

For information on
27 March 2007

**LEGISLATIVE COUNCIL
PANEL ON PLANNING, LANDS AND WORKS**

Private Certification of Building Submissions

Purpose

This paper reports on the conclusion reached by the Task Force to Review the Construction Stage of the Development Process (the Task Force) of the former Provisional Construction Industry Co-ordination Board (PCICB) on private certification of building submissions.

Background

2. The Subgroup on Business Facilitation was established under the former Economic and Employment Council (EEC) in March 2004 to facilitate business development and job creation through identifying and eliminating outdated, excessive, repetitive or unnecessary government regulations. The Subgroup had embarked on a comprehensive review of the entire property development process and requested PCICB to make recommendations for speeding up the construction cycle and reducing the cost of complying with existing statutory requirements. The Task Force was formed under PCICB in late 2004 to undertake this assignment.

3. EEC was disbanded in December 2005 and the Business Facilitation Advisory Committee (BFAC) was formed in February 2006 to continue its business facilitation functions.

4. Private certification of building submissions was one of the improvement measures considered by the Task Force. As consultation with various industry stakeholders on the initiative had revealed several fundamental issues requiring in-depth examination, the Task Force commissioned Babtie Asia Limited (the Consultant) to undertake a Study on Private Certification of Building Submissions in February 2006 to examine the subject holistically before making recommendations to BFAC on the way forward.

5. The Task Force attended the joint meeting of the Legislative Council (LegCo) Panel on Public Service and Panel on Planning, Lands and Works on 17 July 2006 to discuss private certification with interested

LegCo Members and industry stakeholders. Most LegCo Members and deputations attending the meeting had reservation against private certification because of concern on conflict of interest arising from the close relation between building professionals and property developers, anticipated difficulties in assuring independence and impartiality of private certifiers and consequential impact on health and safety of buildings.

6. In the LegCo Secretariat's letter of 19 July 2006, the Task Force and the Consultant were requested to –

- (a) take into consideration the views expressed by LegCo Members and deputations at the joint meeting as well as those set out in the deputations' written submissions in preparing the Final Report of the Study and formulating recommendations on private certification; and
- (b) provide the two panels with the Final Report and brief them on its contents.

Discussion by the Task Force

7. The Final Report¹ for the Study was submitted in October 2006. The Task Force discussed the Report and the way forward at its meeting held on 23 October 2006. A summary of the discussions is as follows.

(A) *Final Report*

8. As documented in the Final Report, interviews with industry stakeholders revealed that the main concerns of the industry on the existing building approval process were the large number of submissions required for typical building projects and the rigid timeframe for their approval. Private certification could help in tackling these problems through bringing greater flexibility to the submission process, reducing the turnaround time for checking and minimizing disruptions to construction programmes.

9. Despite the possible benefits, industry stakeholders considered that the following issues had to be addressed in implementing private certification –

¹ Copies of the Report are available from the Legislative Council Secretariat.

- (a) Government's role in assuring public safety and health in building developments under a private certification system;
- (b) independence of private certifiers;
- (c) unique topographical, building and market characteristics of Hong Kong;
- (d) consistency in applying building standards by private certifiers;
- (e) private certifiers' lack of holistic view of building developments;
- (f) capability of private certifiers in coping with advancement in technology;
- (g) possible lack of resources in implementing Building Department's (BD) three tier checking system in the private sector;
- (h) commercial viability of private certification;
- (i) availability of professional indemnity insurance to private certifiers; and
- (j) public confidence on private certification.

10. To facilitate assessment of the benefits of private certification and devise solution for the implementation issues, the Consultant had formulated an implementation framework by making reference to the experience of five economies which had adopted such systems, including Australia, the Mainland (Shanghai and Shenzhen), Japan, Singapore and United Kingdom.

11. By analyzing the programme of typical projects involving different combinations of works, the Consultant found that the shorter turnaround time for approving initial building design could reduce the construction cycle by 4% to 14% and the interest cost by 0.7% to 2.7%. The Consultant had also assessed the implementation issues and suggested solutions on the basis of experience of the economies studied. These include assuring the independence of private certifiers through rules for avoiding conflicts of interest, criminal sanctions against

breaches of these rules and auditing of work done by private certifiers by BD to assure the quality of checking and consistency in applying building standards.

(B) *Benefits of private certification*

12. Task Force Members doubted whether the benefits of private certification could justify the efforts for introducing the system and overcoming the substantial implementation issues since the anticipated time and cost savings were relatively limited and could probably be achieved through improving existing procedures.

(C) *Implementation issues*

13. Most Task Force Members thought that the implementation issues were technical and procedural in nature and should not be insurmountable given that checking by independent checkers had been adopted in public works projects for scrutinizing design of buildings and infrastructures done by contractors under design and build contracts. However, some Task Force Members doubted the effectiveness of the proposed solutions for the critical implementation issues, notably the independence of private certifiers. While the measures proposed by the Consultant for assuring the independence of private certifiers were based on the experience of the economies studied, Task Force Members noted that even in these economies, the independence of private certifiers was a concern. It was also cautioned that in the dense urban environment in Hong Kong, even problems on an individual site could have serious repercussion on its neighbourhood. As such, there was no justification for sacrificing the existing safeguards on building safety simply for the sake of saving cost and time.

(D) *Improvements to existing approval procedures*

14. BD has been implementing various measures to streamline the building approval process including concurrent approval and consent for foundation works where prior compliance with imposed condition is not required, relaxation of the requirement for prior approval and consent for minor amendments of building works for which first consent has already been given and concurrent approval and consent for simple alteration and addition works to existing buildings.

15. During the course of the Study, BD has reviewed its existing procedures and agreed to explore further improvements. In this regard,

BD is finalizing the arrangements for granting concurrent approval and consent for curtain wall plans for promulgation in the near future and is consulting the industry on similar arrangements for drainage plans.

(E) Conclusion of the Task Force

16. While Task Force Members held different views on the effectiveness of the proposed solutions for the implementation issues, they agreed that, in view of the limited time and cost savings identified thus far, BD's on-going efforts in streamlining existing procedures and strong objection by a substantial number of stakeholders, private certification should not be further considered at this stage.

17. While private certification was not recommended for further consideration, the Task Force felt that the Study was useful in analyzing this complex subject in particular in assessing the benefits of private certification, conducting in-depth analysis of the implementation issues and examining relevant experience of other economies. The findings of the Study were valuable in helping the Task Force reach an informed conclusion on the way forward. The Study also provided opportunities for industry stakeholders to review the existing approval procedures and identify possible improvements.

Discussions by the Former PCICB

18. The conclusion of the Task Force was endorsed by PCICB at its meeting held on 17 November 2006. As PCICB and the Task Force would be dissolved upon the formation of the Construction Industry Council, the Council would be recommended to conduct regular reviews on efforts being made to facilitate innovations in building design and streamline regulatory procedures.

[Note: The Construction Industry Council was subsequently set up on 1 February 2007.]

Discussion by BFAC

19. The conclusion not to further consider private certification was endorsed by BFAC at its meeting on 6 March 2007.

Conclusion

20. Members are requested to note the conclusion reached by the Task Force, PCICB and BFAC that private certification should not be further considered at this stage.

Construction Industry Council Secretariat
March 2007