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Panel on Food Safety and Environmental Hygiene

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 13 December 2011**

Columbarium policy

Purpose

This paper provides updated information on the discussions by the Panel on Food Safety and Environmental Hygiene ("the Panel") on columbarium policy.

Background

2. With a growing and aging population in Hong Kong, the number of deaths and the corresponding number of cremations have been rising gradually year on year. According to the Administration, it is projected that the annual number of deaths will increase steadily from 43 700 in 2010 to 52 800 in 2020. The annual number of cremations will also rise from 39 200 in 2010 to 49 600 in 2020 correspondingly. With an increasing demand for cremation service, there is also an increasing need for the supply of niches.

3. At present, in addition to the columbarium facilities run by non-governmental organizations (e.g. the Board of Management of Chinese Permanent Cemeteries), religious entities and the private sector, there are a total of eight public columbaria managed by the Food and Environmental Hygiene Department providing some 167 900 public niches. About 41 000 public niches, which can accommodate some 80 000 cinerary urns, will also be provided at the new columbarium at Kiu Tau Road within the Wo Hop Shek Cemetery for use in 2012.

4. On 6 July 2010, the Food and Health Bureau launched a public consultation on review of columbarium policy which lasted for about three

months and ended on 30 September 2010. In the consultation document, it was suggested that columbarium development should be primarily taken forward in the following direction:

- (a) increasing the supply of columbarium facilities to meet the overall public demand;
- (b) encouraging public acceptance of more environmentally friendly and sustainable means of handling cremains;
- (c) enhancing consumer protection in the choice of private columbarium facilities; and
- (d) enhancing the regulation of private columbaria.

Deliberations of the Panel

5. The Panel discussed the subject of columbarium policy at a number of meetings between 2009 and 2011. At its meeting on 12 April 2011, the Panel was briefed on the outcome of the public consultation, the updated measures taken by the Administration to increase the supply of columbarium facilities and some preliminary proposals for a licensing scheme to strengthen regulation of private columbaria. According to the Administration, the key concepts and directions of the proposals as outlined in paragraph 4 were broadly endorsed by the public and stakeholders across different sectors. The mainstream opinions are summarized in **Appendix I**.

6. The Panel also noted that following the release of the first batch of 12 potential sites in seven districts in the consultation document, the Administration announced on 16 December 2010 the second batch of five new sites in five districts for building public columbaria. The Administration had identified altogether a total of 17 sites in 12 districts so far (**Appendix II** refers). Members were advised that the Administration would continue with its efforts to identify suitable sites in the remaining six districts, with a view to making a further announcement soon.

Proposed licensing scheme

7. Members noted that during public consultation, views had been expressed for pre-existing private columbaria with niches of a designated number or below or those which had existed for a long time to be exempted from the licensing scheme. Members suggested that the Administration should specify the designated number and define the expression of "long time" for

exemption to avoid possible disputes. Members were worried that if the time span of existence was not defined, operators of unauthorized columbaria might mislead consumers by claiming that they would be exempted from the scheme.

8. Members were advised that the designated number of niches and the time-span of their existence were two of the possible factors for the consideration of exemption from the licensing scheme. During the public consultation, there were suggestions for storage of cremains of family members at home and storage of cremains of monks or believers in the genuine religious institutions to be exempted from the scheme. Also, certain pre-existing private columbaria had been operating at their locations long before the development of residential estates nearby. Further discussions would be necessary for the public to reach a consensus on the standard of "limited number" and "time-span of existence". There were records documenting the existence of private columbaria, including records at the Planning Department and the Lands Department. The licensing authority could draw reference to these documents in identifying the starting date of a columbarium's business.

9. Concerns were raised over whether the columbaria to be exempted from the licensing scheme would need to comply with the requirements to be imposed by the licensing authority in order to protect the interests of consumers. According to the Administration, all those columbaria to be exempted from the scheme would still need to adhere to the requirements of other legislation such as those on lands, planning, fire safety and building structure. In order to continue their business, the unauthorized columbaria should regularize any breaches of planning and/or lease terms by applying for the relevant planning permission and/or modification. The Development Bureau had published information on private columbaria ("the Information") known to the Planning Department and the Lands Department. Those columbaria pending checking for compliance with the relevant requirements for inclusion in Part A of the Information, or had been confirmed not compliant with the user restrictions in the land lease and/or statutory town planning requirements and/or were illegally occupying Government land, would be included in Part B. Relevant departments would continue to take enforcement actions against relevant aspects of private columbaria in accordance with their respective mandate as empowered by the relevant legislation and/or land lease.

10. Regarding the concern over the enforcement of unauthorized columbaria, members were informed that the Planning Department had issued enforcement notice to three private columbaria for discontinuation of the unauthorized development. The Planning Department would re-visit the concerned columbarium and assess whether the unauthorized development had discontinued. In case of non-compliance, the Planning Department would collect evidence and initiate prosecution action against the columbarium

operator. If an operator did not agree to the Government's action and sought judicial review, such information would also be reflected in Part B of the Information where appropriate.

11. Members enquired whether the requirement of setting up maintenance fund would be adopted as a licensing condition. The Administration advised members that according to the views collected in the public consultation, there was concern about the operation of columbaria pertaining to the safety and long term maintenance of the physical structure, particularly those columbaria where most niches had been sold, as their long-term income source was limited and unstable. The Government, therefore, proposed that an applicant for a licence to operate a columbarium should set up a maintenance fund to be used for the repair and maintenance of the columbarium concerned. Detailed proposals of the fund, e.g., sources of the fund and monitoring measures, would be further discussed in the second public consultation exercise. The Administration would make reference to overseas practice in drawing up the proposals.

Supply of columbarium facilities

12. Members noted that to address the concern of insufficient provision of niches, the Government was building a new public columbarium within the Wo Hop Shek Cemetery providing about 41 000 niches by 2012. Apart from public columbaria, non-governmental organizations, such as the Board of Management of the Chinese Permanent Cemeteries, would also provide more niches in the coming years. In the long run, support from communities in all districts for district-based columbarium development scheme would be essential.

13. Regarding the concern as to whether consideration would be given to allowing private columbaria to operate in industrial buildings, members noted that the Administration had formulated in **Appendix III** a set of guidelines for developers who were potentially interested in conversion or redevelopment of industrial buildings into columbarium facilities to increase provision of niches.

Legislative timetable

14. On the timetable for introducing legislation into the Legislative Council ("LegCo"), members were advised that the Administration hoped to proceed with legislation as early as practicable. However, as the issues involved were complicated and sensitive, the Government needed to gauge the mainstream public opinion on the detailed proposals, particularly the exemption criteria and the definition of columbarium. The Administration would develop more detailed proposals to further consult the public on the licensing scheme and would launch the second public consultation in the second half of 2011. It

would hence be more practicable to submit the legislative proposals in the next term of the Government.

15. Members urged the Administration to expedite the introduction of legislation into LegCo.

Relevant papers

16. A list of the relevant papers on the LegCo website is in **Appendix IV**.

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Legislative Council Secretariat
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Review of Columbarium Policy Summary of Opinions

On 6 July 2010, the Food and Health Bureau published a consultation document on review of columbarium policy and launched a public consultation for about three months until 30 September 2010.

2. The purpose of the consultation is to gauge the public's views and engage them in discussion of this subject which pertains to traditional customs and the provision of district facilities. We aim to foster a consensus in the community to provide a basis for policy formulation by the Government.

3. In the consultation document, it is suggested that columbarium development should be primarily taken forward in the following directions:

- (A) increasing the supply of columbarium facilities to meet the overall public demand;
- (B) encouraging public acceptance of more environmentally friendly and sustainable means of handling cremains;
- (C) enhancing consumer protection in the choice of private columbarium facilities; and
- (D) enhancing the regulation of private columbaria.

4. The public in general welcomed the Administration to review the columbarium policy. During the consultation, various proposed measures have been widely publicised and discussed, raising broad awareness in the community about the policy review. The Government has received over 500 submissions from individuals and organisations. Besides, officials of the Food and Health Bureau have also widely consulted different sectors of the community and received many constructive views through various channels, including the relevant Legislative Council Panel, the Town Planning Board and other advisory bodies (e.g. the Land and Development Advisory Committee and the Advisory Council on Food and Environmental Hygiene), all 18 District Councils, various concern groups, representatives of the trade and a number of relevant stakeholders.

5. A wide range of views and suggestions on the review of columbarium policy have been collected. By and large, the key concepts and directions of the proposals to increase the supply of columbarium facilities, promote their sustainable development, protect consumer rights and enhance regulation of private columbaria were broadly endorsed by the public and stakeholders across different sectors. The mainstream opinions are summarised in the ensuing paragraphs:

Increasing the supply of columbarium facilities

6. The public and various stakeholders recognised that the problems besetting the columbarium landscape in Hong Kong are the result of inadequate supply, and therefore were generally supportive of measures to increase the supply of columbarium facilities. To expedite the provision of niches, a broad spectrum of the community agreed that different districts should collectively share the responsibility of developing columbarium facilities so as to meet the overall public demand, while the site selection would have to depend on its feasibility as well as the local circumstances.

7. The public and stakeholders in general supported the proposal to expand existing columbarium facilities and build additional facilities in existing cemeteries and areas nearby. They also expressed general support for the Board of Management of the Chinese Permanent Cemeteries and non-profit making religious bodies to expand their scale of operation.

8. Many respondents hoped that the Government could improve on the outlook, layout and management of columbarium facilities in order to minimise the nuisance (e.g. air and noise pollution) to neighbouring residents and ease their concern and anxiety, thus enhancing public acceptance of these facilities. Many were also supportive of the proposal to build multi-storey columbarium facilities.

9. For the 12 potential sites in seven districts shortlisted in the consultation document, most of the District Councils have given in-principle support to the sites in the respective districts for columbarium development. There were, however, also local residents expressing reservation on individual sites.

10. Some respondents welcomed the proposal to convert industrial buildings into columbarium facilities. Among them, some opined that

wholesale conversion of industrial buildings located away from residential areas would be more acceptable.

11. Some respondents considered that the Administration could explore the option of developing relevant facilities on outlying islands or at remote sites far away from residential areas. At the same time, the community at large were concerned about the relevant technical issues (e.g. infrastructural support and transport capacity in the district especially during the Ching Ming and Chung Yeung Festivals). A small number of respondents suggested that the Administration could consider building columbarium facilities on the Mainland.

12. Divergent views were expressed in various districts on the proposal to reserve a certain portion of niches for priority allocation to local residents in need with a view to fostering local acceptance of columbarium development in their districts.

Sustainable development of columbarium facilities

13. On sustainable development of columbarium facilities, the public and stakeholders generally considered that the Government should continue its efforts in promoting the transformation of social customs and encouraging the public to use sustainable means of handling cremains (such as scattering of cremains at Gardens of Remembrance or at designated Hong Kong waters) and paying tribute to the deceased.

14. Given that there is a growing shortage of niches, for the purpose of relieving the shortage and increasing the turnover of niches, it was suggested in the consultation document that we needed to consider whether the existing arrangement of providing permanent niches should be changed, with reference made to overseas and Mainland experience of introducing time-limited lease or annual management fee for new niches. Many respondents expressed reservation on the above proposals on the ground of traditional Chinese customs.

Enhancing consumer protection

15. Some respondents expected the Government to take the lead in the supply of columbarium facilities, while many felt that private columbaria also played an important role in the market in terms of choice of niches. On enhancing consumer protection, there was broad consensus in the community that the Government should release more information on private columbaria for public reference as soon as

possible, so as to help those who are considering purchasing / going to purchase private columbarium niches to make informed choices as well as to remind them to exercise caution when purchasing these niches.

16. There were suggestions that the Government should provide assistance to consumers who had suffered losses from purchasing niches of unauthorised private columbaria. Some respondents, however, expressed concern that such practice might in a way encourage the development of unauthorised columbaria since relevant operators might not be held responsible for their misconduct. Besides, there were also suggestions that the Government could consider protecting consumer rights through requiring the establishment of a trust fund by the private columbarium operators.

Enhancing regulation of private columbaria

17. Most submissions supported a licensing scheme to enhance regulation of private columbaria. However, the public expressed divergent views over the scope and level of regulation under the licensing scheme and the arrangements for pre-existing private columbaria.

18. Some respondents (mainly the neighbouring residents of private columbaria) opposed to the continued operation of certain private columbarium facilities. Meanwhile, other respondents were concerned about the possible relocation of cremains, which was in contravention of the traditional Chinese notion of “letting the deceased rest in eternal peace”. They hoped that the Government could allow unauthorised private columbaria a reasonable period of time to rectify the irregularities and even exercise discretion towards certain types of private columbaria. Some representatives of the trade considered that a “registration scheme for private columbaria” should be implemented.

Conclusion

19. Based on the consultation outcome summarised above, the Government, in working out the details of the licensing scheme for private columbaria and drafting the relevant legislation, will exercise prudence in balancing the views of various stakeholders in order to ensure that the scope and level of regulation under the licensing scheme would be appropriate.

Potential Sites for Columbarium Development

District		Potential Site
First Batch		
1	Eastern	A site on Cape Collinson Road, opposite Chai Wan Chinese Permanent Cemetery Columbarium and, next to Wan Tsui Estate Park
2	Wong Tai Sin	Diamond Hill columbarium extension
3	Sha Tin	A site on On Hing Lane, Shek Mun, next to Shatin Refuse Transfer Station
4	Sha Tin	Fu Shan columbarium extension
5	North	Surplus coffin burial grounds and other land within the Wo Hop Shek Cemetery
6	North	Undeveloped areas within the Sandy Ridge Cemetery
7	Tuen Mun	Part of the Tsang Tsui ash lagoon next to Black Point Power Station
8	Kwai Tsing	Ex-Kwai Chung Incineration Plant on Kwai Yu Street
9	Kwai Tsing	A site on Kwai Tai Road, southeast of ex-Kwai Chung Incineration Plant
10	Kwai Tsing	A site on Tsing Tsuen Road near Tsuen Wan Chinese Permanent Cemetery
11	Islands	Cheung Chau Cemetery extension
12	Islands	Mui Wo Lai Chi Yuen extension
Second Batch		
13	Central and Western	A site at Mount Davis Road, east of Chiu Yuen Cemetery
14	Wan Chai	The Hong Kong Cemeteries and Crematoria Office (part) of the Food and Environmental Hygiene Department at Wong Nai Chung Road
15	Shum Shui Po	A site north of Ching Cheung Road near Roman Catholic Cemetery
16	Kwun Tong	A site next to the Ex-Ma Yau Tong Central Landfill Site
17	Yau Tsim Mong	Former school within Tin Hau Temple on Temple Street

Note: Development at these sites is subject to the topographical conditions and infrastructural support of the relevant sites, as well as their technical feasibility (such as traffic impact assessment). If a site is currently being used for other purpose, relocation of existing use will be studied, too. The relevant District Council will be consulted before sites are confirmed for development.

Guidelines for Provision of Columbarium Facilities in Industrial Buildings

Preamble

This set of guidelines sets out some of the key factors which potential developers interested in wholesale conversion / redevelopment of industrial buildings into columbarium facilities would need to consider. The factors listed are by no means exhaustive. The guidelines are of an indicative nature and do not carry any legal status. Potential developers would need to undertake their own studies on the detailed procedures required for the conversion / redevelopment. The guidelines do not bind the relevant authorities, such as those in respect of planning, lands, fire safety and buildings, in deciding on any case involving conversion / redevelopment of industrial buildings into columbarium facilities (the conversion / redevelopment).

(a) Business Case

Developers will have to assess the business case of the wholesale conversion / redevelopment. Should they decide to proceed with the conversion / redevelopment, they need to complete the necessary planning and, if required, lease modification procedures, including undertaking the relevant technical assessments such as traffic impact assessment and technical feasibility studies, where required, applying to the Town Planning Board for planning permission and paying for the full market premium for lease modification or full market waiver fee for waiver (as the case may be). All future Alteration and Addition Works pertinent to columbarium development in industrial buildings should comply with the land lease and other relevant statutory requirements and that an Authorised Person should be engaged for advice on the feasibility of any proposed conversion and to submit building plans to the Buildings Department for the proposed change in use / alteration works to demonstrate full compliance with the current provisions of the Buildings Ordinance.

(b) Location

Industrial buildings located in the following categories stand a higher chance of successful conversion / redevelopment –

- adjacent to existing cemeteries or existing columbarium developments;
- avoid industrial buildings located in the heart of an active existing industrial / business area, preferably located at the fringe of the industrial area;
- avoid industrial buildings located in close proximity to existing residential developments / areas set aside for country parks and areas with high conservation value;
- avoid extensive clearance of existing vegetation or cause adverse visual impact to its environs;
- far away from any potentially hazardous installation, such as major dangerous goods store, fuel oil installation; and
- with no major accessibility constraints, i.e. would not create traffic or crowd control problems during grave-sweeping seasons.

(c) Building Structure Consideration

Industrial buildings with no building constraints in terms of factors like structural safety, means of escape, fire resisting construction, unauthorised building works affecting public safety, vertical accessibility (capable of expanding lift capacity), ventilation (capable of alteration to cater for incense burning activities without causing nuisance and safety concerns), etc. would stand a higher chance of successful conversion. The development intensity and building height of the proposed columbarium should be compatible with the general character of the surrounding area.

(d) Building Utilisation

Mixed use involving columbarium and other uses would likely cause concern from the fire safety angle. Industrial buildings where the utilisation is high with active industrial activities are considered less suitable than under-utilised or vacant ones. Converting under-utilised or vacant industrial buildings at suitable locations into columbaria has the incidental advantage of putting them to gainful use.

(e) Design Features

The design and layout of the proposed columbarium should be compatible with its surroundings. Developers are encouraged to

adopt design features, such as concealed entrance, to help gain acceptability from the neighbouring community to the columbarium use. Fully enclosed buildings such as godowns, which are not visible from outside and are capable of providing vertical greening and aesthetic artistic design for their facades, would be more suitable than non-enclosed industrial buildings, subject to fire safety and building regulations being met.

(f) Columbarium Operation and Management

- In overcoming traffic constraints and crowd control, developers are encouraged to devise innovative mechanisms³ with a view to submitting acceptable proposals which are feasible, manageable and practicable for implementation. Adoption of advanced technologies in operating and managing the columbarium would also be welcome.
- Developers are encouraged to map out a management scheme to ensure the sustainable operation and maintenance of the columbarium. It would be desirable to set up a maintenance fund to be kept separately from the day-to-day accounts.
- Any columbarium proposal should avoid causing environmental nuisance and safety concerns to the neighbouring community, such as noise, light, air pollution as well as fire hazard and crowd management. The applicant should provide information on the proposed mitigation measures to address and minimise the impacts of these areas of concern.
- In considering the suitability of any columbarium development, local views should be taken into account.

(g) Ownership Consideration

Depending on the lease conditions, lease modification/waiver may not be required. If lease modification / waiver is required, such land transaction can only be concluded with the consent of all owners involved.

³ Innovative mechanisms such as appointment system by booking for paying respect and incentive scheme for paying of respect on non-holidays may be considered with due respect to the feasibility and practicability during implementation. Developers should be required to seek advice from the Transport Department and the Police in advance on measures having a bearing on traffic and/or crowd management.

Relevant papers on columbarium policy

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	16.10.2009 (Item I)	Agenda Minutes CB(2)41/09-10(01)
	9.2.2010 (Item VI)	Agenda Minutes CB(2)884/09-10(07)
	6.7.2010 (Item III)	Agenda Minutes CB(2)1960/09-10(01)
	20.9.2010 (Item I)	Agenda Minutes CB(2)1960/09-10(01)
	15.10.2010 (Item I)	Agenda Minutes CB(2)50/10-11(01)
	12.4.2011 (Item IV)	Agenda Minutes CB(2)1451/10-11(03)
Legislative Council	21.10.2009	[Question 1] Asked by: Hon Ronny TONG Provision of columbarium niches
	9.12.2009	[Question 3] Asked by Hon KAM Nai-wai Regulation of private columbarium facilities
	27.1.2010	[Question 17] Asked by Hon Starry LEE Regulation of private columbarium facilities

Meeting	Date of meeting	Paper
	25.5.2011	[Question 12] Asked by LEUNG Kwok-hung <u>Public columbarium and</u> <u>crematorium facilities</u>

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