

立法會
Legislative Council

LC Paper No. CB(1)1960/05-06(16)

Ref: CB1/PL/PS

**Panel on Public Service and
Panel on Planning, Lands and Works**

Joint meeting on 17 July 2006

**Background Brief
on consultancy study on private certification of building submissions**

Purpose

This paper sets out the background information about the consultancy study on private certification of building submissions (Consultancy Study), and summarizes the major views and concerns expressed by Members at the meetings of the Panel on Planning, Lands and Works (PLW Panel) on 13 July and 20 December 2005.

Consultancy Study

Background

2. Under section 14 of the Buildings Ordinance (Cap. 123), any person intending to carry out any building works, other than works exempted under section 41 of the Ordinance, should submit plans to and obtain prior approval from the Building Authority, i.e. the Director of Buildings. The Building Authority, in response to an application for approval of a building plan submission, will vet the plan(s) and then either approve or disapprove the plan(s).

3. Private certification of building submissions is one of the measures being considered by the Task Force to Review the Construction Stage of the Development Process (Task Force) for streamlining the building plan approval process. The Task Force was established under the Provisional Construction Industry Co-ordination Board (PCICB) in December 2004 to undertake the task requested by the Subgroup on Business Facilitation of the then Economic and Employment

Council (i.e. the current Business Facilitation Advisory Committee (BFAC)¹) to identify measures to speed up the construction cycle and reduce the cost of compliance with existing statutory requirements. As consultation with various industry stakeholders had revealed several fundamental issues² requiring in-depth examination, the Task Force decided in May 2005 that a consultancy study be commissioned to examine the subject holistically before making recommendations on whether private certification was worthy of further consideration.

4. When the subject was discussed at the PLW Panel meeting on 13 July 2005, members expressed strong reservation on the idea of outsourcing approval of building submissions to private entities. Noting that the Consultancy Study would be funded by the Office of the Financial Secretary (FS), members agreed that the Chairman of the Panel should write to FS relaying to him their concerns about the Study and calling for its cancellation. The letter dated 18 July 2005 from the Chairman of the PLW Panel to FS and the FS Office's reply dated 24 August 2005 are in **Appendices I and II** respectively.

5. On 17 October 2005, the Chairman of the Task Force wrote to the Chairman of the PLW Panel indicating that having considered the views of the Panel, the Task Force had decided to suspend the preparatory work for the Consultancy Study so as to explore the way forward with the Panel. The Chairman of the Task Force's letter is in **Appendix III**.

6. When the subject was further discussed at the PLW Panel meeting on 20 December 2005, some members expressed support for the Consultancy Study while some other members raised queries and concerns. The Task Force subsequently commissioned the Consultancy Study in February 2006.

Purpose and scope of the Consultancy Study

7. The overall objective of the Consultancy Study is to consider the feasibility of improving the building plan approval process through undertaking appropriate checking of building design and certification by private professionals while retaining the existing checks and balances for assuring the health and safety of building users and the general public and minimizing changes to the statutory framework.

¹ The Economic and Employment Council was disbanded in December 2005 and the BFAC was formed in February 2006 to continue its business facilitation functions.

² The following implementation issues had been raised in the discussions of the Task Force:

- (a) independence of third party checkers;
- (b) commercial viability of third party checking;
- (c) availability of insurance to third party checkers;
- (d) public confidence in third party checking;
- (e) quality of work by third party checkers;
- (f) uniformity of standards; and
- (g) co-ordination between government departments and third party checkers.

8. The specific scope of the Consultancy Study includes –
- (a) documenting the current procedures for making, processing and approving building submissions;
 - (b) ascertaining the problems and issues arising from the building submission process that affect the cost and programme of property development;
 - (c) identifying the problems and issues that can be tackled through private certification and assessing the effectiveness of private certification in resolving them;
 - (d) ascertaining the benefits of private certification as well as drawbacks, risks and issues which may affect its implementation and formulating solutions;
 - (e) developing an implementation strategy for private certification; and
 - (f) formulating proposals for conducting and monitoring trials on private certification.
9. According to the Task Force, while the Consultancy Study includes development of solutions for implementation issues and formulation of implementation proposal, these are only ancillary tasks for verifying the feasibility of private certification to facilitate the Task Force in drawing up recommendations to BFAC.

Progress of the Consultancy Study

10. The Study Consultants have completed studies on the private certification systems of five selected countries including Australia, China (Shanghai and Shenzhen), Japan, Singapore and the United Kingdom (England and Scotland). The Study Consultants have also conducted interviews with various stakeholders including staff unions, government departments, professional institutions, trade associations, client organizations and academic institutions to gather their views on the current problems and issues affecting the building submission process and their comments on the private certification proposals. The Study Consultants will take into account the research findings in formulating the recommendations of the study.

Work plan

11. According to the information provided by the Task Force in June 2006, the work plan for the Consultancy Study is as follows:

Tentative Milestones	Activity
Jul 2006	Issue of Draft Final Report to industry stakeholders for comments
Aug/Sept 2006	Submission of comments on Draft Final Report by industry stakeholders Preparation of Final Report and Response to comments Consideration of Final Report by the Task Force and formulation of its recommendations on private certification
Oct 2006	Consideration of recommendations of the Task Force by PCICB
Nov/Dec 2006	Consideration of recommendations of the Task Force by BFAC
Early 2007	Presentation of recommendations of the Task Force to relevant Legislative Council Panels

The Administration's view

12. In the reply dated 30 June 2005 to the Clerk to the PLW Panel, the Secretary for Housing, Planning and Lands indicated that the suggestion on private certification of plans was raised by the Task Force. From the Building Department (BD)'s angle, the suggestion carried far reaching implications and a number of key issues, including the impartiality of the certifiers, consistency of standards, public receptiveness, the commercial viability of third party checking and availability of insurance to third party checkers would need to be fully addressed and resolved.

13. In the paper presented to the PLW Panel for its meeting on 13 July 2005, BD indicated that the relevant issues of concern should be fully addressed and resolved and a consensus among stakeholders concerned should be firmly established before the matter could be taken forward.

Members' major views and concerns expressed at PLW Panel meetings

14. Members' major views and concerns expressed at the PLW Panel meetings on 13 July and 20 December 2005 on private certification of building submissions are summarized as follows:

- (a) Conflict of interest
Given that the suggestion to outsource certification of building submissions was made by the Task Force and certain members of the Task Force were construction professionals or property developers who would benefit from the suggestion, conflicts of interests might arise.
- (b) Outsourcing of statutory power
The statutory power of approving building plans should not be outsourced lightly to private entities because it would effect a major change to the statutory framework for building plan approval, which involved public safety and significant commercial interests.
- (c) Views in support of conducting the Consultancy Study
Given that the current approval procedures had become very complicated and some regulations were outdated and problematic, the Consultancy Study could explore the option of private certification for speeding up the vetting process and construction cycle. However, the Government should bear the final responsibility in approving building plans. If the Consultancy Study concluded that private certification was not feasible, status quo could be maintained. Without the Consultancy Study, however, there was no way of moving ahead a further step and identifying possible areas for improvement.
- (d) Queries and concerns on conducting the Consultancy Study
 - (i) As BD had all along been making efforts to expedite and simplify the building plan vetting process, query was raised on the need for conducting the Consultancy Study;
 - (ii) Given that private certification of building submissions involved a number of fundamental issues, the Government should deal with these fundamental issues before proceeding with the Consultancy Study;
 - (iii) Concern was raised on whether other government departments had the experience of allowing private professionals to certify matters that involved public safety and public interest. Private certification of building submissions might set an undesirable precedent jeopardizing public interest;
 - (iv) The Administration should stand firm in safeguarding public interest instead of submitting to the request from the private

sector for private certification. It would be a waste of public moneys to conduct the Consultancy Study before discussing the relevant principles and reaching a consensus on its implementation; and

- (v) The Consultancy Study, which would cost \$1.3 million, should be cancelled so as to avoid wasting resources.

15. The extracts of the minutes of the PLW Panel meetings on 13 July and 20 December 2005 are in **Appendices IV and V** respectively.

Recent developments

16. The Hong Kong Senior Government Officers Association wrote to the Chief Executive on 26 April 2006 raising its strong objection to the Consultancy Study.

17. Noting the concerns raised by 14 civil service staff associations about the Consultancy Study and the impact of private certification of building submissions on civil servants, the Panel on Public Service (PS Panel) decided at its meeting on 15 May 2006 that the Task Force should be invited to provide information about the Consultancy Study. Having considered the information provided by the Task Force, the PS Panel and the PLW Panel decided in June 2006 that a joint meeting of the two Panels be held on 17 July 2006 for Members to discuss the subject with representatives of the Administration, the Task Force, and the civil service staff associations concerned.

References

18. A list of relevant papers is in **Appendix VI**.

Council Business Division
Legislative Council Secretariat
14 July 2006

CB(1)525/05-06(04)

傳真號碼：2840 0569

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唐英年先生, GBS, JP

唐先生：

規劃地政及工程事務委員會

由私人專業人士核准建築圖則

在 2005 年 7 月 13 日舉行的規劃地政及工程事務委員會會議席上，委員曾討論政府當局所提出的由私營界別的獨立核查人處理和核准建築圖則的建議。出席該次會議的委員察悉並關注到，檢討發展過程施工階段專責小組(下稱“專責小組”)已同意就私人核准圖則一事委聘顧問公司進行研究。

委員認為，核准建築圖則屬建築事務監督的法定權力，不應輕率外判予私營界別。由私人核准建築圖則將會牽涉多項重大問題，例如第三者核查人的獨立性、公眾對第三者核查的信心，以及第三者核查人的工作質素等。與會的委員強調，政府當局應首先處理最基本的問題，亦即把法定權力外判的做法是否適當的問題。鑒於當局並無進行廣泛的諮詢，亦未能就此課題取得共識，委員認為專責小組不應倉促地着手進行上述顧問研究，因為該項顧問研究旨在處理私人核准建築圖則在實施上的問題。委員籲請政府當局取消該項顧問研究。

委員察悉，該項顧問研究的經費將由財政司司長辦公室支付。委員在上述會議席上商定，由本人向閣下轉達他們的關注意見及要求，並請閣下加以考慮。

祈請早日賜覆。

規劃地政及工程事務委員會主席

(劉皇發)

2005年7月18日

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Financial Secretary's Office
Government of the Hong Kong
Special Administrative Region
of the People's Republic of China

CB(1)110/05-06(01)

香港
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劉議員：

規劃地政及工程事務委員會
由私人專業人士核准建築圖則

謝謝您 7 月 18 日致財政司司長的來函，轉達事務委員會對「檢討發展過程施工階段專責小組」(下稱：“專責小組”)有關建議委聘顧問公司研究私人核准圖則一事的意見。

財政司司長對於事務委員會的關注備悉。我們從專責小組方面得悉，小組委員對應否推行私人核准持開放的態度，並沒有意圖透過顧問研究把私人核准圖則變成既定事實。我們相信專責小組在進一步考慮事務委員會對顧問研究之意見以後，會再向您們匯報最新的進展。

財政司司長辦公室政務助理袁莎妮



二零零五年八月二十四日

副本送(連附件)：Total= 3 pages

臨時建造業統籌委員會秘書處

檢討發展過程施工階段專責小組主席

政府經濟顧問 (傳真號碼：2527 5571)

(傳真號碼：2189 7990)

TRANSLATION

CB(1)87/05-06(01)

2605 6262

2314 2524

17 October, 2005

Hon LAU Wong-fat,
F4-6, 1/F, Eldo Court,
Tuen Mun Heung Sze Wui Road,
Tuen Mun,
New Territories.

Dear Hon Lau,

Panel on Planning, Lands and Works

Approval of Building Plans by Private Professional

I refer to your letter of 18 July 2005 to the Financial Secretary expressing the concerns of the Panel on Planning, Lands and Works (the panel) on the study on private certification of building submissions proposed by the Task Force to Review the Construction Stage of the Development Process (the task force) and the Financial Secretary's Office's response of 24 August 2005 indicating that the task force would report on the latest developments after considering the views of the panel.

The task force has carefully considered these views and decided to suspend the preparatory work of the proposed study so as to explore the way forward with the panel. In this regard, we wish to clarify the scope and objectives of the proposed study and the position of the task force on private certification.

The task force was established in December 2004 and consists of representatives from key industry sectors including professionals, contractors, client organizations and government departments. Its task is to conduct a review of the regulatory regime governing the construction stage of the development process and to make recommendations to the Economic and Employment Council Sub-group on Business Facilitation (EECSG) on ways for speeding up the construction cycle and reducing

the cost for complying with prevailing statutory requirements. Private certification is one of the improvement measures being explored.

The task force fully agrees with the Panel's view that the statutory authority to approve building plans should not be outsourced lightly to private entities. In view of its far-reaching implications, the task force proposes to conduct the study to assess private certification holistically and to examine the key issues so as to facilitate making prudent and pragmatic recommendations on whether private certification should be further considered. The main objectives of the study are –

- to ascertain the problems arising from the existing building submission process;
- to identify the problems that can be tackled through private certification and assess the effectiveness of private certification in resolving them;
- to evaluate the benefits of private certification; and
- to assess the drawbacks, risks and issues which may affect its implementation.

I wish to clarify that the study is NOT part of the preparatory work for introducing private certification on which the task force is still maintaining an open mind. Nor will the study turn private certification into a fait accompli since the eventual decision on introducing private certification is outside the ambit of the task force. While the study includes development of solutions for the implementation issues and formulation of proposal for implementation, these are only ancillary tasks for verifying the feasibility of private certification to serve as reference in drawing up the recommendations to EECSG.

The issues highlighted by the panel will be considered under the study. With the limited resources available, the task force cannot conduct in-depth examination of these issues without the help of consultants. The task force has also considered the suggestion to consult the public and thinks that it would be more appropriate to do so after the major issues on private certification have been adequately examined.

I hope that the Panel will support the proposed study which will examine private certification as one of the important strategies for improving the regulatory regime for the construction stage of

development projects. The attention given to the recent report of the World Bank on Doing Business in 2006 is a clear reminder that continuous improvements to the regulatory regime are crucial for maintaining the competitiveness of the local economy.

We will be pleased to discuss with the Panel on the way forward on private certification.

Yours sincerely,

Francis Bong,
Chairman,
Task Force to Review the Construction Stage of
the Development Process

cc Government Economist
(Attn. Mr David Hooi)
Administration Assistant to Financial Secretary
Secretary for Housing, Planning and Lands
(Attn. Ms Olivia Nip)
Chairman, Provisional Construction Industry
Co-ordination Board

**Extract from the minutes of meeting
of the Panel on Planning, Lands and Works on 13 July 2005**

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V Certification of building plans by private professionals

(LC Paper No. CB(1)1996/04-05(07) -- Information paper provided by the Administration

LC Paper No. CB(1)1981/04-05(01) -- Letter dated 30 June 2005 from the Administration concerning the Administration's plan to outsource certification of building plans to private professionals)

33. DS/HPL(P&L)2 briefed members on the suggestion of processing and certification of building plans by independent checkers in the private sector.

34. Messrs Albert CHAN and LEE Wing-tat considered that checking of building plans was a statutory power of the Building Authority which should not be outsourced to the private sector lightly because the move would effect a major change to the statutory framework for building plan approval, which involved public safety and significant commercial interests. In particular, private certification of building plans would involve major issues such as independence of third party checkers, public confidence in third party checking and quality of work by third party checkers. Noting that the suggestion to outsource certification was made by the Task Force to Review the Construction Stage of the Development Process (the Task Force), Mr CHAN also expressed concern about conflicts of interests having regard that certain members of the Task Force were construction professionals or property developers who would benefit from the suggestion.

35. In response, DS/HPL(P&L)2 reported that whilst acknowledging the Task Force's role in facilitating the construction progress, BD's representatives on the Task Force had expressed a number of concerns at the relevant meetings, in particular those related to public safety and interests, and urged that they be fully addressed and resolved before the matter could be taken forward. In the light of the implementation issues raised, the majority view of the Task Force was that it was desirable to conduct a consultancy study to further examine the suggestion. The Assistant Director of Buildings/New Buildings (1) supplemented that the suggestion had been made by the Task Force as a cost-reducing measure in line

with practices in some overseas regimes. In consideration that implementation of the suggestion in the local context would involve a major change to the statutory framework for building plan approval, and might involve a number of implementation issues as highlighted in paragraph 5 of the Administration's paper, the Task Force agreed that a consultancy study should be commissioned to examine the suggestion holistically to decide whether it was viable in Hong Kong. He undertook to convey members' views to the Task Force for its consideration.

36. Messrs Albert CHAN and LEE Wing-tat stressed that the Administration should first deal with the fundamental issue of whether it was appropriate to outsource a statutory power. Without wide consultation and in the absence of a consensus on the subject, the Administration should not hastily go ahead with the consultancy study as if the suggestion had already been endorsed. Mr CHAN further pointed out that the move was both disquieting to BD staff and unsettling to the public, especially as the decision to commission the study had been made with little transparency and no consultation with LegCo. He therefore urged the Administration to consult the public on the relevant principles first. Mr LEE further opined that the Task Force, which raised the suggestion, should be made aware of the above concerns and the controversy likely to arise.

37. The Acting Deputy Secretary for the Environment, Transport and Works (Works)2 (DS/ETW(W)2(Atg.) clarified that he was attending the Panel in his capacity as the PCICB Secretariat instead of the representative of the Environment, Transport and Works Bureau to explain the position of the Task Force. He explained that the Task Force proposed to conduct the consultancy because private certification would have far-reaching implications on the regulatory regime and would involve a number of key issues which would have to be carefully addressed and resolved. The study would identify the pros and cons of private certification which would help the Task Force in making recommendations on the initiative.

38. Pointing out that property developers had to pay for the processing of their building plans and hence would indirectly pay the independent checkers, Mr James TO Kun-sun expressed concern about conflicts of interests that might arise from private certification. He also believed that the public would not accept the suggestion in consideration of the uncertainties that might arise as regards the impartiality of the certifiers, consistency of standards, the commercial viability of third party checking and availability of insurance to third party checkers, etc. Noting that the study would cost \$1.3 million, he called upon the Administration to cancel the study so as to avoid wasting resources, or to gauge public receptiveness of the suggestion first before studying further details. In response, DS/HPL(P&L)2 assured members that representatives of BD and the PCICB Secretariat on the Task Force would relay members' views to the Task Force.

39. Mr Albert CHAN opined that the Administration should stand firm to safeguard public interests instead of submitting to the request from the private sector for private certification, especially as there were already many building

problems. He considered it a waste of public money to conduct the study before discussion of the relevant principles and a consensus on its implementation. Noting that the study would be funded by the Office of the Financial Secretary (FS), members agreed that the Chairman should write to FS relaying to him their concerns about the study and calling for its cancellation.

(Post-meeting note: The draft letter to FS was circulated for members' comments vide LC Paper Nos. CB(1)2067/04-05 and CB(1)2068/04-05 on 14 July 2005. The letter was issued to FS on 18 July 2005.)



**Extract from the minutes of meeting
of the Panel on Planning, Lands and Works on 20 December 2005**

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IV Private certification of building submissions

- (LC Paper No. CB(1)304/05-06(01) -- Information paper on “Private certification of building submissions” provided by the Administration
- LC Paper No. CB(1)525/05-06(03) -- Letter dated 25 November 2005 from Hon LEE Wing-tat
- LC Paper No. CB(1)1996/04-05(07) -- Information paper on “Certification of building plans by private professionals” provided by the Administration
- LC Paper No. CB(1)1981/04-05(01) -- Letter dated 30 June 2005 from the Administration concerning the Administration’s plan to outsource certification of building plans to private professionals
- LC Paper No. CB(1)525/05-06(04) -- Letter dated 18 July 2005 from the Panel Chairman to the Financial Secretary on “Certification of building plans by private professionals”
- LC Paper No. CB(1)110/05-06(01) -- Letter dated 24 August 2005 from the Financial Secretary to the Panel Chairman on “Certification of building plans by private professionals”
- LC Paper No. CB(1)87/05-06(01) -- Letter dated 17 October 2005 from Task Force to Review the Construction Stage of the Development Process on “Certification of building plans by private professionals”
- LC Paper No. CB(1)2362/04-05 -- Minutes of meeting on 13 July 2005)

Presentation by the Provisional Construction Industry Co-ordination Board

4. The Deputy Secretary for the Environment, Transport and Works (Works) 2 (DS/ETW(Works)2) explained that regulation of the property development process was under the purview of the Housing, Planning and Lands Bureau (HPLB) and there were representatives from HPLB attending the meeting of the Panel held on 13 July 2005 when the subject of private certification of building submissions was first discussed. Since the Administration had not yet proceeded to the policy formulation stage in respect of the subject, the Administration considered that the attendance of HPLB's representatives at the present Panel meeting was not necessary. He assured members that the Administration would not formulate any related policy before the subject had been fully studied.

5. DS/ETW(Works)2 then briefed members on the background to the proposed consultancy study on private certification of building submissions. He made the following points –

- (a) The Economic and Employment Council chaired by the Financial Secretary was established in January 2004. The Economic and Employment Council Subgroup on Business Facilitation (EECSG) was established to facilitate business development and job creation through identifying and eliminating outdated, excessive, repetitive or unnecessary government regulations.
- (b) EECSG had embarked on a comprehensive review of the regulatory regime for the property development process. The review was divided into two parts: one covering lands and planning matters related to the construction stage and the other covering the construction stage. EECSG had requested the Provisional Construction Industry Co-ordination Board (PCICB) to undertake the second part of the review.
- (c) Environment, Transport and Works Bureau officials were attending this Panel meeting in their capacity as members of the PCICB Secretariat while the representative from Buildings Department (BD) would provide information on the relevant regulatory issues where needed.

6. The Chairman of the PCICB Task Force to Review the Construction Stage of the Development Process (Chairman of the Task Force) made the following points –

- (a) The Task Force was charged with the task of reviewing the regulatory system in respect of the construction of property development and making recommendations to EECSG on how to speed up the construction cycle and reduce the cost of compliance

with prevailing statutory requirements. Private certification of building submissions was one of the possible enhancement measures being examined by the Task Force. The statutory power of approving building plans rested with the Building Authority. A lot of vetting work in the technical aspects, currently undertaken by BD, was required in the approval process. The Task Force was exploring the feasibility of engaging professionals of the private sector to share the workload, thereby enabling greater flexibility in the vetting process.

- (b) The Task Force agreed with the Panel that statutory powers should not be outsourced lightly to private entities. The primary objective of private certification was not the outsourcing of statutory powers, but to streamline the approval process through engaging private professionals to undertake appropriate checking of building design while retaining the existing checks and balances and minimizing changes to the statutory framework.
- (c) As private certification had been implemented for some time in countries such as the United Kingdom, Australia and Singapore, some stakeholders of the construction industry considered it worthwhile to explore whether private certification would be applicable in Hong Kong. They expected that private certification would speed up the approval process, shorten the property development cycle and reduce the development cost, thereby encouraging investment in real estates and benefiting the whole society. Whether overseas experience would be applicable in Hong Kong and the anticipated merits of private certification would require further verification.
- (d) The Task Force was not recommending the implementation of private certification. It only recommended that a consultancy study be conducted to ascertain the feasibility, assess the merits and drawbacks as well as risks, and identify implementation issues of private certification so as to facilitate PCICB to make a recommendation to EECSG as to whether private certification should be pursued. The consultancy study would not turn private certification into a fait accompli.
- (e) It would take about three to four months to complete the study and the cost involved was about \$1.3 million. In view of the potential benefits of private certification, it was value-for-money to conduct the consultancy study. The attention given to the recent report of the World Bank on Doing Business in 2006 was a clear reminder that continuous improvements to the regulatory regime were crucial for maintaining the competitiveness of the local economy.

7. Mr W H LAM pointed out that there was a wide range of building plans requiring approval by BD in the course of a construction project. For simple construction projects, the number of steps needed might be some 250. For complicated projects, the number of steps might reach some 700. The building plans requiring approval could be broadly divided into two categories. The first category was related to basic principles such as general building plans. These plans included information such as the density of the development and required approval from many Government departments. In exploring the feasibility of private certification, no consideration had been given to including the first category of plans. Rather, the focus was on the second category which was related to technical matters such as sewers, curtain walls and fire fighting systems. Through the consultancy study, it was hoped that the feasibility of private certification or otherwise could be established. The Task Force remained open on the issue.

Discussion

Merits and drawbacks of private certification

8. Mr CHEUNG Hok-ming enquired about the views of the Task Force on the merits and drawbacks of private certification. In reply, the Chairman of the Task Force pointed out that private certification would be useful in handling technical matters, especially those related to amendments of building plans for which BD had to process the certification within a statutory period of time ranging from 28 to 60 days. As many amendments were inter-related, it might take a long time for completing the whole certification process. Private certification could speed up the process. In relation to drawbacks of private certification, there were concerns on issues such as the independence and quality of work of third party certifiers and public confidence in private certification. Although private certification was being practiced in some overseas places, an independent and comprehensive consultancy study would assist the Task Force in reaching a conclusion.

9. Acknowledging that private certification had both merits and drawbacks, Mr CHEUNG Hok-ming asked how the Administration would strike a balance between the two in coming to a conclusion. The Assistant Director/New Buildings 1 of the Buildings Department (AD/NB1) replied that at this stage, BD held an open attitude on private certification. BD would give consideration to any proposed mechanism that would be beneficial for society without compromising building safety. Issues such as commercial viability of private certification, availability of insurance for private certifiers and the need for legislative amendments would need to be investigated in the consultancy study. BD was prepared to further study the subject after the completion of the consultancy study.

10. The Chairman of the Task Force commented that for concerns such as public confidence in private certification and independence of private certifiers,

consideration could be given to formulating codes of professional practice, guidelines and independent technical audits.

11. Mr Abraham SHEK expressed support for exploring private certification of building submissions in view of the potential benefits to the economy of Hong Kong. He commented that the organizational structure of the Government was large and some regulations were outdated and problematic. Through private certification and eliminating undesirable regulations, the construction cycle could be speeded up. The private sector had the expertise and experience required for private certification. He agreed to the view that the Administration should bear the final responsibility in approving building plans and that the process should be transparent. He pointed out that if in the end the consultancy study found out that private certification was not feasible, status quo could be maintained. Without the consultancy study, there was no way of moving ahead a further step and identifying possible areas for improvement. He hoped that other members would support conducting the consultancy study.

12. Mr WONG Yung-kan asked how the Administration would address the various concerns on private certification. He considered that the large organizational structure of the Government and the established procedures might be the main reasons for the lengthy processing period required for vetting building plans at present. He asked whether the Administration would consider including a review of the organizational structure of the Government in the consultancy study. He sought clarification on the level of responsibility that the Administration would have to take up in the case of implementation of private certification. He asked whether the Administration had any stance on private certification.

13. The Chairman of the Task Force said that the proposed consultancy study would identify problems in the existing building plan vetting process and recommend solutions to those problems. AD/NB1 supplemented that all along BD had been making efforts to expedite and simplify the building plan vetting process. Since 2002, BD provided consultation service for submission of building plans and used electronic means to check the calculation of building areas. Certain procedures relating to amendments of building plans had been simplified. Moreover, since 2003, BD, Lands Department and Planning Department had issued Joint Practice Notes to streamline the approval procedures. BD would continue to streamline approval procedures as appropriate.

14. Mr WONG Yung-kan queried the need for conducting the consultancy study if BD was already putting in efforts to streamline the approval procedures. In response, AD/NB1 explained that private certification was a new idea raised by the construction industry with a view to speeding up the construction cycle. The consultancy study would investigate the feasibility and merits of private certification and, if private certification was pursued, the degree to which private certification would be applied in Hong Kong. The consultancy study and the Administration's enhancement measures could proceed in parallel.

15. Mr Alan LEONG asked whether the fact that BD would not maintain a large number of permanent staff was a reason for proposing private certification and whether the final responsibility for approval of building plans would still be rested with BD. He also enquired whether the proposed consultancy study would include the feasibility of final certification of building plans by private professionals. Mr W H LAM replied that the consultancy study would identify appropriate methods for implementing private certification. One possible method would be for BD to engage private professionals to perform the certification of certain building submissions on behalf of BD. Another possible method would be for building submissions to undergo checking by private professionals, and the building submissions together with the reports of checking would be submitted to BD for approval. The proposed consultancy study would identify methods which were efficient and safe and could safeguard public interest.

16. Mr Patrick LAU expressed support for the proposed consultancy study, which he hoped would be comprehensive covering the design and construction aspects. He commented that the current approval procedures had become very complicated and with the implementation of private certification, the vetting process could be speeded up and this would be beneficial for the development of Hong Kong.

Outsourcing of statutory power

17. Mr Albert HO pointed out that many policies relating to privatization had attracted a lot of disputes. He considered that certification of building submissions was a statutory power which should not be outsourced to the private sector lightly. In considering the feasibility of private certification, the fundamental issue of whether it was appropriate to outsource a statutory power had to be resolved first. He was concerned that private certification of building submissions, if implemented, would set a precedent for other statutory powers and asked whether the Administration had any policy in this regard.

18. In response to Mr HO's concerns, the Chairman of the Task Force emphasized that private certification of building submissions was not aimed at outsourcing statutory power. Rather, it was aimed at engaging professionals in the private sector to assist in the building design certification process by sharing the workload and speeding up the approval process. The Administration should maintain a monitoring role and existing checks and balances should be maintained. Mr W H LAM supplemented that the focus of private certification would be on technical and professional aspects for which BD had no appropriate expertise to handle, such as complicated fire engineering works, curtain walls and advanced structures. He pointed out that professionals in the private sector had already been engaged in the checking of building submissions in some other Government projects such as the Tsing Ma Bridge.

19. Noting the above explanation, Mr Albert HO said that engaging professionals in the private sector to carry out the checking of building

submissions was not a major problem. The key issue was who would be the final approving authority and who would be held accountable for the approval. His main concern was whether the Administration would bear the final responsibility. In response, the Chairman of Task Force responded that the aim of conducting the proposed consultancy study was to address the concerns raised by members, identify what aspects of building submissions would be suitable for private certification and assess the associated risks.

20 Mr Albert HO asked whether other Government departments had experience in allowing private professionals to certify matters that involved public safety and public interest. He was worried that private certification of building submissions would set an undesirable precedent jeopardizing public interest. He asked whether the Administration had any policy direction in this regard because it would be a point for consideration if the Legislative Council's approval in such matters was needed in the future.

21. In response, DS/ETW(Works)2 said that he had no available information on hand to answer Mr HO's first question and remarked that the subject of private certification of building submissions had not yet reached the policy formulation stage. When there was the need, the Administration would certainly provide further details. Mr W H LAM supplemented that as far as he understood, in cinema licensing, there was a mechanism for certification of air-conditioning systems by private engineers for the issuance of a temporary licence. The Administration might have considered/implemented similar arrangements in other areas.

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Consultancy study on private certification of building submissions

List of relevant papers (Position as at 14 July 2006)

Paper/Report	LC Paper No.
Reply dated 30 June 2005 from the Secretary for Housing, Planning and Lands to the Clerk to PLW Panel	CB(1)1981/04-05(01)
Paper provided by the Provisional Construction Industry Co-ordination Board Secretariat (PCICB) and the Buildings Department	CB(1)1996/04-05(07) <i>(discussed at the PLW Panel meeting on 13 July 2005)</i>
Minutes of the PLW Panel meeting on 13 July 2005	CB(1)1475/05-06(03) <i>(paragraphs 33 to 39)</i>
Letter dated 18 July 2005 from the Chairman of the PLW Panel to the Financial Secretary (FS)	CB(1)525/05-06(04)
Reply dated 24 August 2005 from the FS Office to the Chairman of the PLW Panel	CB(1)110/05-06(01)
Letter dated 17 October 2005 from the Chairman of the Task Force to the Chairman of the PLW Panel	CB(1)87/05-06(01)
Paper provided by the PCICB Secretariat	CB(1)304/05-06(01) <i>(discussed at the PLW Panel meeting on 20 December 2005)</i>
Minutes of the PLW Panel meeting on 20 December 2005	CB(1)1475/05-06(02) <i>(paragraphs 4 to 21)</i>
Letter dated 26 April 2006 from the Hong Kong Senior Government Officers Association to the Chief Executive	CB(1)1375/05-06(01)
Letter dated 16 May 2006 from the Clerk to PS Panel to the Chairman of the Task Force	CB(1)1693/05-06(01)
Reply dated 5 June 2006 from the Chairman of the Task Force to the Clerk to PS Panel	CB(1)1693/05-06(02)