium will not cause adverse impact to traffic and pedestrian on adjacent road network and is acceptable from traffic engineering point of view. In addition, no solid information of congestion caused by such pedestrian traffic to and from BCHT in the past was recorded. Therefore, nuisance to the neighbourhood is not anticipated.
- There are similar cases that the Board had approved applications for regularising Pre-cut-off Columbarium within "V" zone where the location of these columbaria are in close proximity to village houses within the "V" zone. Moreover, there is no scientific evidence that columbaria or ashes have caused any particular psychological impact on residents or elsewhere, and at what distance(s).

It must be stressed that land use compatibility should not depend on the distance as there are many existing or recently approved columbaria located in very close proximity to the residential blocks in the urban areas of Hong Kong. It should be assessed based on whether the columbarium would actually affect the local residents on scientific evidences, such as visual, traffic and environmental aspects, rather than distance. The application site is suitable for columbarium use in terms of location, land use and visual compatibility. The present scheme, with additional landscape treatment, a reduction of columbarium niches and proper implementation of the Management Plan, will not cause significant adverse traffic and environmental impacts, or possible nuisance, on the neighbourhood.

In view of the detailed planning justifications above, it is considered that the first concern of the Board has been satisfactory addressed.

(C) PLANNING ASSESSMENT ON PRECEDENT CASE

As mentioned in **Section 6(A)**, the second reason provided by the TPB for rejecting the previous application was that the approval of application would set an "undesirable precedent for other applications in similar circumstances". In this regards, it is considered that "other applications in similar circumstances" refers to columbarium (if any) within the subject "V" zone within the OZP. Regardless of which definition one adopts, this reason is not adequate for reasons set out below.

6.9 Serving Social Needs

Placement of urns in a columbarium is necessary as it allows families, relatives and friends to pay their respect to ancestors and loved ones. In particular, this is in line with Chinese culture and traditions which place emphasis on worshipping and paying tribute in memory of their ancestors. Further, the wish of a deceased to have their cremated ashes be properly placed should be respected. According to the Joyous Cheer Appeal Decision, the TPAB has previously acknowledged that columbaria serve social needs and should be regarded as a "public gain" as there is a high demand for niches by the public.

Undeniably, there is a great demand for niches in Hong Kong. According to the Census and Statistics Department, Hong Kong has an annual death rate of about 6.9% (see **Table 6.3**). The numbers indicate a steady increase in annual demand for niche spaces. The demand for niche spaces will continue to increase due to the ageing population and other factors. With a growing ageing population in Hong Kong, the numbers of deaths and cremations have been gradually rising annually, resulting in an increasing public demand for columbarium facilities. Although columbaria are essential facilities for the community, it is not easy to develop given the small geographical size and the large population as well as strong local resistance against such facilities to be provided in their area.

Table 6.3: No. of Death and Death Rate in Hong Kong (2017 - 2022)

	2017	2018	2019	2020	2021	2022
No. of Death	46,800	47,400	49,000	50,700	51,400	63,700
Death Rate	6.3	6.4	6.5	6.8	6.9	8.7

Source: Census and Statistics Department

The subject columbarium with around 6,200 niche spaces available for sale at this suitable location can facilitate in increasing the supply of columbarium niches to help meeting the urgent public demand, especially in Tai Po District. 2,000 niches will be reserved for selling to the local residents in Tai Po. FHB agreed that the provision of columbarium should be supported, subject to all statutory requirements and lease conditions being fulfilled, as well as to address local and relevant departmental concerns over the proposed development.

6.10 The Only Two Pre-cut-off Columbarium within the Subject "V" Zone

This s.12A application is submitted to regularise a Pre-cut-off Columbarium. The following reasons would explain why approval of this special type of planning application would not set a precedent for similar applications within the same "V" zone:

(a) Regularisation of Pre-cut-off Columbarium

On 30.6.2017, the PCO came into effect and the private columbarium in Hong Kong must be covered with Columbarium Licence, Exemption or TSOL. In response to the latest requirement of PCO, the Applicant had submitted the PCL application to the PCLB on 28.3.2018 and the Applicant had fulfilled a series of requirements and obtained the AIP TSOL on 21.9.2022.

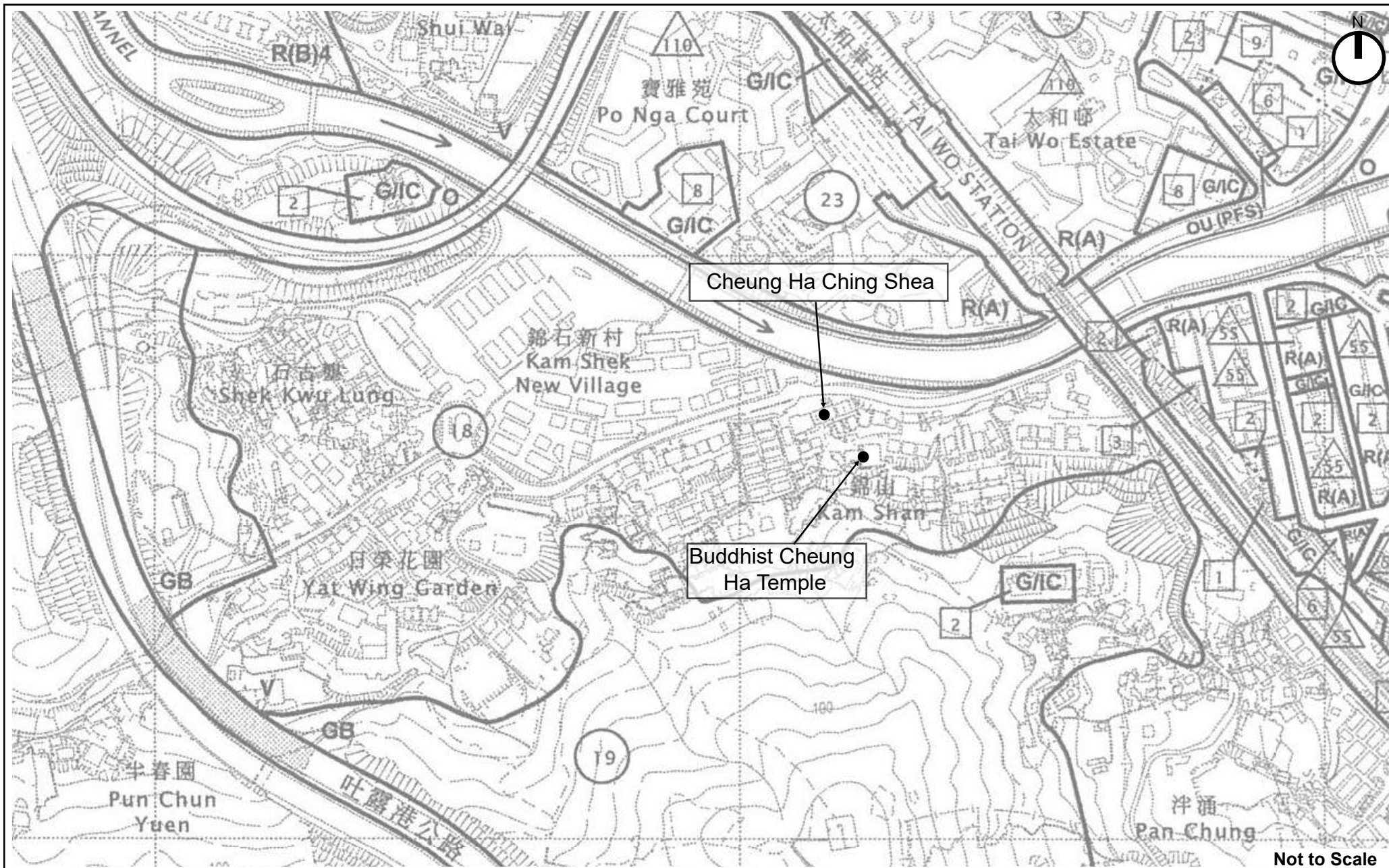
During the 3 years of the validity period of TSOL, the Applicant has to comply with all statutory and Government requirements, including town planning. As such, the present s.12A application is submitted to regularise the Pre-cut-off Columbarium in order to comply with the regulatory planning requirements of PCO. A Pre-cut-off Columbarium means a columbarium that was in operation, and in which ashes were interred in niches, immediately before the cut-off time, i.e. 8:00 a.m. on 18.6.2014. Therefore, it is totally different to those planning application for increasing number of columbarium niches or providing a new columbarium, which should be defined as the "Post-cut-off Columbarium".

(b) Pre-cut-off Columbarium within the Same "V" Zone

The Board was concerned that approval of the application would set a precedent for other similar applications within the subject "V" zone. According to the list of PCL applications for Pre-cut-off Columbarium submitted to the PCLB before 29.3.2018, there are a total of 7 PCL applications within the Tai Po OZP still under processing, namely:-

- **Buddhist Cheung Ha Temple (the subject application)**
- Cheung Ha Ching Shea
- Pun Chun Yuen
- Siu Ling Shan (Ling Hin Fat Yuen)
- Poh Yea Ching Shea
- Ever Rest Temple
- The Hong Kong Tin Tak Shing Kau Chung Woo Ching Sai Association

Apart from BCHT, there is only one Pre-cut-off Columbarium within the same "V" zone – Cheung Ha Ching Shea (CHCS) (see **Plan V**). The Pre-cut-off Columbaria in Tai Po are mainly located in other areas such as Shek Kwu Lung, Mui Shue Hang and Ma Wo. Moreover, the Pre-cut-off Columbaria in Ling Hin Fat Yuen, Poh Yea Ching Shea and Pun Chun Yuen were already approved by the Board under s.16 application (Nos. A/TP/652, A/TP/657 and A/TP/681) on 19.7.2019, 29.11.2019 and 26.8.2022 respectively. The Pre-cut-off Columbarium in Ever



Plan V: Similar Site within the Same "V" Zone

Rest Temple was also agreed by the Board under s.12A application (No. Y/TP/36) on 10.11.2023. The Pre-cut-off Columbarium in The Hong Kong Tin Tak Shing Kau Chung Woo Ching Sai Association has applied for Exemption to the PCLB and planning permission is not required. Thus, the risk of creating a precedent is not substantial.

(c) Totally Different Circumstances to Cheung Ha Ching Shea

According to the previous application (No. Y/TP/29), some TPB members was concerned the circumstance of BCHT were very similar to CHCS, which was rejected by the TPB in 16.5.2020 mainly on the grounds of land use incompatibility and precedent effect. Therefore, they considered that rejecting the previous application was in line with the TPB's previous decision.

In this regard, a comparison (i.e. location, nature of use, history, development scale, planning and technical aspects, and local's view) has been made between BCHT and CHCS submitted to the TPB (No. Y/TP/37) and recently rejected. **Table 6.4** clearly indicated that the nature and circumstances (i.e. long history, strong religious background, unique site character, traffic and landscape arrangement and strong local supports) of BCHT are totally different to CHCS. Thus, approval of this application will unlikely set a precedent for CHCS, thereby aggravating the land use incompatibility in the village environment.

Table 6.4: Buddhist Cheung Ha Temple vs Cheung Ha Ching Shea

Comparison	Buddhist Cheung Ha Temple (Present Application)	Cheung Ha Ching Shea (No. Y/TP/37)
Location	Upper part of Kam Shan	Facing Kam Shan Road
Main Use at the Site	Religious institution & ancillary columbarium (Bona fide religious institution as confirmed by HAB)	Religious institution & ancillary columbarium (columbarium converted from an existing old village house)
Date of Establishment	1928 (Temple) 1970s (Columbarium)	2007 (Columbarium)
Site Area	About 1,052m ²	About 160m ²
Site Coverage	About 55%	About 55%
Building Height	2-storey	1-storey
Number of Niches	13,426 niches (before reduction) 11,726 niches (after reduction)	1,700 niches
Land Use Character	Adjacent to village houses but segregated by slopes & mature trees	Closely surrounded by village houses
Traffic Arrangement	Management measures during festivals	Closure during festivals
Environmental Proposal	No burning of incense	No burning of incense
Landscape Proposal	Additional Landscape Treatment	N/A
Local's View	Supports from villagers, residents, individuals & village committee/representatives (2,108 supported & 413 objected) (Based on No. Y/TP/29)	Supports from villagers, residents, individuals & a village representative (71 supported & 55 objected) (Based on No. Y/TP/37)

6.11 No Cumulative Effect

Although the above analysis has clearly indicated that BCHT is totally different to CHCS from the background, operation and planning point of view, the Applicant has decided to reduce 1,700 niches for BCHT, which is the same niche number of CHCS as recorded on 30.6.2017, in order to further relieve the TPB's concern on cumulative effect.

Under the requirement of PCO for Pre-cut-off Columbarium, the total number of niches for CHCS must be the same, or less than the situation, as of 30.6.2017. Thus, even if both planning applications for BCHT and CHCS are approved by the TPB, the possible provision of the total number of columbarium niches for Pre-cut-off Columbarium within the same "V" zone shall only be limited to not more than 13,426 niches. In other words, approval of this application would not pose cumulative effect from the only potential similar application – CHCS, thereby avoiding further degradation of the traffic and environmental conditions of the area.

As explained in **Section 6.3**, BCHT was established in 1928 and the columbarium existed since the 1970s. BCHT and its ancillary columbarium have existed for many years without causing nuisance to its surrounding developments. In particular, the adjacent village houses were only built in the early 1990s and it is reasonable to infer that during the course of its planning, the existence of the columbarium should have been taken into consideration and any possible nuisance issues would have been addressed. Therefore, there should be no cumulative effect of approving the s.12A application.

In fact, as detailed in **Section 6.7**, the subject columbarium with the implementation of crowd management measures would not attract a larger number of grave sweepers to the village, thereby causing nuisance and disturbance to the local residents in the village. TD and the Police, the responsible Government departments for traffic, found the crowd management measures acceptable. Burning of joss paper and paper offerings will be strictly prohibited within the premises. To emphasise, columbarium is not *per se* an offensive trade and it can be properly controlled through licensing requirements. The columbarium in the subsequent s. 16 application can also be approved subject to the approval conditions. Although some people have an aversion to living in the vicinity of the dead, there is no scientific evidence to support that the presence of columbaria would have any psychological impact on residents in nearby residential developments. All grave sweeping activities will be held during the daytime of these festivals and inside the temple-cum-columbarium structures to reduce any nuisance which may be caused.

The Applicant trusts that, as the fundamental principle of TPB, each application would be considered by the Board based on its individual merits. Example could be found from the s.12A approved case for columbarium use in Chi Ha Yuen, Sha Tin (No. Y/ST/13). The Board gave favourable consideration to such application doesn't mean that they will automatically give a "green light" to other planning cases for columbarium use within the same "V" zone. Subsequent to the TPB hearing on 10.2.2012, the Board rejected two s.12A cases for columbarium use in Buddhist Wai Chuen Monastery (No. Y/ST/24) and Tsing Lin Tsing She (No. Y/ST/35), which are located within the same "V" zone.

6.12 Provision of Columbarium in "V" Zones and Near Residential Areas

As stated in **Section 6.9**, the present s.12A application is a special type of planning application which is intended to rectify the Pre-cut-off Columbarium ancillary to BCHT and its columbarium niches as recorded on 30.6.2017. **Table 6.2** shows that there are a number of approved cases which have the similar characteristics to this application, such as:

- The columbarium has been established for a long period of time
- Before the rezoning request had been agreed by the Board, the columbarium was previously zoned "V" on the OZP;
- The columbarium is (or was) one of the Pre-cut-off Columbaria under the PCO;
- The columbarium is a use ancillary to the religious institution; and
- TD and the Police had no comment on the TIA and Management Plan (if submitted).

Table 6.5: Similar Rezoning Cases (From "V" Zone) for Pre-cut-off Columbarium

Application No.	Location	Approval Date
Y/ST/47	Memorial Park Hong Kong	10.9.2021
Y/ST/42	Ku Ngam Ching Yuen	4.12.2020
Y/ST/13	Chi Ha Yuen	10.2.2012

Source: Town Planning Board

All of these similar applications were approved regardless of the "precedent" the TPB would set. They show that it is desirable in the public interest to have columbaria, there is a demand for columbaria and precedents have already been set. Therefore, it is hoped that the Board would also give sympathetic consideration to this similar application.

Furthermore, it is noticed that the planning circumstances related to the planning applications for columbarium case in close proximity to the village houses within "V" zone has been recently changed. The Board had recently approved two similar applications for regularising the Pre-cut-off Columbarium, namely Ku Ngam Ching Yuen and Memorial Park Hong Kong within "V" zone in Sha Tin on 4.12.2020 and 10.9.2021 respectively (Nos. Y/ST/42 and Y/ST/47). Both columbaria are very close to a cluster of village houses. Therefore, approving this s.12A application will not set any "undesirable precedent" as there are already many columbaria, cemeteries, funeral parlours and temples located near residential areas such as Po Fook Hill in Sha Tin.

CONCLUDING REMARKS ON: (C) PLANNING ASSESSMENT ON PRECEDENT CASE

An examination of the site character and similar applications has been undertaken. Site analysis and planning assessment have demonstrated that the columbarium in BCHT will unlikely become a precedent for similar applications based on the following reasons:-

- The present application is submitted to regularise the Pre-cut-off Columbarium in order to comply with the regulatory planning requirements of PCO. Those applications for increasing the number of columbarium niches or providing a new columbarium should be defined as the "Post-cut-off Columbarium".
- Apart from BCHT, CHCS is the only Pre-cut-off Columbarium within the same "V" zone. Detailed planning analysis has clearly indicated that the nature and circumstances of BCHT are totally different to CHCS. Thus, approval of this application will not set a precedent for CHCS, thereby aggravating the land use incompatibility in the village environment.
- Nevertheless, the Applicant has decided to reduce 1,700 niches for BCHT, which is the same niche number of CHCS as recorded on 30.6.2017, to relieve the TPB's concern on cumulative effect.
- The provision of columbarium use is a public gain as it will provide emotional and spiritual support to the society. Columbarium is not an offensive business, and it can be properly controlled by stringent conditions under planning approval and Columbarium License. This planning application is an essential planning mechanism to comply with the columbarium licensing application under PCO.
- Approval of this application will allow the remaining existing unsold niches at the site could be put up for sale so as to help meeting part of the demand for columbarium niche spaces in Hong Kong. It will also help to improve the financial situation in promoting religious and charitable services and enhancing the facilities at the site.
- There are many approved cases which have similar characteristics to this application. They had received favourable consideration by the Board. The Applicant has maintained a good relationship with the local villagers

Based on the merits and unique site character of the application site as justified above, **it is considered that the second concerns of the Board on the precedent effect arising from the subject application have been satisfactory addressed.** The Applicant trusts that TPB could consider the each case on its individual merits to ensure no adverse impact will be resulted.

7. CONCLUSION

The Government has emphasised in many public occasions that they need to adopt a pragmatic and sensitive approach to resolve properly the historic problems of Pre-cut-off Columbarium which have accumulated over the years. The PCO came into effect on 30.6.2017 and the private columbarium in Hong Kong must be covered with Columbarium Licence, Exemption or TSOL. During the validity period, BCHT had submitted the PCL application which must comply with all statutory and government requirements, including town planning, land lease and building safety.

This s.12A application is submitted for the TPB's agreement to amend the zoning of the site covering various lots in D.D. 6 and adjoining government land from "V" to "G/IC(3)" on the current Tai Po OZP. The proposed "G/IC(3)" zone will permit the Applicant to submit the subsequent s.16 application to regularise the Pre-cut-off Columbarium with 11,726 niches ancillary to BCHT. In order to fully address the TPB's concerns on the previous application in relation to land use compatibility and precedent issues, the Applicant, who has made utmost effort, is committed to implement a number of additional improvement measures as proposed in this development scheme, including:

- Encourage visitors to use the most direct access to BCHT that would affect the neighbouring developments the least;
- Additional visual and landscape buffet along the boundary edge;
- Full planning control under the proposed new zoning;
- Further management measures to properly control the visitors;
- Reduction of 1,700 niches to address cumulative effect;
- Ensure good relationship with the locals and the religious courtyard open to public;
- Implementation of environmental improvement measures to avoid nuisance.

Planning and technical assessments have indicated that the present application is well justified based on the following reasons:

- (a) BCHT and its ancillary columbarium have been in operation before the gazettal of the first Tai Po OZP. Approval of this case will support BCHT to continuously participate in religious and charity works;
- (b) the proposed "G/IC(3)" zone is in line with the Government's policy and the requirements of PCO to regularise the Pre-cut-off Columbarium at BCHT;
- (c) the proposed (existing) development is in line with the Government's intention to relieve part of the urgent demand for columbarium niche spaces. 2,000 niches have been reserved for selling to the local residents;
- (d) the site is suitable for religious and columbarium uses as it is located at a tranquil and inconspicuous location. It is hardly visible from outside in view of the major level difference from the surrounding area, retaining wall, slopes and mature trees;

- (e) the site is within a short walking distance to public transportation. Management measures have been proposed to encourage visitors to use the existing staircase east of House no. 57-58 to reduce disturbance to neighbouring developments;
- (f) the buildings at the site are low-rise in nature and they are compatible with the local land use character, which is dominated by a mix-use of religious institutions, small houses, columbaria and schools. Additional landscape features are proposed to provide a natural screening buffer for the Temple;
- (g) the proposed scheme will not result in adverse impact on "V" zone due to sufficient land for small house development and strong supports from the local residents;
- (h) it will not result in any significant impact on land use, traffic, environmental, drainage, sewerage, landscape, visual and geotechnical aspects of the locality. Traffic management measures are proposed to ensure the Temple can be run in a safe, orderly and smooth fashion during the festive event; and
- (i) the proposed new zoning is tailor-made for BCHT and it will not set an undesirable precedent for similar applications. Nevertheless, the Applicant has decided to reduce 1,700 niches, to relieve the concern on cumulative effect.

Furthermore, detailed planning assessments to address the above TPB's concerns on land use compatibility and precedent issues have been conducted. The Applicant, after carrying out detailed design works, comprehensive planning and technical assessments and continuous public engagement exercises in the past several years, is confident that, the concerns of the relevant Government departments and the Board have been fully addressed. In view of the merits of the proposed scheme and detailed planning justifications presented in this Planning Statement, honourable members of the TPB are requested to agree with this s.12A application.

PART II- LIST OF APPENDICES

- Appendix I Supporting Documents of the Planning Statement***
- Appendix II The History of the Temple and the Affirmation from the Locals***
- Appendix III Support Letters from the Local Villagers and the Reputable Persons, Representatives and Organisations in the Area***
- Appendix IV Charity Records of the Temple***
- Appendix V Traffic Impact Assessment***
- Appendix VI Management Plan***
- Appendix VII Sewerage Impact Assessment***
- Appendix VIII Geotechnical Planning Review Report***