

# 立法會 *Legislative Council*

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

### **Background brief prepared by the Legislative Council Secretariat for the meeting on 10 March 2015**

#### **Issues relating to columbarium facilities**

#### **Purpose**

This paper provides background information on issues relating to columbarium facilities and summarizes the main views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the subject.

#### **Background**

2. According to the Administration, its columbarium policy was underpinned by a three-pronged strategy which included enhancing the supply of public niches, regulating private columbaria and promoting green burials.

#### Supply of public niches

3. To enhance the supply of public niches, the Administration was promoting the district-based columbarium development scheme. It 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. The list of the 24 potential sites is in **Appendix I**. The Administration had advised the Panel that whether the 24 potential sites could eventually be used for developing columbarium facilities would depend on the results of various studies (e.g. technical feasibility studies, traffic impact assessments and engineering feasibility studies) as well as the support of District Councils ("DCs"). At the Panel meeting on 8 July 2014, members were advised of the progress of consultation with DCs as follows -

- (a) three sites were supported by three DCs, namely, the Diamond Hill project<sup>1</sup> by Wong Tai Sin DC, the Cheung Chau project<sup>2</sup> by Island DC, and the Tsing Tsuen Road project by Kwai Tsing DC;
- (b) three sites were supported in principle by two DCs (with requests for the Administration to explore enhancement in road infrastructure works before seeking funding approval from the Legislative Council ("LegCo")), namely, the Sandy Ridge and Wo Hop Shek sites by North DC, and the Tsang Tsui site by Tusen Mun DC; and
- (c) the possibility of securing the support of Shatin DC for the Shek Mun site remained uncertain.

The Administration expected that subject to the support of DCs and LegCo for the projects currently under planning, together with columbaria developed by private cemeteries<sup>3</sup>, the supply of new niches would cumulatively increase to hundreds of thousands by 2031.

4. In order to optimize the use of existing columbaria, the Food and Environmental Hygiene Department ("FEHD") had, with effect from January 2014, relaxed the arrangement of placing additional sets of ashes into public niches, including (a) relaxing the definition of "close relative"; and (b) allowing the public to place more than two sets of ashes in a standard niche and more than four sets in a large niche. To relieve the shortage and increase the supply of public niches, the Administration would explore new measures such as 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.

#### Regulation of private columbaria

5. The Administration briefed the Panel on the legislative proposal for regulating private columbaria at the meetings on 11 December 2012 and 19 November 2013. The Private Columbaria Bill ("the Bill") was introduced into LegCo in June 2014 to provide a licensing scheme for regulating the

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<sup>1</sup> The construction of 1 540 new niches in the Diamond Hill Columbarium was completed in early 2012.

<sup>2</sup> The construction of 1 000 niches in the Cheung Chau Cemetery was completed in December 2013.

<sup>3</sup> The Administration expected that the Board of Management of the Chinese Permanent Cemeteries would provide 35 600 new niches in the two years between 2014 and 2015, and the Chinese Christian Cemetery and the Buddhist Cemetery would provide 47 000 and 3 200 new niches respectively before the end of 2017.

operation of private columbaria<sup>4</sup>. According to the Administration, the proposed licensing scheme would achieve the policy objectives of (a) ensuring compliance with statutory and Government requirements, with suitable grandfathering arrangements for existing columbaria in tightly ring-fenced circumstances; (b) enhancing protection of consumer interests; and (c) ensuring a sustainable mode of operation.

6. Upon enactment of the Bill, all private columbaria which are not exempted<sup>5</sup> or given temporary suspension of liability ("TSOL")<sup>6</sup> must obtain a licence. Private columbaria seeking a licence must comply with all statutory and government requirements (including those relating to land leases or other land instruments, town planning and building safety) and submit a management plan. A columbarium operator must have a licence before he or she can sell (or offer for sale) interment rights. In the event of cessation of a columbarium operation, the Bill provides a skeleton framework for the prescribed ash disposal procedures for application to FEHD, operators and innocent third parties. Improper handling of interred ashes and/or abandoning a columbarium will be made offences.

#### Promoting green burials

7. According to the Administration, it had been promoting green burials, which included scattering of human ashes in Gardens of Remembrance ("GoR") or at sea, and paying tribute to the deceased through Internet Memorial Service. To encourage wider use of GoR, FEHD had constructed new and bigger GoR and planned to provide more GoR in future public columbarium sites. To encourage the scattering of ashes at sea, FEHD had streamlined the application procedures and provided free ferry service for the public. FEHD had also launched publicity and educational programmes to enhance public awareness and acceptance of green burials. In 2013, FEHD handled 2 354 cases of scattering of ashes in its GoR, and 798 cases of sea scattering.

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<sup>4</sup> "Private columbaria" include any premises that are used, or intended to be used, for keeping ashes. The term "ashes" means ashes resulting from the cremation of human remains, but excludes materials transformed from ashes, such as synthetic diamonds, jewellery or ornaments.

<sup>5</sup> The Bill proposed that to be eligible for the exemption status, the applicant must have commenced columbarium operation before 1 January 1990 and ceased the sale of new or unoccupied niches from the Bill announcement time, i.e. 18 June 2014 at 8:00 am.

<sup>6</sup> A columbarium which was in operation before the Bill announcement time could apply for TSOL status, under which the columbarium may continue operation (without selling interment rights) whilst action is being taken by the operator to seek regularization / rectification in order to obtain a licence or exemption. The period of TSOL is proposed to be set at no more than three years for the first time, and extended for no more than three years if warranted.

## **Members' concerns**

8. The Panel held a number of meetings between 2010 and 2014 to discuss issues relating to columbarium facilities. Members' main views and concerns on the subject are summarized in the ensuing paragraphs.

### Supply of public niches

9. 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. Noting that as of July 2014, only three of the 24 potential sites were supported by the relevant DCs, members were concerned whether the Administration could solicit support from all DCs to provide new public columbarium facilities in all the sites. The Administration was urged to provide a concrete implementation timetable for the 24 potential sites. Some members urged the Administration to conduct a trial scheme on new measures which could help address the shortage of niches, such as 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.

10. The Administration advised that while it had been adopting all feasible measures to increase the supply of public niches, 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 address various technical issues (such as traffic assessments and feasibility studies) and the concerns of neighbouring residents and DCs. As such, it would not be feasible to provide a concrete timetable for all the sites. The Administration would actively explore new measures so as to help reduce both vehicular and pedestrian flows during the grave-sweeping seasons, and bring the traffic impacts to an acceptable level, thereby allowing more niches to be built in new columbarium developments.

### Regulation of private columbaria

11. While members in general supported the introduction of a licensing scheme for regulating private columbaria, there were worries that if the Bill did not commence early, there might be complications during the intervening period such as operators of unauthorized columbaria rushing to sell off their niches and cessation of the operation of non-compliant columbaria. The Administration was urged to better protect the consumers, and enhance the public's understanding of the proposed licensing scheme and advise them to refrain from buying niches from non-compliant columbaria.

12. According to the Administration, the enactment of the Bill would provide FEHD with justifiable grounds for effective enforcement actions against unauthorized private columbaria. To facilitate members of the public to make informed decisions when purchasing niches before the enactment of the Bill, the Development Bureau ("DEVB") had since December 2010 updated regularly the Information on Private Columbaria ("the List") and had uploaded the List onto DEVB's website for public inspection. Furthermore, the Administration had launched a series of publicity efforts to enhance public awareness of the possible risks inherent in buying niches from unauthorized private columbaria. The Administration would also collaborate with the Consumer Council to further encourage consumers to make thorough enquiries about whether the operation of the private columbarium concerned had complied with the relevant statutory requirements. The Administration had reminded the columbarium operators of their responsibilities to provide consumers with accurate, true and relevant information on their product description, in order to avoid contravening the Trade Descriptions Ordinance (Cap. 362). The Customs and Excise Department would look into complaints about non-compliant cases reported by the public.

13. Some members pointed out that there were cases where consumers had already paid to unauthorized columbaria for niches before the Bill announcement time but had yet to place ashes of their deceased family members/relatives in these niches. These members were concerned about the rights of the deceased who had paid for the niches before death and purchasers of niches earmarked for the future use by themselves or their relatives. The Administration was urged to consider seriously how to protect the interest of these consumers.

14. The Administration advised that as exemption for dated private columbaria involved allowing the columbaria to continue their operation without meeting all statutory and Government requirements and without obtaining a licence, it was necessary to adopt a more stringent standard to prevent the mechanism from being abused. That said, the Administration kept an open mind on the handling the niches which had been sold before the announcement of the Bill but were yet to be occupied. With the information collected through FEHD's Notification Scheme for Pre-Bill Columbaria and the relevant verification work, the Administration would have a better grasp of the actual situation, including the number of niches in private columbaria that had been sold but were not yet occupied.

#### Green burials

15. Concern was raised about the low usage of green burials, which amounted to only about 8% of the annual number of deaths. Some members considered

that green burials could help address the problem of insufficient columbarium facilities. They urged the Administration to step up the promotion and public education to change the mindset of members of the public and to encourage more people to choose green burials.

16. According to the Administration, it was taking steps to promote green burials by fostering a change in mindset and encouraging community acceptance. Between 2007 and 2014 (up to 30 June 2014), there were 9 779 and 4 142 cases of ashes scattered in GoR and at sea respectively. To encourage the scattering of ashes at sea, FEHD had increased the frequency of the free ferry service from once a month when it was introduced in 2010 to currently four times a month. The vessel could accommodate over 300 passengers per sail (i.e. servicing about 25 families), and there were also facilities to accommodate different religious rituals. The Administration would keep in view the demand for the ferry service and consider enhancing the service as needed.

### **Recent developments**

17. The House Committee formed a Bills Committee to study the Bill on 27 June 2014. According to the Administration's paper on the work plan of the Bills Committee on the Private Columbaria Bill ("the Bills Committee") [LC Paper No. CB(2)431/14-15(03)], if the Bills Committee completed its scrutiny by the last quarter of 2015 and the resumption of the second reading of the Bill could take place in the first quarter 2016, the Private Columbaria Ordinance could commence on or before 1 July 2016

18. The Administration will brief the Panel on the latest development of the supply of public niches and regulation of private columbaria at the meeting on 10 March 2015.

### **Relevant papers**

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

## Appendix I

### The 24 sites identified for public columbarium development

1	Eastern	A site on Cape Collinson Road, opposite the Chai Wan Chinese Permanent Cemetery Columbarium and next to Wan Tsui Estate Park
2	Wong Tai Sin	Diamond Hill columbarium extension
3	Sha Tin	A site on On Hing Lane, Shek Mun, next to Shatin Refuse Transfer Station
4	Sha Tin	Fu Shan columbarium extension
5	North	Surplus coffin burial grounds and other land within the Wo Hop Shek Cemetery
6	North	Undeveloped areas within the Sandy Ridge Cemetery
7	Tuen Mun	Part of the Tsang Tsui ash lagoon next to Black Point Power Station
8	Kwai Tsing	Ex-Kwai Chung Incineration Plant on Kwai Yu Street
9	Kwai Tsing	A site on Kwai Tai Road, southeast of ex-Kwai Chung Incineration Plant
10	Kwai Tsing	A site on Tsing Tsuen Road near the Tsuen Wan Chinese Permanent Cemetery
11	Islands	Cheung Chau Cemetery extension
12	Islands	Mui Wo Lai Chi Yuen extension
13	Central and Western	A site at Mount Davis Road, east of Chiu Yuen Cemetery
14	Wan Chai	FEHD's Hong Kong Cemeteries and Crematoria Office (part thereof) at Wong Nai Chung Road
15	Shum Shui Po	A site north of Ching Cheung Road near the Roman Catholic Cemetery

16	Kwun Tong	A site next to the Ex-Ma Yau Tong Central Landfill Site
17	Yau Tsim Mong	Former school within Tin Hau Temple on Temple Street
18	Southern	A site adjoining the Chinese Christian Cemetery at Pok Fu Lam
19	Kowloon City	A vacant staff quarter (part thereof) inside a funeral parlour at 6 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
22	Yuen Long	A site between San Tam Road and Mai Po Lung Road, San Tin
23	Tai Po	A site at the southwestern corner of the Shuen Wan Ex-Landfill, near Tai Po Industrial Estate
24	Sai Kung	A site at Area 132, Tsueng Kwan O, near the Tseung Kwan O Chinese Permanent Cemetery

**Source:** Annex A to the Administration's paper provided for the Panel meeting on 11 December 2012 [LC Paper No. CB(2)304/12-13(05)].



**Relevant papers on  
Supply of public niches and regulation of private columbaria**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Food Safety and Environmental Hygiene	9.2.2010 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	6.7.2010 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	20.9.2010 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	12.4.2011 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	13.12.2011 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	16.3.2012 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	11.12.2012 (Items III and IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	19.11.2013 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
House Committee	27.6.2014 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	8.7.2014 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>