

For discussion  
on 8 July 2014

## **LegCo Panel on Food Safety and Environmental Hygiene**

### **Columbarium Policy – Three-Pronged Strategy**

#### **Purpose**

This paper briefs Members on the three-pronged strategy underpinning the Government's columbarium policy.

#### **Background**

2. With a growing and aging population in Hong Kong, the annual number of deaths is projected to increase from 42 700 in 2010 to 50 300 in 2020. Correspondingly, the number of cremations is expected to increase from 38 000 in 2010 to 47 300 in 2020.

3. The prevailing practice after cremation is to store ashes in columbarium facilities. It is likely that this trend will continue for some time as it takes time to fortify the mindset changes necessary for turning green burials into the mainstream mode for handling human ashes. Whilst the Government is committed to promoting green burials, a robust supply of public columbaria and enhanced regulation of private columbaria form the other two pillars of our three-pronged strategy.

#### **The Three-Pronged Strategy**

##### **Measures to Promote Green Burials**

4. Green burials, which include scattering of human ashes in Gardens of Remembrance ("GoRs") or at sea and paying tribute to the deceased through Internet Memorial Service ("IMS"), provide a more sustainable and environmentally friendly way for the disposal of ashes.

5. The annual cases of scattering cremains in GoRs of the Food

and Environmental Hygiene Department (“FEHD”) have increased significantly over the past decade, from only five in 2000 to 2 354 in 2013. There have been about 416 applications for scattering cremains in the GoR of the Junk Bay Chinese Permanent Cemetery under the Board of Management of the Chinese Permanent Cemeteries (“BMCPC”) since its commissioning on 28 December 2011. The GoR in the Pokfulam Chinese Christian Cemetery operated by the Hong Kong Chinese Christian Churches Union (“HKCCCU”) has handled about 250 scattering cases since its introduction in 1998.

6. The FEHD and BMCPC have been encouraging the public to scatter ashes in GoRs. To encourage wider use of GoRs and allow more choices –

- (a) new and bigger GoRs have been constructed by the FEHD. GoRs have been or will be planned for future public columbarium sites, wherever feasible (large enough and free of physical constraints); and
- (b) the BMCPC, in consultation with the Food and Health Bureau, has been actively taking forward the “Silent Teacher” and “Silent Mentor” Ashes Scattering Programmes under the Chinese University of Hong Kong and the University of Hong Kong respectively in its GoR.

7. There are currently thirteen GoRs as listed at **Annex**. Eleven of them are operated by the FEHD, one by the BMCPC and one by the HKCCCU.

8. To encourage the scattering of ashes at sea, FEHD has streamlined the application procedures and provided free ferry service for the public. Since January 2012, the FEHD has further enhanced the free ferry service by employing a bigger vessel which can accommodate over 300 passengers per sail. Since the introduction of free ferry service in 2010, there has been an increase of over 180% of applications for sea scattering, from 279 in 2009 to 797 in 2013. As the free ferry service for scattering ashes at sea has become popular, since January 2013, the FEHD has further increased the number of sails to four times per month. To enable users to pay tribute at any time and from anywhere, the FEHD has launched the memorial website since June 2010 and the mobile version of the IMS website since September 2012.

9. The FEHD has also stepped up publicity and educational programmes to enhance public awareness and acceptance of sustainable alternatives of handling ashes as well as paying tribute to the deceased. Major publicity efforts include participation at the annual Hong Kong Senior Fair, publication of handbooks and promotion materials on green burials and production of announcements in the public interest, etc. The pamphlet on “Guide to After-Death Arrangements”, for instance, has recently been updated to include more information on the options and green burial services available.

### Measures to Enhance Supply of Public Niches

#### *Latest Position*

10. The Government has identified 24 potential sites across the 18 districts for columbarium development. Whether these 24 potential sites can eventually be used for developing columbarium facilities will depend on the results of the technical feasibility studies or traffic impact assessments or engineering feasibility studies (where applicable). Upon completion of the relevant studies, we will consult the relevant District Councils (“DCs”) before going firm on developing the sites for columbarium use.

11. We briefed the Panel in November 2013 on the progress in taking forward these public columbarium projects. The new public columbarium facilities at Wo Hop Shek Columbarium (outside the 24 potential sites) and Diamond Hill Columbarium (one of the 24 potential sites), which provide about 43 710 and 1 540 new niches respectively, have been completed and are opened for allocation in three phases. The first and second phases of the allocation exercise have been completed. The third phase has just started (with application period from 9:00 a.m. on 24 June 2014\_ until 5:00 pm on 24 July 2014), providing about 24 000 new niches. Furthermore, the construction of 1 000 new niches at the Cheung Chau Cemetery was completed in end 2013.

12. So far, the outcome of consultation with DCs is set out below –

(a) supported

(i) Wong Tai Sin DC: the Diamond Hill project;

- (ii) Islands DC: the Cheung Chau project;
- (iii) Kwai Tsing DC: the Tsing Tsuen Road project;
- (b) supported in principle, with requests calling upon the Government to explore enhancement in road infrastructure works before seeking funding support from the Legislative Council (“LegCo”)
  - (iv) North DC: support undertaking detailed design and site investigation works of the site formation and associated infrastructural works for the Sandy Ridge project. Some Members have asked us to explore enhancement of road links from Liantang/Heung Yuen Wai;
  - (v) North DC:
    - support Phase 1 of the Wo Hop Shek project, subject to widening of the footbridge at Fanling Station. Some Members have suggested that the footbridge should be widened by the time niches are made available for allocation
    - note Phases 2 and 3 of the Wo Hop Shek project. Some Members have asked us to explore complementary road improvement works; and
  - (vi) Tuen Mun DC: support proceeding with zoning of the Tsang Tsui site for columbarium development (even to a larger scale), subject to widening of the Lung Kwu Tan Road and, in particular, enhancement of Nim Wan Road up to Lau Fau Shan in Yuen Long.

We have required the design consultants to explore the possibility of and justifications for the enhancement of road links mentioned in (iv), and are following up the footbridge widening project mentioned in the first item under (v), a feasibility study on road widening roads for Phases 2 and 3 development mentioned in the second item under (v), and the first road widening project mentioned in (vi). As regards the second road project mentioned in (vi), it is, strictly speaking, more related to the overall development in

the North West New Territories. As the Environment Bureau / Environmental Protection Department are involved in a number of strategic projects in this area and have indeed established a liaison working group with Tuen Mun DC for the purpose, they have agreed to take on a study to examine this road project.

(c) Uncertain as to whether support is forthcoming

(vii) Shatin DC: the possibility of securing the support of Shatin DC for the Shek Mun site remains uncertain.

We plan to consult a number of DCs in 2014.

13. Columbaria developed by private cemeteries help meet some of the public demand. The BMCPC is expected to provide 35 600 new niches in the two years between 2014 and 2015, while there are around 27 000 unallocated niches in private cemeteries operated by religious groups including the Catholics, Christians and Buddhists. The Chinese Christian Cemetery and the Buddhist Cemetery are expected to provide 47 000 and 3 200 new niches respectively in the coming two to three years.

14. Subject to the support of DCs and the LegCo for the projects currently under planning, the supply of new niches will cumulatively increase to hundreds of thousands by 2031.

*Measures to Optimise Use of Existing Columbarium Facilities*

15. The FEHD and BMCPC are already taking measures to optimise the uses of their columbaria as follows –

- (a) starting from 2 January 2014, the FEHD has relaxed the cap on the number of sets of ashes that may be stored in a niche<sup>1</sup>, allowing applicants to deposit additional sets of ashes in a niche (be this standard or family) and to further expand the definition of “kinship”; and
- (b) the Government plans to amend the Chinese Permanent Cemeteries Rules (Cap. 1112A) to relax the eligibility for

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<sup>1</sup> Before the relaxation, two and four sets of ashes were allowed to be interred in a standard niche and a family niche respectively.

shared use of BMCPC's family niches as well as grave spaces, through expanding the definition of "close relatives" and allowing the interment of ashes in exhumable lots.

#### *New Measures to be explored*

16. While the Government is making every effort to increase columbarium facilities, we are also mindful of the numerous challenges we face in seeking to build columbaria in individual districts, including topographical conditions, land use compatibility, infrastructural support, traffic and environmental implications, and last but not least, the concern and objection of residents in the vicinity of the proposed sites. We need to be realistic about the long term prospects of identifying yet more land for building public columbaria. We feel that sooner or later the community as a whole must come to terms with the need to even out the traffic impact that may be brought by columbarium developments during the two peak seasons in grave sweeping. New measures such as designating different worship periods for different blocks of niches, limiting access during one or both of the grave sweeping seasons etc. will need to be actively explored. To relieve the shortage and increase the supply, we may need to consider time-limited occupation of new niches, with post-occupation re-use through renewal or re-allocation.

#### Regulatory Control on Private Columbaria

17. Properly regulated private columbaria can complement public columbaria and serve a useful role in meeting social needs for ancestral worship, in terms of added supply and more importantly choice of niches and related services. One point comes out clearly from our previous two rounds of public consultations (launched in July 2010 and December 2011 respectively) on this subject, namely that the community supports regulating private columbaria through a licensing scheme. We receive diverse views over how best certain unauthorised columbaria should be handled. Residents who are neighbours of unauthorised columbaria demand stringent regulation that would put an end to the nuisances they cause. On the other hand, others remind us of the value attached to ancestral worship in the Chinese culture. Upsetting the resting place of the deceased should not be contemplated lightly.

18. Against the above backdrop, we have proposed to introduce a licensing scheme that serves the following policy objectives -

- (a) ensuring compliance with statutory and Government requirements, with suitable grandfathering arrangements for pre-Bill columbaria<sup>2</sup> in tightly ring-fenced circumstances;
- (b) enhancing protection of consumer interests; and
- (c) ensuring a sustainable mode of operation.

From the outset, we have to recognise that the proposed licensing scheme could not offer a panacea to each and every problem inherited from the past. Nor could we offer perfect solutions to some of the unwieldy situations that might eventually come about.

19. The Government announced on 18 June 2014 at 8:00 a.m. (“Bill announcement time”) that the Chief Executive in Council (“ExCo”) has approved the Private Columbaria Bill (“the Bill”) for introduction into the LegCo on 25 June 2014. Through the Bill, the Government proposes to establish a licensing scheme to regulate the operation of private columbaria. Subject to the scrutiny and passage of the Bill by the LegCo, the operation of a private columbarium in Hong Kong requires a licence, exemption or temporary suspension of liability.

20. For a columbarium which was in operation before the Bill announcement time with interred ashes in niches (“pre-Bill columbarium”), its operator will be eligible to apply for exemption status if it is a dated columbarium (i.e. its operation commenced before 1 January 1990), it has frozen its scale of operation (i.e. he or she has ceased selling (including letting out) new or unoccupied niches since the Bill announcement time), and it can comply with other requirements under the Bill.

21. Other pre-Bill columbaria and all non-pre-Bill columbaria must obtain a licence for continuing their operation and selling (including letting out) niches in future. Under the Bill, in order to obtain a licence, a columbarium must comply with the requirements in respect of land (including land instruments), town planning, applicable building safety arrangements, right to use the premises, and submission of a management plan etc.

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<sup>2</sup> A pre-Bill columbarium means a columbarium that was in operation, and in which ashes were interred in niches, immediately before the Bill announcement time.

22. An operator of a pre-Bill columbarium seeking a licence or exemption may apply to the Licensing Board for temporary suspension of liability if he or she needs time to work towards meeting the relevant requirements. The temporary suspension of liability would enable the columbarium to continue operating and providing services before a licence or exemption is granted. During the validity period of the temporary suspension of liability, however, the columbarium concerned could not sell (or let out) any new or unoccupied niches. The Licensing Board will determine the duration of temporary suspension of liability taking into consideration individual circumstances.

23. To assist the Licensing Board to be set up in future to determine which columbarium is a pre-Bill columbarium, the FEHD has launched a notification scheme on 18 June 2014, requesting them to submit relevant information. FEHD officers would visit the columbaria to verify the information furnished. The information collected by the FEHD through the notification scheme will serve as a basis for the Licensing Board to determine in future whether a columbarium is a pre-Bill columbarium and its eligibility for applying for various specified instruments under the Bill (i.e. licence, exemption and temporary suspension of liability).

24. As regards consumer protection, the Bill imposes a number of requirements. These include requiring a licensee to enter into contracts with its clients in which the terms for the sale of an interment right in respect of a columbarium (for example the nature of the interment right such as the niche involved, its size, duration and fees), including the availability or otherwise of a maintenance fund, should be clearly spelt out. A contract should cover certain essential terms or else consumers may nullify the contract and ask for a refund. The Bill also sets out clearly the responsibility of the operators to handle the interred ashes upon cessation of operation. Failure to discharge such a responsibility may render the operator criminally liable.

25. The Bill also provides a skeleton framework for the prescribed ash disposal procedures for application to FEHD, operators and third parties taking possession of the columbarium premises in handling cessation of columbarium operations.

26. The Bill does not apply to –

- (a) a columbarium that is built, operated, administered or



maintained by the Government, including one in a Government crematorium specified in Part 5 of the Fifth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132);

- (b) an authorised private crematorium in Part 6 of the Fifth Schedule to Cap. 132 to the extent that the keeping of ashes in it is transient and incidental to its operation as a crematorium;
- (c) a columbarium in a private cemetery specified in Part 2 of the Fifth Schedule to Cap. 132, but it will continue to be regulated under the Private Cemeteries Regulation (Cap. 132 BF);
- (d) a columbarium (if any in future) operated by the Board of Management of Chinese Permanent Cemeteries (“BMCP”) outside private cemeteries specified in Cap. 132, but it will be made subject to regulation under Cap. 132BF;
- (e) undertakers with their licences not prohibiting storage of ashes in their place of business, but they will continue to be regulated under the Undertakers of Burial Regulations (Cap. 132CB) and will be subject to the provisions in this Bill on proper handling of interred ashes before ceasing their columbarium operation; and
- (f) the keeping of no more than 5 containers of ashes (with each container containing the ashes of one person only) in domestic premises.

### **Advice Sought**

27. Members are invited to note the three-pronged strategy outlined above.

Food and Health Bureau  
Food and Environmental Hygiene Department  
June 2014

Gardens of Remembrance

**(A) run by the Food and Environmental Hygiene Department**

- (1) The new Cape Collinson GoR
- (2) Cape Collinson GoR
- (3) The new Diamond Hill GoR
- (4) Diamond Hill GoR
- (5) Fu Shan GoR
- (6) Kwai Chung GoR
- (7) The new Wo Hop Shek GoR
- (8) Wo Hop Shek GoR
- (9) Cheung Chau GoR
- (10) Lamma GoR
- (11) Peng Chau GoR

**(B) run by Others**

- (12) GoR of the Junk Bay Chinese Permanent Cemetery under the Board of Management of the Chinese Permanent Cemeteries
- (13) GoR in the Pokfulam Chinese Christian Cemetery operated by the Hong Kong Chinese Christian Churches Union