

**For Discussion
on 19 November 2013**

LegCo Panel on Food Safety and Environmental Hygiene

**Issues relating to Regulation of Private Columbaria and
Supply of Public Niches**

Purpose

This paper briefs Members on :

- (a) the supply of public niches;
- (b) enforcement actions against unauthorised private columbaria and consumer education; and
- (c) the progress made in drafting the Private Columbaria Bill (the Bill), including the result of the business impact assessment (BIA) study, the proposed timeframe and key features of the Bill.

Supply of Public Niches

Latest Position

2. The Government has identified 24 potential sites across the 18 districts for columbarium development. The 24 sites were announced in three batches on 6 July 2010, 16 December 2010 and 21 April 2011 respectively. We last briefed the Panel on 11 December 2012 on the progress of taking forward these 24 sites. Members noted that whether these 24 potential sites could 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.

3. The feasibility studies are by large either completed or at an advanced stage by now, and we have been consulting the respective DCs since the second quarter of 2012. 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 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 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 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 Environment Bureau (ENB) / Environmental Protection Department (EPD) 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. **Annex A** sets out the current state of play regarding the 24 sites.

4. 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 phase allocation, which began in September 2012, has been completed. The second phase allocation is being carried out and invitation letters have been sent out (according to the priority number drawn) to invite successful applicants to complete the niche selection procedure. The second phase allocation exercise is expected to be completed by May 2014. The third phase is expected to start in the middle of next year, providing about 20 000 new niches. Furthermore, the construction of 1 000 new niches at the Cheung Chau Cemetery will be completed by end 2013.

5. Columbaria developed by private cemeteries help meet some of the public demand. The Board of Management of the Chinese Permanent Cemeteries is expected to provide 35 600 new niches in the three years between 2013 and 2015, while there are around 28 400 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.

6. Subject to the support of DCs and the Legislative Council

(LegCo) for the projects currently under planning, the supply of new niches will cumulatively increase to hundreds of thousands by 2031.

New Measures to be explored

7. 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.

Green Burial

8. In the interest of sustainability, the Government is taking steps to promote “green burial”, by fostering a change in mindset and culture and encouraging community acceptance of this more environmentally friendly and sustainable means of disposal of human ashes. Green burial includes scattering of human ashes at sea or gardens of remembrance, and internet memorial service. To encourage wider use of GoRs and allow more choices, new and bigger GoRs have been constructed in recent years. To encourage the scattering of ashes at sea, the Food and Environmental Hygiene Department (FEHD) has streamlined the application procedures and provided free ferry service for the public. Since January 2012, FEHD has further enhanced the free ferry service by employing a bigger vessel which can accommodate over 300 passengers per sail. As the free ferry service for scattering ashes at sea has become popular, since 2013 January, 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, FEHD has launched the memorial website since June 2010 and the mobile version of the IMS website since September 2012.

Unauthorised Private Columbaria

Enforcement Action

9. The operation of all trades in Hong Kong, including the columbarium trade, must be in compliance with the statutory or other requirements of the Government. Relevant departments will continue to take enforcement actions against unauthorised aspects of private columbaria under their respective mandate and relevant legislation and administrative measures.

Town planning

10. The Town Planning Ordinance (Cap. 131) confers powers on the Planning Authority to undertake enforcement actions against unauthorised developments in areas covered by the Development Permission Areas (DPAs)¹. Also, enforcement actions against the relevant land use could still be handled by virtue of land lease conditions, building plans and various licence systems, where these are applicable.

Land leases/Land Control

11. For private columbaria on leased land (private land) operating in contravention of lease conditions², the Lands Department (LandsD) would take lease enforcement actions. For confirmed cases of illegal occupation of unleased land (Government land) for columbarium use, LandsD will take enforcement actions under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). Where a landowner applies for regularising a breach of lease conditions and / or illegal occupation of Government land, LandsD will consider the application in accordance with the existing procedures.

Building safety

12. On construction, those columbaria which are in breach of the Buildings Ordinance (Cap. 123) or its subsidiary legislation would be regarded as unauthorised building works (UBWs). The Buildings Authority would, in accordance with the existing enforcement policy against UBWs,

¹ DPA (or IDPA) plans exist in the rural New Territories, but not in urban areas and new towns.

² Land lease is a private contract entered into at any given time between the Government and a landowner. In considering whether there is a breach of the relevant lease conditions, legal advice would be sought in light of the actual circumstances of each case.

give priority to taking enforcement actions against items constituting obvious hazard or imminent danger to life or property, newly constructed items and items that constitute a serious health or environmental nuisance. Besides, since April 2011, the Building Authority has revised its enforcement policy against UBWs by extending the coverage of actionable UBWs³.

Fire Safety

13. If contraventions of the Fire Services Ordinance (Cap. 95) are detected, the Fire Services Department will take enforcement actions.

Street Management

14. Some people are concerned about the street management problems which might arise from the operation of columbarium facilities. Various departments will take actions in accordance with their respective mandate. FEHD will tackle those problems which have an impact on environmental hygiene within its purview. EPD may conduct on-site investigation and take actions under the Air Pollution Control Ordinance (Cap. 311).

Noise and Obstruction to Traffic

15. For problems of noise and obstruction to traffic etc., the Hong Kong Police Force may take appropriate actions within its ambit.

Summary

16. Departments concerned, including PlanD, LandsD and BD, have been vigorously enforcing their laws and land leases where applicable, including issuing warning letters, enforcement notices and removal orders, as well as taking prosecution, litigation and other legal actions, with a view to curbing the proliferation of unauthorised private columbaria particularly the newly-emerged ones. Coupled with the publication and quarterly updating of the List published by the Development Bureau (DEVB) mentioned in paragraph 17 below, the enforcement actions have also caused some existing private columbaria to seek regularisation or cease operation. All relevant departments would continue to stay vigilant in taking enforcement actions. The Administration would also report to LegCo the progress of enforcement actions against individual cases from time to time.

³ Such actionable UBWs include all UBWs on the exterior of buildings, such as those on roof-tops and podiums, as well as those in the yards and back-lanes of buildings, irrespective of their risks to public safety or whether they are newly constructed.

Consumer Education

17. In order to help the public to make informed choices before the licensing scheme is introduced, DEVB has published and updated on a quarterly basis a list containing the relevant land/lease (user restrictions) and planning information relating to those private columbaria that are made known to the LandsD and/or Planning Department and which departments have reasons to believe are operating as columbaria (the List).

18. Consumer education has also been enhanced. Announcements in the Public Interest on television and radio were launched in the past two years, and a pamphlet has also been published on the Government's websites and distributed through various channels⁴ since mid-2011, giving consumer advice to remind the public of areas that they should watch out for. Members of the public are reminded of the importance of obtaining from the operators full and complete information in order to check whether the respective columbarium is compliant with all relevant statutory and Government requirements, including town planning requirements and land leases. They are also advised to ascertain from the operators of private columbaria how they would look after the interest of their customers, such as how to handle the interred niches properly and whether and how they would refund or compensate their customers should the respective private columbarium be prohibited from operating or cease operation. Where necessary, consumers should seek independent legal advice on their rights.

The Proposed Regulatory Scheme in the Private Columbaria Bill

Current Progress

19. We launched in December 2011 a second consultation on the proposed licensing scheme for private columbaria. On 11 December 2012, we briefed the Panel on the views collected from the second consultation, and the proposed framework of the Private Columbaria Bill (the Bill) vide paper no. LC paper no. CB(2)304/12-13(03). The proposed framework of the Bill as conveyed in that paper is at Annex B. It is necessary to ensure that the regulatory scheme is reasonable with its details formulated properly. In this connection, we have engaged a consultant to conduct a BIA. Also, departments concerned have conducted reality checks to most of the private columbaria on the List to assess whether they would be able to comply with the prospective requirements. The Food and Health Bureau/FEHD have

⁴ Such channels include the six crematoria, two cremation booking offices and two Cemeteries and Crematoria Offices of FEHD and the 16 hospitals under the Hospital Authority. We will further distribute the pamphlets to elderly homes.

also conducted outreaching visits to columbaria on the List. The BIA consultants have advised that, apart from the columbaria on the List, an unknown number of small-scale columbaria are in operation outside the Government's radar screen.

20. If the licensing scheme is overly stringent, the operators may well choose to close their businesses and walk away before commencement of the Bill so as to evade the criminal liability to be imposed. We are taking a big step forward, in that subject to enactment of the Bill, for cases which in future fail to obtain a licence or exemption and are not covered by temporary suspension of liability, enforcement actions, which would otherwise be subject to limitations under the status quo, would be possible under the Bill. There will be sanction of sufficient deterrent effect against those operating columbaria not in compliance with the Bill. FEHD will serve as the enforcement agency of the Licensing Board and be conferred adequate powers to enforce the provisions of the Bill. Against such background, we should be mindful that failing sensitive handling, society may have to live with the displacement of a large number of interred niches upon commencement of the Bill. Upsetting the resting place of the deceased will lead to social disruption and tension. A good measure of pragmatism is thus called for in handling the pre-existing columbaria. In gist, the Government is making its best endeavours to devise an overall scheme which satisfies the test of necessity, reasonableness and proportionality and strikes a fine balance amongst 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) minimising the nuisance caused by such columbaria to their neighbouring community; and
- (d) ensuring a sustainable mode of operation in the long-run.

Findings of BIA

21. In order to gain a better understanding of the situation, and to review whether changes should be made to the proposed regulatory scheme having regard to the existing trade practices, we have appointed a consultant to conduct a BIA to study the implications of the proposals on the trade.

22. At the time of the consultancy study, there were 125 private columbaria on the List published by DEVB. The consultant conducted a total of 31 interviews⁵ with a cross-section of stakeholders from the local columbarium industry, covering those known to the Government (on Part A and Part B of the List) and those not identified in the List (existing and potential (new) operators). The consultant segmented stakeholders based on their size (large operators, and small and medium sized operators) and four key criteria (i.e. whether they had new niches to sell; whether they had recurrent revenue streams; whether they had the practice of maintaining customer record; and whether they were operated on self-owned premises), for the purpose of ascertaining the potential challenges faced by operators in achieving compliance with some of the proposed regulatory requirements.

23. All the stakeholders the consultant interviewed agreed in principle about the need to regulate the private columbarium industry, and the benefits that regulation would bring. Their hope was that it could be done in a way that will not affect traditions, services and business. Like businesses in other industries, all ‘existing’ private columbaria should be abiding by existing statutory requirements even without the proposed Bill. The proposed Bill merely states that compliance with the requirements of the existing Ordinances is a prerequisite for obtaining a private columbarium licence.

24. That said, the consultant has pointed out that the biggest challenge, burden and costs to operators actually came from meeting the requirements of existing Ordinances (town planning (Cap. 131), building safety (Cap. 123), fire safety (Cap. 95, Cap. 295, Cap. 502, and Cap. 572), environmental hygiene (Cap. 132), and environmental protection (Cap. 311)) and not those of the proposed Bill (e.g. formulating a management plan, having a ‘register of patrons’, putting in place cessation of business arrangements, etc.). In this connection, the consultant opined that measures needed to be devised to reasonably facilitate compliance with the licensing requirements on the part of pre-existing private columbaria (in particular the smaller ones).

25. The consultant opined that potential operators (investors or interested parties) would likely be discouraged from entering the market given the shortage of land with suitable zoning in Hong Kong. Many were concerned about having to acquire a piece of land (a significant investment) without knowing with certainty whether or not they would be able to obtain the required approvals from the planning and lands aspects.

⁵ In addition to the views collected from the 31 interviews conducted, a stakeholder provided written views to the consultant, and another stakeholder gave a short telephone interview (both of them are on the List).

Key Features of the Private Columbaria Bill

26. In the light of feedback from the public during the two rounds of public consultations as well as those from the trade, we have drawn up proposals further to those set out in **Annex B** for incorporation into the Bill which is being drafted. A summary of the key proposals is set out below -

- (a) storage of ashes at home⁶ – the keeping of no more than a certain number of containers (e.g. urns) of ashes at any one time in a dwelling used for domestic purposes⁷ will not be regulated;
- (b) exemption for columbaria that are –
 - (i) inside private cemeteries listed in Schedule 5 to the Public Health and Municipal Services Ordinance (Cap. 132); or
 - (ii) managed by the Board of Management of the Chinese Permanent Cemeteries outside its private cemeteries, with such columbaria still being subject to the regulation of the Private Cemeteries Regulations (Cap. 132BF);
- (c) exemption for undertakers – undertakers are regulated under the Undertakers of Burials Regulation (Cap. 132CB) and they are required to obtain an undertaker’s licence from FEHD.

⁶ While the Bill does not apply to storage of ashes at home as prescribed above, this should not be construed to obviate the need on the part of the concerned parties to comply with other statutory and Government requirements, the land leases and Deed of Mutual Covenants etc., as compliance with the same has all along been required anyway under the status quo. In other words, they remain subject to enforcement action of other enforcement authorities or civil action of landlords or other owners.

⁷ A dwelling is defined in the Bill to mean any premises which –

- (a) (i) in the plans of the building of which such premises form a part approved by the Building Authority under the Buildings Ordinance (Cap. 123), are demarcated as a unit that is self-contained in respect of ablution, toilet and cooking facilities; or
 - (ii) in the absence of any approved plans, are self-contained in respect of ablution, toilet and cooking facilities; and
- (b) are used wholly or primarily for human habitation.

By domestic purposes, we mean “genuinely used for human habitation and not conducted by way of trade or business”.

Starting from December 2008, all new applications for undertaker's licences are subject to a restriction on any storage of ashes as one of the licensing conditions. There are now 81 undertakers whose licences do not debar temporary storage of ashes within their premises, and this is carried forward upon annual renewal. We propose that these 81 undertakers be exempted subject to applications and conditions, including restricting their services to temporary storage of ashes within their premises in the course of providing burial service, with no fees charged or fees charged on a daily or monthly basis, subject to a maximum number of containers of ashes permitted;

- (d) protection offered to consumers –
 - (i) For brand-new private columbaria, the operator would be required to operate on self-owned premises. For pre-existing columbaria, it is also preferable that they should be operated on self-owned premises; however, for those that are not so, the operator would be required to prove that he has the right to continue to use the premises for at least five more years. The licence period will co-terminous with the period in which the operator has the right to use the premises, subject to a cap of ten years. The operator would also be required to submit a management plan to the Licensing Board for its consideration.
 - (ii) A licensee will be required to enter into a contract with consumer over the ownership / terms of sale and use of a niche (e.g. the tenure and charges), and arrangements in the case of termination of contracts and cessation and winding up of business. The Licensing Board may consider promulgating some templates and standard clauses to be included in future contracts for ease of reference by the operators and the consumers as best practices. A licensee will also be required to maintain a register of patrons, dedicated nominees and authorised representatives.
 - (iii) A maintenance fund (involving setting aside by the licensee of 15% of the sales proceeds from niches) has been proposed in the second-round consultation. Having regard to the concerns raised by the trade (including compliance cost, effect on cash flow, efficacy

of the proposal etc.), an outcome-based approach (in the form of submission of a maintenance report certified by an Authorised Person / Registered Structural Engineer, where applicable, every five years to certify building safety, and certificates to prove that the fire service installations and equipment are in efficient working order) has been counter-proposed by the BIA consultant. This issue needs to be carefully addressed, having regard to the need for columbaria to be well maintained on the one hand and the concern raised by the trade through the BIA consultants on the other;

- (e) responsibility of the operators for handling interred ashes before cessation of business – failure to do so should be subject to criminal liability;
- (f) Occupation Order – in case of sudden cessation of business or enforcement actions by FEHD, we propose that an application to the Court for an Occupation Order for a reasonable period be made, to facilitate the claiming back of the interred ashes and/or related belongings in-situ; and
- (g) a statutory scheme to facilitate the claiming back of the deceased's ashes and / or related belongings. If those items are left unclaimed after a reasonable period, we propose that FEHD may, at its sole discretion, arrange for their final disposal in a way as it sees fit.

27. The Administration will take into account the results of the reality checks and the findings of the BIA study in finalising the Bill. For existing columbaria on Part B of the List published by DEVB referred to in paragraph 17 above, we appeal to them to start regularising their breaches under the planning and land regimes, should they be interested in applying for a licence to continue their operation in future.

Advice Sought

28. Subject to any comments from Members, we will finalise the detailed provisions of the draft legislation with a view to introducing the relevant Bill into LegCo by the second quarter of 2014.

Food and Health Bureau
Food and Environmental Hygiene Department
November 2013

**Current state of play on the 24 sites identified
in 2010 and 2011 for columbarium development**

	District	Potential Sites (for those projects already put to DC, no. of niches are indicated in square brackets)	Studies	Consultation with DC and seeking funding approval from the Finance Committee (FC)
1	Eastern	A site on Cape Collinson Road, opposite the Chai Wan Chinese Permanent Cemetery Columbarium and next to Wan Tsui Estate Park	Initial Traffic Impact Assessment (TIA) and Technical Feasibility Study (TFS) completed, and further TIA to address departments' concern near completion	Consultation with DC in 2014 tentatively
2	Wong Tai Sin	Diamond Hill columbarium extension [1 540 niches]	The project was completed in 2012 and those new niches are put to allocation by phases	
3	Sha Tin	A site on On Hing Lane, Shek Mun, next to Shatin Refuse Transfer Station	TIA and TFS completed	Consultation with DC under planning
4	Sha Tin	Fu Shan columbarium extension	Initial TIA completed, and further TIA and TFS required	Consultation with DC under planning

	District	Potential Sites (for those projects already put to DC, no. of niches are indicated in square brackets)	Studies	Consultation with DC and seeking funding approval from the Finance Committee (FC)
5	North	Surplus coffin burial grounds and other land within the Wo Hop Shek Cemetery [Phase 1 : 44 000 niches Phase 2 : 35 000 niches Phase 3 : 25 000 niches]	TIA completed; TFS for Phase 1 completed, and for Phases 2 and 3 underway	Consulted North DC on 12 April 2012, and obtained blessing to proceed with Phase 1 development (44 000 niches)
6	North	Undeveloped areas within the Sandy Ridge Cemetery [at least 200 000 niches]	<u>Stage I: Site formation and associated infrastructural works</u> Engineering feasibility study (EFS), including TIA and TFS completed. <u>Stage II: Building works for the C&C developments</u> We will set in train follow-up actions, with an aim of commencing the building works upon the hand-over of the formed land in 2019	Consulted North DC on 11 October 2012 Obtained funding approval from the FC on 8 February 2013 to proceed with detailed design and site investigation works for Stage I

	District	Potential Sites (for those projects already put to DC, no. of niches are indicated in square brackets)	Studies	Consultation with DC and seeking funding approval from the Finance Committee (FC)
7	Tuen Mun	Part of the Tsang Tsui ash lagoon next to Black Point Power Station [at least 110 000 niches]	Initial TIA and TFS completed, and further TIA near completion	Consulted Tuen Mun DC on 8 May and 6 November 2012 respectively
8	Kwai Tsing	Ex-Kwai Chung Incineration Plant on Kwai Yu Street	TIA completed	Consultation with DC under planning
9	Kwai Tsing	A site on Kwai Tai Road, southeast of ex-Kwai Chung Incineration Plant	TIA completed	Consultation with DC under planning
10	Kwai Tsing	A site on Tsing Tsuen Road near the Tsuen Wan Chinese Permanent Cemetery [20 000 niches]	TIA and TFS completed	Consulted Kwai Tsing DC on 20 June 2012 and 10 January 2013 and provided relevant information to Tsuen Wan DC on 31 January 2013
11	Islands	Cheung Chau Cemetery extension [1 000 niches]	The project would be completed before end of 2013	
12	Islands	Mui Wo Lai Chi Yuen extension	Environment impact assessment and traffic review to be conducted	Consultation with DC under planning

	District	Potential Sites (for those projects already put to DC, no. of niches are indicated in square brackets)	Studies	Consultation with DC and seeking funding approval from the Finance Committee (FC)
13	Central and Western	A site at Mount Davis Road, east of Chiu Yuen Cemetery	EFS, including TIA, at an advanced stage	Consultation with DC in 2014 tentatively
14	Wan Chai	FEHD's Hong Kong Cemeteries and Crematoria Office (part thereof) at Wong Nai Chung Road	TIA not required and TFS completed	Consultation with DC under planning
15	Sham Shui Po	A site north of Ching Cheung Road near the Roman Catholic Cemetery	EFS, including TIA, at an advanced stage	Consultation with DC in 2014 tentatively
16	Kwun Tong	A site next to the Ex-Ma Yau Tong Central Landfill Site	EFS, including TIA, at an advanced stage	Consultation with DC in 2014 tentatively
17	Yau Tsim Mong	Former school within Tin Hau Temple on Temple Street	TIA not required and TFS underway	Consultation with DC under planning
18	Southern	A site adjoining the Chinese Christian Cemetery at Pok Fu Lam	EFS, including TIA, at an advanced stage	Consultation with DC in 2014 tentatively
19	Kowloon City	A vacant staff quarter (part thereof) inside a funeral parlour at 6	TIA not required and TFS completed	Consultation with DC under planning

	District	Potential Sites (for those projects already put to DC, no. of niches are indicated in square brackets)	Studies	Consultation with DC and seeking funding approval from the Finance Committee (FC)
		Cheong Hang Road, Hung Hom		
20 &21	Tsuen Wan	Two sites located at the Eastern and Western Ends of Sham Shui Kok Drive, Siu Ho Wan, North Lantau	EFS, including TIA, at an advanced stage	Consultation with DC in 2014 tentatively
22	Yuen Long	A site between San Tam Road and Mai Po Lung Road, San Tin	EFS, including TIA, at an advanced stage	Consultation with DC in 2014 tentatively
23	Tai Po	A site at the southwestern corner of the Shuen Wan Ex-Landfill, near Tai Po Industrial Estate	EFS, including TIA, at an advanced stage	Consultation with DC in 2014 tentatively
24	Sai Kung	A site at Area 132, Tsueng Kwan O, near the Tseung Kwan O Chinese Permanent Cemetery	EFS, including TIA, at an advanced stage	Consultation with DC in 2014 tentatively

Proposed Framework of the Private Columbaria Bill

The proposed framework of the Private Columbaria Bill set out in LC paper no. CB(2)304/12-13(03) discussed by the Panel on 11 December 2012 is –

- (a) a licensing mechanism, including the requirements that must be fulfilled in order to obtain a licence, the application procedures, and related matters;
- (b) exemption from having to obtain a private columbarium licence, including –
 - (i) exemption for private cemeteries specified in Schedule 5 to the Public Health and Municipal Services Ordinance (Cap. 132), without application and conditions;
 - (ii) exemption for undertakers of burials (undertakers), subject to application and conditions; and
 - (iii) exemption for private columbaria that meet the following criteria (exempted dated columbaria), subject to application and conditions -
 - they do not pose obvious hazard or imminent danger in terms of building and fire safety;
 - they have commenced columbarium operation before a specified cut-off date;
 - the columbaria have ceased the sale of niches before another specified cut-off date;
- (c) temporary suspension of liability arising from the operation of private columbaria without a licence or exemption, subject to application and conditions. The purpose is to enable existing operators to continue maintaining the operation of their columbaria while working to secure full

compliance with the requirement(s) which they could not fully meet at the time when the licensing scheme comes into operation. However, they would not be allowed to continue to sell their niches; and

- (d) other provisions for the purpose of the Ordinance, including
 -
 - (i) enabling provisions for setting up a Licensing Board, covering its composition, functions and powers;
 - (ii) provisions that prescribe the executive and enforcement arms of the Licensing Board, together with their powers; and
 - (iii) provisions that cover the appeal mechanism open to parties aggrieved by the decisions of the Licensing Board, transitional arrangements, sanctions and penalties, etc.;

No person may be engaged in the operation of a private columbarium in Hong Kong, unless such operation is covered by a licence, an exemption or temporary suspension of liability. Any person who contravenes the above commits an offence, and is liable on conviction to a fine and to imprisonment. The question of parallel enforcement actions under the other regimes against exempted dated columbaria or those conferred temporary suspension of liability will need to be further addressed.

2. As part of the requirements for obtaining a licence, the Bill will provide that licence applicants must comply with the statutory and administrative provisions under the planning and land regimes. For operators on Part B of the List, we appeal to them to start regularising their existing breaches under the planning and land regimes as soon as possible, should they wish to apply for a licence to continue to operate in future.