

For Information  
on 10 March 2015

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

**Progress of Increasing the Supply of Public Niches and  
How Consumers can Protect their own Interests  
before Commencement of the Private Columbaria Ordinance**

**Purpose**

This paper provides the information requested by Members of this Panel concerning the latest progress of increasing the supply of public niches and how consumers can protect their own interests before commencement of the Private Columbaria Ordinance (the Ordinance). We also take the opportunity to update Members on the progress of our work in promoting green burials.

**Background**

2. We last briefed Members on this subject in July 2014 vide LC Paper No. CB(2) 1955/13-14(03) on “Columbarium Policy – Three-Pronged Approach”. In the ensuing paragraphs, we set out developments on this subject since then.

**Promoting Green Burial and Green Memorial Activities**

(A) **Green Burial**

3. The Government is taking active steps to promote green burials in order to promote a change in mindset and culture leading to wider acceptance of environment-friendly and sustainable means of handling human ashes. These include the scattering of ashes in Gardens of Remembrance (GoRs) or at sea.

4. The Government has constructed some new GoRs of bigger size in recent years, and will provide GoRs in public columbarium projects under planning, wherever feasible. In 2015, we will install additional memorial walls for mounting plaques for ashes scattered at the Cape Collinson GoR.

5. To encourage scattering of ashes at sea, the Food and Environmental Hygiene Department (FEHD) has increased the number of sails of the free ferry service and employed a bigger vessel for more comfortable sea voyages. Since the Ching Ming Festival of 2014, we have invited descendants to a free ride on ferry around the gravesweeping seasons to pay respect to the deceased whose ashes had been scattered at sea.

6. To further promote green burials, relevant information compiled by FEHD has been hyperlinked with the websites of other related government departments (including the Department of Health, the Environmental Protection Department and the Social Welfare Department), non-governmental organisations providing after-death services, the elderly and the youth portals, etc. A new television Announcements of Public Interest (API) on green burial is also being produced for broadcasting in 2015.

7. With enhanced publicity and public education, there has been a steady increase in the number of green burials in recent years. Starting from 2001 and up to December 2014, a total of 11 275 bereaved families have scattered the ashes of their ancestors in the GoRs of FEHD, while 558 and 303 sets of ashes have been scattered in GoRs of the Board of Management of the Chinese Permanent Cemeteries (BMCPC) and Christian Cemeteries respectively. Starting from July 2007 and up to December 2014, a total of 4 564 applications for scattering ashes at sea have been received.

(B) Green Memorial

8. Apart from the IMS memorial website, FEHD has launched the mobile version of the IMS website, and is planning to launch a mobile application by end 2015. Users may pay tribute to the deceased through computers or mobile devices, at any time and from anywhere. Since July 2014, the service of IMS has been expanded to serve not only those whose ancestors' bodies or cremated ashes were kept in FEHD's public cemetery, crematorium or public columbarium facilities, or scattered at public GoRs or at

sea, but also those whose ancestors were Hong Kong residents and whose ancestors' bodies or cremated ashes were interred or kept in a private cemetery or private columbarium in Hong Kong.

9. Up to December 2014, about 6 400 persons have registered for the IMS service and about 7 000 memorial webpages have been created. The hit rate has reached over 2 161 000.

### **Increasing the Supply of Public Niches**

10. The Finance Committee of LegCo last approved in 2009 the public columbarium project at Kiu Tau Road, Wo Hop Shek, providing 43 710 new niches. Committed to taking forward the district-based columbarium development scheme for all districts to share the responsibility of constructing public columbaria collectively, the Government announced (in three batches in July 2010, December 2010 and April 2011 respectively) a total of 24 potential sites identified in 18 districts for columbarium development. When making the announcements, we stressed that whether the sites identified could ultimately be used for developing columbarium facilities would depend on the results of traffic impact assessment, engineering feasibility assessment (if applicable) and technical feasibility studies. Upon completion of the relevant assessments, the Government will consult the District Councils (DCs) concerned before making the final decision on developing the sites for columbarium use.

11. With the concerted efforts of relevant parties, our work starts to bear fruit. Leaving aside the two projects already completed involving a total of 2 540 new niches (see Table 1 below), we have consulted DCs on another five projects involving a total of 449 000 new niches (see Table 2 below). These 451 540 new niches account for more than half of the total number of niches available in all the 24 projects.

**Table 1 : Public columbarium projects completed since 2012**

<b>District</b>	<b>Potential Site</b>	<b>Year of Completing the Project</b>	<b>Number of Niches</b>
Wong Tai Sin	(1) Diamond Hill columbarium extension	2012	1 540
Islands	(2) Cheung Chau Cemetery extension	2013	1 000
Sub-total			2 540

**Table 2 : Public columbarium projects with DC support (to be completed subject to funding approval from LegCo)**

<b>District</b>	<b>Potential Site</b>	<b>Targeted Completion Date</b>	<b>Number of Niches</b>
Tuen Mun	(3) Part of the Tsang Tsui ash lagoon next to Black Point Power Station	2018	160 000
Kwai Tsing	(4) A site on Tsing Tsuen Road near the Tsuen Wan Chinese Permanent Cemetery <sup>1</sup>	2019	20 000
North	(5) Surplus coffin burial grounds and other land within the Wo Hop Shek Cemetery (Phase 1)	To be confirmed	44 000
Eastern	(6) A site on Cape Collinson Road opposite the Chai Wan Chinese Permanent Cemetery Columbarium and next to Wan Tsui Estate Park	To be confirmed	25 000
North	(7) Undeveloped areas within the Sandy Ridge Cemetery	To be confirmed	200 000
Sub-total			449 000

<sup>1</sup> An application from BMCPC for the proposed columbarium at this site has been received.

District	Potential Site	Targeted Completion Date	Number of Niches
Grand total (i.e. projects completed plus those in the pipeline)			451 540

12. With the necessary engineering feasibility studies and traffic impact assessments largely completed, we are in full steam on following up the projects in the remaining sites as set out in **Annex A**.

13. Between 2015 and 2017, BMCPC and religious bodies are expected to provide about 25 000 and 47 000 new niches respectively.

14. Meanwhile, FEHD and BMCPC have adopted the following measures to optimise the use of existing niches –

- (a) prior to January 2014, a standard niche and a large niche of FEHD were allowed to hold 2 and 4 sets of ashes respectively. Since most of the niches have not been used to this capacity, it is estimated that about 167 000 urn spaces have yet to be utilised. To make better use of such space, with effect from January 2014, FEHD has relaxed the restriction on placing additional sets of ashes into the niches in public columbaria, including (i) relaxing the definition of “close relative”<sup>2</sup>; and (ii) allowing the public to place more than two sets of ashes in a standard niche and more than four sets in a large niche. The application process is user-friendly and this option will make worshipping the deceased more convenient;
- (b) there are about 220 000 urn spaces in the existing standard niches and family niches at BMCPC’s columbaria. On 17 February 2014, HAB consulted the LegCo Home Affairs Panel on relaxing the restriction in relation to the use of grave spaces and family

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<sup>2</sup> It generally refers to the spouse, parent, grandparent, grandparent-in-law, brother, sister, father-in-law, mother-in-law, daughter-in-law, son-in-law or a direct descendant of either the paternal or maternal line of the deceased person whose ashes were the first to be kept in the niche. Furthermore, if the subsequent deceased was in close relationship with the first deceased, FEHD will consider the application as well.

niches through introducing amendments to the Chinese Permanent Cemeteries Ordinance (Cap. 1112) and its Rules (Cap. 1112A), including, among other things, expanding the eligibility for use of family niches in the CPC. HAB aims to introduce the relevant amendments to LegCo in 2015/16 .

### **Regulating Private Columbaria**

15. The Government introduced the Private Columbaria Bill (the Bill) into LegCo on 25 June 2014, proposing a licensing regime for regulating private columbaria. We are committed to taking forward the licensing regime, with a view to ensuring compliance with statutory and government requirements, enhancing protection of consumer interests and putting the further development of the trade on a sustainable path. We are working closely with the Bills Committee for early implementation of the licensing scheme.

16. Concurrently with the introduction of the Bill, noting the absence of any legal basis to undertake any enforcement action targeted specifically at private columbaria as a mode of service, we enhanced public education in mid-2014, advising consumers to stay vigilant prior to the commencement of the Ordinance. The relevant measures are set out at **Annex B**.

17. We plan to launch another round of enhanced public education before the coming Ching Ming Festival, advising consumers to refrain from making rash decisions in purchasing niches and to consider the alternative of green burials. Recognising that some may still prefer the use of niches, we would also remind purchasers of the options of short-term rentals instead of outright purchase of niches pending the commencement of the Ordinance, as well as placing additional sets of ashes in occupied niches of columbaria of FEHD and BMCPC. If necessary, ashes may be stored temporarily at FEHD's

temporary storage facilities<sup>3</sup>.

18. We would disseminate the above messages through –
- (a) uploading onto the Government’s websites and including in FEHD’s publications on after-death arrangements an updated version of FHB’s advice for consumers for distribution at various outlets such as the Births and Deaths Register Office, crematoria, Public Enquiry and Services Centres, mortuaries, hospitals and elderly homes etc.; and
  - (b) putting up printed advertisement and cooperate with non-governmental organisations which assist elders in planning after-death matters.
19. On top of our efforts to enhance consumer education, we will also remind operators of private columbaria of the need to:
- (a) comply with the statutory and government requirements and in cases of breach, to rectify the non-compliant elements as soon as possible; and
  - (b) notwithstanding that a law on private columbaria is still in the gestation stage, comply with the provisions of the Trade Descriptions Ordinance (Cap. 362) (TDO) in the course of conducting their business with consumers, including the requirements of not applying any false or misleading trade description to any goods or services. Anyone violating the relevant provisions of the TDO commits a serious offence and is liable on conviction on indictment to a fine of \$500,000 and imprisonment for five years, and on summary conviction to a fine at level 6 and imprisonment for two years.

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<sup>3</sup> At present, ashes may be stored temporarily in the relevant public crematoria free of charge in the first two months following cremation. If necessary, ashes may continue to be stored temporarily at a monthly fee of \$80. Within the coming two years, the FEHD will suitably increase the capacity of these temporary storage facilities to meet possible demand for such services, including the existing temporary storage facilities in Wo Hop Shek Cemetery and Kwai Chung Crematorium.

20. Various authorities / departments with enforcement powers as provided for under the relevant Ordinances (including the Planning Authority, the Lands Department, and the Buildings Authority) are continuing with their enforcement actions and prosecutions against various unauthorised private columbaria according to the respective Ordinances and enforcement policies, with a view to inducing the latter to seek early regularisation and rectification of the relevant breaches and non-compliance of the statutory and government requirements.

21. In October 2014, the Court of First Instance ruled in *Regal Shining Limited v. Secretary for Justice* (HCMP 2781/2012) that the term “human remains” in the leases encompasses “human ashes”. This judgment<sup>4</sup> provides a firm basis for the Lands Department to proceed with lease enforcement action in respect of this particular case as well as other similar cases of private columbaria operating on land subject to the same “no human remains” clause.

### **Presentation**

22. Members are invited to note the content of this paper.

**Food and Health Bureau  
Food and Environment Hygiene Department  
March 2015**

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<sup>4</sup> Currently, an appeal to the Court of Appeal has been filed by the operator concerned.

**Remaining Proposed Columbarium Projects  
under the District-based Columbarium Development Scheme**

	<b>District</b>	<b>Site</b>
1.	Wan Chai District	FEHD's Hong Kong Cemeteries and Crematoria Office (part thereof) at Wong Nai Chung Road
2.	Sha Tin District	Fu Shan columbarium extension
3.		A site on On Hing Lane, Shek Mun, next to Shatin Refuse Transfer Station
4.	Tsuen Wan District	A site at the eastern end of Sham Shui Kok Drive, Siu Ho Wan, North Lantau
5.		A site at the western end of Sham Shui Kok Drive, Siu Ho Wan, North Lantau
6.	Tai Po District	A site at the southwestern corner of the Shuen Wan Ex-Landfill, near Tai Po Industrial Estate
7.	Yuen Long District	A site between San Tam Road and Mai Po Lung Road, San Tin
8.	Islands District	Lai Chi Yuen extension at Mui Wo
9.	Kwai Tsing District	A site at the Ex-Kwai Chung Incineration Plant at Kwai Yu Street
10.		A site on Kwai Tai Road, southeast of Ex-Kwai Chung Incineration Plant
11.	North District	Surplus coffin burial grounds and other land within the Wo Hop Shek Cemetery, namely (i) Phase 2 development and (ii) Phase 3 development
12.	Sham Shui Po District	A site north of Ching Cheung Road near the Roman Catholic Cemetery
13.	Central and Western District	A site at Mount Davis Road, east of Chiu Yuen Cemetery
14.	Southern District	A site adjoining the Chinese Christian Cemetery at Pok Fu Lam
15.	Sai Kung District	A site at Area 132, Tsueng Kwan O, near the Tseung Kwan O Chinese Permanent Cemetery
16.	Kwun Tong District	A site next to the Ex-Ma Yau Tong Central Landfill Site
17.	Kowloon City District	A vacant staff quarter (part thereof) inside a funeral parlour at 6 Cheong Hang Road, Hung Hom
18.	Yau Tsim Mong District	Former school within Tin Hau Temple on Temple Street

**Government's Efforts to Protect Consumers' Interest  
before Commencement of the Private Columbaria Bill**

The measures undertaken to enhance consumer protection prior to the commencement of the Private Columbaria Ordinance (the Ordinance) are set out below. As in the case of other trades and industries, consumers who have sustained loss as a result of the non-compliant operation of private columbaria or their cessation of business may, should they feel aggrieved by the arrangements of the columbarium operators, seek remedies under the general consumer protection regime or through civil legal proceedings (such as seeking remedies in accordance with the contractual provisions).

2. To protect their own interests, consumers who choose to purchase or rent private niches before the commencement of the Ordinance should ask the private columbarium operators to provide –

- (a) comprehensive information so as to check whether the columbarium is in compliance with the relevant statutory and government requirements (including but not limited to those relating to planning, lands, building and fire safety); and
- (b) details of how their interests as consumers would be protected if the private columbaria cease operation due to unsuccessful applications for regularisation / licence / licence renewal or other reasons, such as actions to be taken by the operators to ensure that the interred ashes are properly disposed of, how the interests of the affected consumers are protected and other relevant arrangements to be made, including whether and if so how a refund or compensation would be made.

3. Consumers should pay attention and ascertain if contract terms are in place to protect their interests. They should refrain from making rash decision to avoid possible loss in the event that the columbaria concerned fail to get a licence in the future. Prior to obtaining sufficient information, members of the public should consider renting a niche on a short-term basis. They should also seek independent legal advice where necessary.

4. We must reiterate that it remains uncertain today whether an individual private columbarium could obtain a licence or not. Even if a licence is to be granted eventually, operators of private columbaria have no basis to foretell at this stage the maximum ash interment capacity that may be allowed in the licence, having regard to the regulations relating to planning, lands, building and fire safety. We will continue to enhance public education and awareness and remind consumers of the need to be discerning of claims made by operators of private columbaria.

5. In the past few years, the Government has been making efforts to enhance consumer education through various means, including broadcasting television and radio APIs, publishing and updating in a timely manner a pamphlet providing useful advice for consumers, and distributing the pamphlet through various channels (including Government websites) and at various points which those making after-death arrangements for their deceased relatives and friends would come across, such as the six crematoria, two cremation booking offices and two cemeteries and crematoria offices of the FEHD, the 16 hospitals under the Hospital Authority, 740 residential care homes for the elderly and the Seniors Expo held at the Hong Kong Convention and Exhibition Centre.

6. After the announcement of the Bill, we have launched a new round of publicity to further enhance consumer education. We have set up a hotline, broadcast APIs on radio, issued press releases and placed advertisements in newspapers. Through these, we have sought to disseminate the essence of the provisions of the Bill to the public, reiterate

our earlier advice for consumers and, in the light of the latest development, remind consumers of the importance to exercise due care.

7. The Consumer Council has also, through its Choice Magazine, expressed support for the direction taken by the Government and conveyed similar messages for the protection of consumer interests after the announcement of the Bill. We will continue to liaise with the Consumer Council, monitor the market situation closely and make further efforts to enhance consumer education and awareness from time to time.