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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 8 July 2014**

The columbarium policy - the three-pronged strategy

Purpose

This paper provides background information on the three-pronged strategy of the Administration's columbarium policy, and summarizes major views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the subject.

Background

Two public consultations relating to columbarium policy

2. In July 2010, the Government launched a public consultation on the review of columbarium policy. When the Panel was briefed by the Administration on the outcome of the public consultation in April 2011, members were advised that the public and the stakeholders across different sectors in the community broadly endorsed the directions of the Administration's proposals as follows - (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.

3. However, members were advised that while there was public support for enhancing the regulation of private columbaria, there were divergent views on the scope and level of regulation under the proposed licensing scheme and the arrangements for pre-existing private columbaria. Subsequently, the

Government launched another public consultation in December 2011 regarding the proposed licensing scheme for private columbaria. Members were also briefed by the Administration on the consultation document at the Panel meeting on 13 December 2011.

The Administration's three-pronged strategy

4. Members were updated of the measures taken by the Administration to implement its columbarium policy at the Panel meetings on 11 December 2012 and 19 November 2013 respectively. According to the Administration, the three-pronged strategy of its columbarium policy included (a) enhancing supply of public niches; (b) regulation of private columbaria; and (c) promoting green burials.

5. As regards the supply of public niches, the Administration announced 24 potential sites in 18 districts for columbarium development ("the 24 potential sites") in three batches in July and December 2010, and April 2011 respectively. Members were advised that whether the 24 potential sites could eventually be used for developing columbarium facilities would depend on the results of various studies (which might include technical feasibility studies, traffic impact assessments and engineering feasibility studies) as well as the support of District Councils ("DCs"). As of November 2013, new columbarium facilities at Wo Hop Shek Columbarium (outside the 24 potential sites) and Diamond Hill Columbarium (one of the 24 potential sites) had been completed, providing about 43 710 and 1 540 new niches respectively. The Administration also considered that columbaria developed by private cemeteries would help meet some of the public demand, as the Board of Management of the Chinese Permanent Cemeteries, the Chinese Christian Cemetery and the Buddhist Cemetery were expected to provide 35 600, 47 000 and 3 200 new niches respectively in three years between 2013 and 2015.

6. When discussing with the Administration the legislative proposal for regulating private columbaria at the Panel meeting on 19 November 2013, members were advised that the Private Columbaria Bill ("the proposed Bill") would be introduced into the Legislative Council ("LegCo") by the second quarter of 2014. According to the Administration, the proposed Bill would introduce a licensing scheme for private columbaria that would strike a balance among competing interests of different stakeholders, having regard to (a) the wider community interest, including meeting society's needs for provision of columbaria; (b) the sentiment of the descendants, in particular their wish not to upset the resting place of the deceased as far as practicable; (c) minimizing the nuisance caused by such columbaria to their neighbouring community; and (d) ensuring a sustainable mode of operation in the long-run.

7. Members were also advised that to facilitate members of the public to make informed decisions when purchasing niches before the introduction of the proposed licensing scheme, the Development Bureau ("DEVB") had since December 2010 updated quarterly the Information on Private Columbaria¹ ("the Information") which covered private columbaria known to the Government. The Information consisted of two parts. Part A set out private columbaria which were compliant with the user restrictions in the land leases and town planning requirements and not illegally occupying Government land. Part B included other private columbaria made known to the Lands Department and Planning Department that did not fall under Part A². As of 18 June 2014, there were 30 and 107 private columbaria in Part A and Part B respectively.

8. As regards the promotion of "green burial", members noted that the Administration had been promoting the scattering of human ashes at sea or gardens of remembrance ("GoR"), and internet memorial service ("IMS"). While new and bigger GoRs had been constructed in recent years to encourage wider use of GoRs, Food and Environmental Hygiene Department ("FEHD") had streamlined the application procedures and provided free ferry service for the public. Since January 2012, the free ferry service had been enhanced by employing a bigger vessel which could accommodate over 300 passengers per sail. Since January 2013, the number of sails had been increased to four times per month. FEHD also launched the memorial website in June 2010 and the mobile version of the IMS website in September 2012.

Deliberations of the Panel

9. The Panel discussed issues relating to the Government's columbarium policy at a number of meetings between 2010 and 2013, and also received deputations' views at three of its meetings. Major views and concerns of members are summarized below.

Supply of public niches

10. Members expressed grave concern about the supply of public niches in Hong Kong and urged the Administration to substantially increase the supply in the light of demographic changes in the coming years. Noting that as of November 2013, the Administration had enlisted support from the relevant DCs

¹ The Information is available for download at the following webpage of DEVB - http://www.devb.gov.hk/en/issues_in_focus/private_columbaria/index.html

² Private columbaria under Part B might have been confirmed to be non-compliant with the user restrictions in the land leases and/or statutory town planning requirements and/or illegally occupying Government land or were pending checking for compliance with the relevant conditions for inclusion in Part A.

for only three³ of the 24 potential sites, members questioned whether the Administration could solicit support from all DCs to provide new public columbarium facilities in the 24 potential sites. Some members suggested setting up an incentive mechanism for reward and punishment so as to obtain support from DCs. Some other members suggested that consideration should be given to re-planning the use of land at cemeteries for building more columbaria, introduction of time-limited lease of public niches, and introduction of an incentive scheme for the return of public niches for further use.

11. The Administration advised that it had been adopting all feasible measures to increase the supply of public niches, including recovering the land no longer serving the purpose of burial grounds. However, land of a size suitable for large-scale development of public columbarium facilities was scarce. In taking forward the 24 potential sites for columbarium development, the Administration had to properly address the concerns of neighbouring residents and DCs. The Administration further explained that as the rationale behind the district-based columbarium development scheme was that all districts should collectively share the responsibility for columbarium development, a reward and punishment system was considered not necessary. Members were assured that subject to the support of DCs and LegCo for the projects currently under planning, the supply of new niches would cumulatively increase to hundreds of thousands by 2031.

12. Members also noted that the Administration was exploring some new measures to address the problem of the supply of niches, including designating different worship periods for different blocks of niches, limiting access during one or both of the grave sweeping seasons and time-limited occupation of new niches. Members were advised that the proposed measure of limiting access to niches during one or both of the grave-sweeping seasons would help reduce both vehicular and pedestrian flows during the grave-sweeping seasons, and bring the traffic impacts to within an acceptable level, thereby allowing more niches to be built in new columbarium developments. While expressing objection to the proposed time-limited occupation of new niches, some members supported the proposed measures of designating different worship periods for niches. The Administration was urged to conduct a pilot trial of these measures in new public columbaria.

Regulation of private columbaria

The proposed licensing scheme

13. Expressing dissatisfaction with the Administration's delay in introducing

³ The three sites included (a) the Diamond Hill project of Wong Tai Sin DC; (b) the Cheung Chau project of Island DCs; and (c) the Tsing Tsuen Road project of Kwai Tsing DC.

the proposed Bill, members urged the Administration to speed up its work so as to avoid further worsening of the problem of unauthorized private columbaria. Expressing worries that operators of unauthorized columbaria would rush to sell off their niches before the enactment of the proposed Bill, some members urged the Administration to enhance public's understanding of the proposed regulatory scheme for private columbaria and advise them to refrain from buying niches from non-compliant columbaria. Concern was also raised that after the enactment of the proposed Bill, the Administration would continue to procrastinate in taking enforcement actions by providing a long transitional period for unauthorized private columbaria to meet the licensing requirements.

14. The Administration advised that it took time to draw up details of the proposed licensing scheme, as it was a complex social issue with divergent public views and was sensitive given the traditional concepts involved. Members were assured that the Administration and the Consumer Council had undertaken to remind members of the public to exercise care when purchasing niches from private columbaria. The Administration also stressed that the passage of the proposed Bill would provide justifiable grounds for effective enforcement actions against unauthorized private columbaria.

15. Some members expressed concern about the cut-off date for determining eligibility for private columbaria to apply for licences under the proposed licensing scheme. In their view, the exemption arrangement might create loopholes for unauthorized columbaria to exploit and continue to sell niches. Concern was also raised about the arrangement for handling the interred niches deposited in unauthorized private columbaria upon commencement of the proposed Bill. In response, the Administration advised that the cut-off date would be clearly defined in the proposed Bill so as to exclude those unauthorized columbaria that had proliferated in recent years to take advantage of the shortage of niches. Members were also assured that the Administration would make transitional arrangement to provide temporary storage for the interred niches.

Business impact assessment study

16. Members also noted that the Administration had engaged a consultant to conduct a business impact assessment ("BIA") study on the regulation of private columbaria. Noting that some deputations had expressed strong objection to the "outcome-based approach" counter-proposed by the BIA consultant to replace the maintenance fund of 15% of the sales proceeds from niches as proposed in the second-round consultation, members expressed concern whether the BIA consultant's proposed approach could protect the interest of consumers.

17. The Administration advised that the BIA study was carried out with a view that the proposed licensing scheme would strike a proper balance among the interests of the public, consumers and the trade. The study sought to gain a better understanding of the situation, examine possible implications of the proposed regulatory scheme on the trade and society, review whether changes should be made to the proposals having regard to the existing trade practices, and get prepared for possible consequences. As regards the "outcome-based approach", the Administration explained that under this approach, the operators of private columbaria were required to devise their management plans, including the submission of certified maintenance reports and fire safety certificates, to ensure a sustainable mode of operation in the long-run. Members were advised that the Administration had not yet made any decision on whether the "outcome-based approach" would be adopted.

Latest development

18. The proposed Bill was gazetted on 20 June 2014 and was introduced into the Legislative Council ("LegCo") on 25 June 2014. At the meeting of the House Committee on 27 June 2014, Members agreed to form a Bills Committee to scrutinize the proposed Bill.

19. The Administration will update members of the implementation of the three-pronged strategy of its columbarium policy at the Panel meeting on 8 July 2014.

Relevant papers

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

Relevant papers on the columbaria policy - the three-pronged strategy

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	9.2.2010 (Item VI)	Agenda Minutes
	6.7.2010 (Item III)	Agenda Minutes
	20.9.2010 (Item I)	Agenda Minutes
	12.4.2011 (Item IV)	Agenda Minutes
	13.12.2011 (Item IV)	Agenda Minutes
	16.3.2012 (Item I)	Agenda Minutes
	11.12.2012 (Items III and IV)	Agenda Minutes
	19.11.2013 (Item I)	Agenda Minutes