

**立法會**  
**Legislative Council**

LC Paper No. CB(2)277/13-14(02)

Ref : CB2/PL/FE

**Panel on Food Safety and Environmental Hygiene**

**Background brief prepared by the Legislative Council Secretariat  
for the special meeting on 19 November 2013**

**Proposed licensing scheme for private columbaria and  
supply of public niches**

**Purpose**

This paper provides background information on the Administration's proposed licensing scheme to regulate private columbaria and the supply of public niches in Hong Kong. It also summarizes concerns of the members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the subject.

**Background**

Public consultation on columbarium policy and a licensing scheme for privately owned or operated columbaria

2. On 6 July 2010, the Government launched a three-month public consultation on review of columbarium policy. In the consultation document, it was 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.

3. According to the Administration, the public and the stakeholders across different sectors in the community broadly endorsed the key concepts and directions of the proposals. While there was also public support for a licensing scheme to enhance the regulation of private columbaria, there were divergent views on the scope and level of regulation under the licensing scheme and the arrangements for pre-existing private columbaria.

4. On 13 December 2011, the Government launched another public consultation on the licensing scheme for private columbaria and the consultation exercise ended on 30 March 2012. The consultation exercise covered a wide range of areas which included introducing a statutory licensing scheme under a new piece of legislation to be entitled "the Private Columbaria Ordinance". At the Panel meeting on 11 December 2012, the Administration briefed members on the legislative proposals for regulating private columbaria based on the outcome of the second public consultation exercise. The Administration proposed that a new Bill, the Private Columbaria Bill, would be introduced to regulate private columbaria through a licensing scheme and the Bill should provide for the following -

- (a) a licensing mechanism, including requirements that must be fulfilled in order to obtain a licence and application procedures;
- (b) exemption from having to obtain a private columbarium licence;
- (c) temporary suspension of liability arising from the operation of private columbaria without a licence or an exemption, subject to application and conditions;
- (d) other provisions for the purpose of the Ordinance, for example:
  - (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.

Members were advised that the Administration aimed at introducing the Bill into the Legislative Council ("LegCo") in the last quarter of 2013.

## Publication of "Information on Private Columbaria"

5. In order to help members of the public make informed decisions when purchasing niches before the introduction of the proposed licensing scheme, the Development Bureau has published since December 2010 and updated quarterly the Information on Private Columbaria ("the Information") covering private columbaria known to the Government. The Information consists of two parts. Part A sets out private columbaria which are compliant with the user restrictions in the land leases and town planning requirements and are not illegally occupying Government land. Part B includes other private columbaria made known to the Lands Department and Planning Department that do not fall under Part A. Private columbaria under Part B may 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 are pending checking for compliance with the relevant conditions for inclusion in Part A. As at September 2013, there were 30 and 96 private columbaria in Part A and Part B respectively.

## Supply of public niches in Hong Kong

6. At present, there are eight public columbaria managed by the Food and Environmental Hygiene Department ("FEHD")<sup>1</sup>. As at March 2012, these public columbaria provided 167 932 public niches, all of which had been allocated, with some 300 re-used public niches available each year for allotment to applicants on the waiting list. To increase the supply of public niches, the Government has been promoting the district-based columbarium development scheme. The Administration has identified 24 potential sites in 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.

7. The Panel was briefed at its meeting on 11 December 2012 on the progress made by the Administration in taking forward the development of the 24 potential sites identified for public columbarium use and a proposal to develop columbarium and crematorium facilities at the Sandy Ridge Cemetery.

## **Deliberations of the Panel**

8. The Panel discussed the subject at a number of meetings between 2009 and 2012 and received views of deputations at two meetings. The major concerns of members are summarized in the ensuing paragraphs.

---

<sup>1</sup> The eight public columbaria are located in Cape Collinson, Diamond Hill, Fu Shan, Kwai Chung, Wo Hop Shek, Cheung Chau, Lamma Island and Ping Chau.

### Licensing scheme

9. Pointing out that consumers would normally expect a very long-term deposit of the cremains, some members considered that the licensing period should be extended from the proposed five years to a longer period. As explained by the Administration, the proposed licensing period of five years was already longer than those of other licences issued by FEHD which were generally one to two years. The renewal requirement of the licence of private columbarium facilities was considered necessary as it would help ensure the service quality of the facilities. The Administration also pointed out that there was no limit to the number of renewals so long as the columbarium facilities met the renewal conditions.

10. Concern was raised whether the operators of the private columbarium facilities were allowed to sell niches for a permanent term which went beyond their licensing period. The Administration responded that while the terms of agreements in relation to the purchase of niches would be a matter for the contracting parties to decide, the operators of the licensed columbarium facilities would be obliged to inform their customers of the valid licensing period of the facilities.

11. In response to members' enquiry about the proposed requirement for the operators of private columbaria to operate on self-owned premises, the Administration advised that for existing columbaria which did not run on self-owned premises, the operators would be required to prove that they had the right to continue to use the premises concerned for at least five years.

### The Private Columbaria Licensing Board ("Licensing Board")

12. Members considered it important to have a clear delineation and division of responsibilities between the Licensing Board and FEHD to facilitate the public to lodge or follow up complaints against any breaches of licensing conditions. The Administration advised that the Licensing Board would be the approving authority for the licensing of private columbarium facilities. It would be responsible for deciding on the merits of applications for a licence, or an exemption or a temporary suspension of liability from the Licensing Scheme. FEHD would be the executive arm and enforcement agency serving the licensing authority, and would assist the Licensing Board in discharging its responsibilities by conducting inspections of private columbarium facilities.

### Exemption from the Licensing Scheme

13. Noting that private columbaria which had been in existence before a cut-off date might be exempted from the Licensing Scheme, some members

were worried that the exemption arrangement might create loopholes for the unauthorized columbaria to continue to sell niches. Some other members held the view that exemption should not be granted to those pre-existing private columbaria which had breached statutory regulation or illegally occupied Government land even if they posed no obvious or imminent danger in terms of building and fire safety. Concern was also raised about the provision of temporary storage of cremains in the licensed premises of the undertakers of burials.

14. The Administration responded that while it had not yet decided on the definition of "long-existing private columbaria", there was a preliminary view that the cut-off date should be set at some 10 years ago. As explained by the Administration, there was a need for the undertakers of burials to provide temporary storage of cremains as part of their service for the bereaved families. There would be restrictions as part of the licensing conditions imposed on the undertakers of burials in respect of the provision of temporary storage of cremains to minimize nuisance caused to neighbouring residents.

#### Temporary suspension from liability for pre-existing private columbaria

15. On the proposed temporary suspension from liability for pre-existing private columbaria, concern was raised that this might encourage operators of pre-existing columbaria, particularly those who were unlikely to secure compliance with the licensing requirements, to rush to sell off their niches during the transition period. They urged the Administration to take appropriate actions during the transition period such as snap shooting the current situation of the pre-existing private columbaria listed in Part B of the Information and disallowing them to further market their niches to new customers.

16. The Administration advised that applicants for temporary suspension from liability were required to satisfy the licensing authority that they had a reasonable chance to regularize their operation within a reasonable period of time.

#### Protection of consumers' interests and assistance to the affected consumers

17. Some members considered that the proposed licensing scheme did not provide sufficient protection to consumers. Although the proposed scheme would require the licensee to properly handle interred cremains before the cessation of the columbarium operation, consumers would not be entitled to a refund if the operator went bankrupt. They also considered the pre-payment arrangement for a permanent columbarium service unfair to consumers.

18. According to the Administration, the proposed licensing scheme would require a licensee to apply for a licence renewal once every five years and the

licensing authority would examine whether the columbarium could continuously meet the licensing requirements, which included, among others, the handling of cremains upon business cessation and the setting up of a maintenance fund. The proposed licensing scheme would significantly enhance the protection of consumers' interests.

19. There was a concern that the implementation of the licensing scheme might cause huge financial loss to those who had spent a considerable sum of money to purchase niches from those unauthorized private columbaria. The Administration was urged to provide assistance to those affected consumers. The Administration advised that since the affected families might need time to arrange for long-term interment of cremains in niches in public or other private columbaria, there might be a need for the Government to provide temporary storage for those displaced cremains. However, the storage service for the displaced cremains, if provided by the Government, would be temporary in nature and would not be used for the purpose of long-term occupation.

#### Legislative process and timetable

20. There was a suggestion that the Administration should engage the Efficiency Unit ("EU") to conduct or supervise the conduct of a business impact assessment of the licensing scheme. The Administration was also requested to consult the trade extensively in order to speed up the legislative process.

21. Noting that the Administration aimed to introduce the legislative proposal into LegCo in the fourth quarter of 2013, members considered that the time span for the legislative process and the transition period of 18 months to allow time for pre-existing columbaria to apply for a licence/exemption/temporary suspension from liability was too long. They urged the Administration to introduce the legislative proposal into LegCo as early as possible.

22. The Administration explained that the legislative proposal for regulating private columbaria touched on a complex social issue with divergent public views and was sensitive given the traditional concepts involved. The Administration also needed time to draw up details of the requirements for the regularization of existing private columbaria listed in Part B of the Information. Upon the completion of the second public consultation exercise in March 2012, the Administration would commence the drafting of the legislative proposal which would take around 12 months. It was estimated that the legislative proposal could be introduced into LegCo by the end of 2013 at the earliest.

#### Supply of public niches

23. Members in general expressed support for the Administration's proposal

to develop a cluster of funeral parlour, crematorium and columbarium facilities at Sandy Ridge to provide one-stop service for the public. They urged the Administration to expeditiously increase the supply of public columbarium facilities. Some members expressed concern that the 120 000 new public niches to be provided at Sandy Ridge might not be enough to meet the demand. They urged the Administration to review the supply of public funeral and burial facilities in the light of demographic changes in the coming years. They were also of the view that the Government should take the lead to provide such facilities and services for the public.

24. There was a view that consideration should also 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. A suggestion was also made that the size of urns and niches could be reduced with a view to optimizing the use of land and increasing the supply of public niches.

25. 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 development of public columbarium facilities comparable in scale to that of Sandy Ridge was scarce. In taking forward various sites for columbarium development, the Administration had to properly address the concerns of neighbouring residents and the concerned District Councils. Due regard also had to be given to the added impact on traffic, noise and environment that might be brought about by increasing the number of niches available in any given site.

### **Relevant questions and papers**

26. Details of relevant questions raised at Council meetings since the Fourth LegCo as well as relevant papers available on the LegCo website (<http://www.legco.gov.hk>) are in the **Appendix**.

## Appendix

### Relevant papers on proposed licensing scheme for private columbaria and supply of public niches

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	12.5.2009 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	16.10.2009 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	9.2.2010 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	6.7.2010 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	20.9.2010 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	15.10.2010 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">CB(2)218/10-11(01)</a>
Panel on Food Safety and Environmental Hygiene	12.4.2011 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	13.12.2011 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	15.2.2012	<a href="#">Official Record of Proceedings (Question 13 - written question raised by Hon Tanya CHAN)</a>
Legislative Council	29.2.2012	<a href="#">Official Record of Proceedings (Question 15 – written question raised by Hon LEUNG Kwok-hung)</a>



<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Food Safety and Environmental Hygiene	16.3.2012 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	21.11.2012	<a href="#">Official Record of Proceedings (Question 14 - written question raised by Hon LEUNG Kwok-hung)</a>
Panel on Food Safety and Environmental Hygiene	11.12.2012 (Items III and IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>

Council Business Division 2  
Legislative Council Secretariat  
13 November 2013

**The 24 sites identified for public columbarium development**

	<b>District</b>	<b>Potential Site</b>	<b>Latest Position</b>
1	Eastern	A site on Cape Collinson Road, opposite the Chai Wan Chinese Permanent Cemetery Columbarium and next to Wan Tsui Estate Park	Traffic Impact Assessment completed.  Under technical feasibility study.
2	Wong Tai Sin	Diamond Hill columbarium extension	Project completed (providing 1 540 niches).
3	Sha Tin	A site on On Hing Lane, Shek Mun, next to Shatin Refuse Transfer Station	Traffic Impact Assessment completed.
4	Sha Tin	Fu Shan columbarium extension	Traffic Impact Assessment completed.  Under technical feasibility study.
5	North	Surplus coffin burial grounds and other land within the Wo Hop Shek Cemetery	Traffic Impact Assessment completed.  Technical feasibility study for Phase 1 completed, and for Phases 2 and 3 underway.  Consulted NDC on 12 April 2012.

	<b>District</b>	<b>Potential Site</b>	<b>Latest Position</b>
6	North	Undeveloped areas within the Sandy Ridge Cemetery	<p><u>Stage I: Site formation and associated infrastructural works</u></p> <p>Engineering feasibility study completed.</p> <p>Technical feasibility study completed.</p> <p>Consulted NDC on 11 October 2012.</p> <p>The next step is to seek funds for engaging consultants to undertake detailed design and site investigation works of the site formation and associated infrastructural works.</p> <p><u>Stage II: Building works for the C&amp;C developments</u></p> <p>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.</p>
7	Tuen Mun	Part of the Tsang Tsui ash lagoon next to Black Point Power Station	<p>Traffic Impact Assessment and technical feasibility study completed.</p> <p>Consulted TMDC on 8 May and 6 November 2012.</p>

	<b>District</b>	<b>Potential Site</b>	<b>Latest Position</b>
8	Kwai Tsing	Ex-Kwai Chung Incineration Plant on Kwai Yu Street	Traffic Impact Assessment completed.
9	Kwai Tsing	A site on Kwai Tai Road, southeast of ex-Kwai Chung Incineration Plant	Traffic Impact Assessment completed.
10	Kwai Tsing	A site on Tsing Tsuen Road near the Tsuen Wan Chinese Permanent Cemetery	Traffic Impact Assessment and technical feasibility study completed.  Consulted K&TDC on 20 June 2012.
11	Islands	Cheung Chau Cemetery extension	Project scheduled for completion in late 2013 (providing 990 niches).
12	Islands	Mui Wo Lai Chi Yuen extension	Traffic Impact Assessment not required in view of the small number of niches.  Under technical feasibility study.
13	Central and Western	A site at Mount Davis Road, east of Chiu Yuen Cemetery	Under engineering feasibility study.
14	Wan Chai	FEHD's Hong Kong Cemeteries and Crematoria Office (part thereof) at Wong Nai Chung Road	Traffic Impact Assessment not required in view of the small number of niches.  Under technical feasibility study.
15	Shum Shui Po	A site north of Ching Cheung Road near the Roman Catholic Cemetery	Under engineering feasibility study.

	<b>District</b>	<b>Potential Site</b>	<b>Latest Position</b>
16	Kwun Tong	A site next to the Ex-Ma Yau Tong Central Landfill Site	Under engineering feasibility study.
17	Yau Tsim Mong	Former school within Tin Hau Temple on Temple Street	Traffic Impact Assessment not required in view of the small number of niches.  Under technical feasibility study.
18	Southern	A site adjoining the Chinese Christian Cemetery at Pok Fu Lam	Under engineering feasibility study.
19	Kowloon City	A vacant staff quarter (part thereof) inside a funeral parlour at 6 Cheong Hang Road, Hung Hom	Traffic Impact Assessment not required in view of the small number of niches.  Under technical feasibility study.
20 & 21	Tsuen Wan	Two sites located at the Eastern and Western Ends of Sham Shui Kok Drive, Siu Ho Wan, North Lantau	Under engineering feasibility study.
22	Yuen Long	A site between San Tam Road and Mai Po Lung Road, San Tin	Under engineering feasibility study.
23	Tai Po	A site at the southwestern corner of the Shuen Wan Ex-Landfill, near Tai Po Industrial Estate	Under engineering feasibility study.
24	Sai Kung	A site at Area 132, Tsueng Kwan O, near the Tseung Kwan O Chinese Permanent Cemetery	Under engineering feasibility study.

*Source : Annex A to the Administration's paper on "Public columbaria – Supply of public niches, including the proposed columbarium, crematorium cum funeral parlour at the Sandy Ridge Cemetery (LC Paper No. CB(2)304/12-13(05))"*