

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

**Public Consultation on Mandatory Building Inspection**

**PURPOSE**

This paper briefs Members on the results of the Public Consultation on Mandatory Building Inspection and the Government's plan to put in place the proposed Mandatory Building Inspection Scheme and the proposed Mandatory Window Inspection Scheme by way of legislation.

**BACKGROUND**

2. The building neglect problem is acute and there is a need to put in place effective measures to ensure that owners would take up their building maintenance responsibility on a regular basis. In order to formulate a policy which is practicable and acceptable to the community, we have carried out a two-stage public consultation on building management and maintenance.

3. The results of the first-stage public consultation conducted in early 2004 pointed to a community consensus that owners should be responsible for keeping their buildings in good repair, including

shouldering the financial commitment. The community also indicated support for the introduction of a Mandatory Building Inspection Scheme as a practicable long-term solution to the problem of building neglect.

## **RESULTS OF PUBLIC CONSULTATION ON MANDATORY BUILDING INSPECTION**

4. Reinforced by this community support, we launched the second-stage public consultation in late-October 2005 to gauge public views on specific implementation details of our proposed scheme. We have sought the views of the community and various key stakeholders including owners, professional bodies and the industry through various channels. They support and reaffirm the community consensus on the need for a Mandatory Building Inspection Scheme to arrest building deterioration and ensure building safety. We have also received many views and suggestions on the implementation details of the scheme. These views and suggestions, together with our response, are summarized in paragraphs 5 to 21 below. Besides, the feedback we obtained during the consultation indicates that there is a clear community sentiment that the Government should take action to enhance window safety in the long run.

### **(A) Age Threshold of Target Buildings and Inspection Cycle**

5. In response to the 7-year inspection cycle which we have proposed, we received a lot of feedback, including that of some political

parties and district councils, favoring a longer cycle, such as inspection every 10 years, in order to reduce the burden on building owners. As regards our proposal of mandating inspection for buildings aged 30-years or above, some suggested that we should not use building age as the only criterion in choosing target buildings, and that building conditions should also be taken into account as appropriate.

6. We have carefully considered the views of the public and concluded that a 10-year inspection cycle, although not being the most ideal option, is acceptable from the building safety angle. In coming to this conclusion, we note that regular building inspections by owners every ten years are in itself a major step forward already. We also hope that the revised 10-year inspection cycle would enhance building owners' acceptance of the scheme, which would in turn engender a positive impact on the community's building care culture.

7. We therefore propose that the Buildings Ordinance (BO) be amended to the effect that owners should be required to carry out building inspection, and rectification works as necessary, every 10 years by reference to the date when Buildings Department (BD) last issued the mandatory inspection notification to owners.

(B) Inspection Items

8. The items we propose for inclusion in the inspection scheme gain

good support as they are essential to ensure building safety. Some suggested expanding the coverage of the scheme to include more inspection items in the common areas and/or private premises of buildings, including taking the opportunity to remove unauthorized building works (UBWs).

9. We consider that the coverage of the Mandatory Building Inspection Scheme should be confined to building components that are essential to public safety in order to minimize the financial costs and other burden on owners.

10. Requiring owners to demolish all UBWs as part of our proposed mandatory inspection scheme is likely to give rise to objections and will pose serious hurdles for the owners' corporations (OCs) in fulfilling the statutory requirements to complete the inspection and rectification works within a prescribed time. However, as it would be more convenient and less costly for individual owners to remove UBWs during the building rectification work, we will encourage them to do so on a voluntary basis. For UBWs identified through the mandatory inspection to be of imminent danger, BD will follow its existing enforcement policy and order their removal. For UBWs posing no obvious or imminent danger, BD will consider issuing warning notices demanding the removal of the UBWs by the owners concerned and registering such notices as appropriate in the Land Registry. Currently, besides removing UBWs which pose an immediate danger or are new, BD identifies 1,000 target buildings each

year, where owners are required to comprehensively remove the UBWs on the external walls of their buildings. BD has already removed more than 230,000 UBWs in the past six years. Furthermore, with the introduction of the Minor Works Control System, which we aim to enact by legislation facilitating owners to engage registered qualified personnel to validate certain types of household minor UBWs, such as supporting frames for air-conditions, drying racks and small canopies, we believe that the problem of UBWs can be further alleviated.

(C) Building Inspectors

11. To safeguard the quality of inspections, we have proposed that Authorized Persons (APs) and Registered Structural Engineers (RSEs) should perform the role of building inspectors. We are asked however to consider allowing other qualified professionals to take up the role of inspector as well so that owners may have a wider choice.

12. We support enlarging the pool of inspectors to include other equally qualified professionals. This will provide more choice, enhance competition and drive costs down. BD will discuss with relevant professional bodies and professional registration boards on the types of registered professionals who have the qualification and relevant experience to perform the task of an inspector. To ensure proper regulation of inspectors, we propose that BD should create a separate register under the BO and establish a Registration Committee and a Disciplinary Board to

handle the registration and discipline of inspectors respectively.

(D) Enforcement

13. There is strong support for penalties to be imposed on non-compliant owners, with uncooperative owners being the target. To ensure compliance with the mandatory building inspection requirements, building owners/OCs who, without reasonable excuses, fail to produce inspection reports or complete the rectification works specified by the inspectors within a prescribed timeframe will be liable to penalty. To facilitate the fulfillment of the mandatory building inspection requirement by the buildings concerned, there will also be penalties on uncooperative owners/occupiers who obstruct or refuse the entry of an inspector for carrying out inspection or rectification works; or refuse to pay the relevant share of the inspection/rectification costs.

(E) Assistance to Owners

14. Many members of the public are concerned about building owners lacking the required knowledge, expertise and financial ability to take up building inspection. There are strong requests for financial assistance such as subsidy for the first inspection cost to owners in need.

15. In addition to financial assistance, the public also consider the provision of technical assistance to appoint and supervise building

inspectors and contractors as well as greater assistance in the formation and operation of OCs essential for the success of the scheme.

16. We recognize the concerns of building owners and the need to provide support to them in order to ensure that the Mandatory Building Inspection Scheme can be implemented smoothly. We have secured the support of the Hong Kong Housing Society (HKHS) to provide financial and technical assistance to eligible owners. HKHS will:–

- (a) assist owners to form OCs;
- (b) subsidize the cost of the first building inspection;
- (c) provide interest-free loans or grants to eligible owners for the required maintenance/rectification works; and
- (d) offer technical and general legal advice on matters relating to formation of OCs, building inspection and the required maintenance works.

In offering these assistance, HKHS would consider a number of factors, including the rateable value of the property, and whether the building in question had formed an OC. HKHS has pledged and earmarked a total of \$4 billion (including its earlier commitment in respect of the voluntary Building Management and Maintenance Scheme currently undertaken by

HKHS) to support the implementation of the proposed Mandatory Building Inspection Scheme. We believe that the support to be provided by the HKHS, in particular the subsidy for first mandatory building inspection for eligible owners, would be of practical assistance to owners and would help gain their acceptance of the Scheme.

(F) Dispute Resolution Mechanism

17. We have received many views advocating the establishment of a simple and low-cost dispute resolution mechanism, in the form of a tribunal, to resolve disputes related to building management and maintenance. In this regard, the Hong Kong Institute of Surveyors has put forward a proposal to set up a Building Affairs Tribunal which proposes to dispense with legal representation. The Legislative Council also passed a motion in November 2006 supporting such an alternative dispute resolution mechanism and the dispensation with legal representation. Nonetheless, some respondents suggest that improvements to the existing mechanism under the Lands Tribunal would be a better option. The Hong Kong Bar Association also considers that the Lands Tribunal is appropriate and is capable of handling building management claims.

18. Whilst appreciating the merits of a simple dispute resolution mechanism, we need to carefully explore the feasibility of such proposal, in particular the constitutional and human rights implications if the



proposed mechanism is to dispense with legal representation in order to achieve savings in cost and time. We also need to address the concerns over the possible duplication of efforts and unnecessary complication of the court and tribunal system with the establishment of a new mechanism. We will continue to study the feasibility of setting up a simple dispute resolution mechanism.

19. We understand that the Judiciary is separately considering possible improvement measures to the Lands Tribunal, including the greater use of case management and the feasibility of voluntary mediation, to facilitate a more efficient and expeditious disposal of building management cases in the Lands Tribunal.

(G) Voluntary Building Classification Scheme

20. A majority of respondents are supportive of the establishment of a Voluntary Building Classification Scheme (VBCS) to give positive recognition to buildings which are properly maintained and well-managed by exempting them from the Mandatory Building Inspection Scheme.

21. We are encouraged by the public support of this proposal. We have discussed and obtained the agreement of the HKHS to undertake the implementation of the VBCS. We believe that the HKHS has both the resources and expertise to take on this role. The assessment under the VBCS would involve a wider scope of aspects as compared to the

Mandatory Building Inspection Scheme and the standards and requirements of the VBCS would be on par with, or higher than, those under the Mandatory Building Inspection Scheme. We propose that VBCS buildings should be exempt from the Mandatory Building Inspection Scheme. We are closely liaising with HKHS to ensure a proper interface between the two schemes.

## **KEY IMPLEMENTATION FEATURES OF THE PROPOSED SCHEMES**

### **(A) Mandatory Building Inspection Scheme**

22. In gist, the proposed Mandatory Building Inspection Scheme would comprise the following elements -

#### **(a) Scope of control**

Owners of private domestic (excluding those of 3 storeys or less), composite, and non-domestic buildings aged 30 or above will be required to appoint a registered inspector to inspect the common areas of their buildings every 10 years (by reference to the date when BD last issued the mandatory inspection notification to owners) and carry out the necessary rectification works.

#### **(b) Selection of buildings for inspection**

BD will select 2,000 target buildings each year to which the mandatory inspection notification will be issued, taking into account factors including building age, building condition, recent history of building repairs conducted, as well as the need to spread out the selected buildings into different districts. To enhance the transparency in the selection process of the target buildings and community acceptance, BD will set up a panel, comprising representatives from various departments and the industry to assist BD in considering the list of buildings. Owners and OCs of buildings aged 30 or above are also welcomed to indicate their wish for their buildings to be selected as a target building on a voluntary basis.

(c) Notification

The panel will select around 500 target buildings per quarter. BD will then gazette the list of buildings and issue the mandatory inspection notification to individual owners and OCs concerned. BD will follow its existing practice of copying the notification to the occupants, management companies and management committees where applicable. The relevant notification will also be posted on the conspicuous parts of the buildings. The list of the target buildings will be uploaded onto BD's website.

(d) Appointment and Monitoring of Registered Inspectors

To allow sufficient time for relevant owners and OCs to commence the preparatory work, the notification will give owners and OCs a six-month lead time to appoint a registered inspector to carry out building inspection. To regulate and monitor the professional conduct of inspectors, we will –

- (i) create a distinct register under the BO for building inspectors under the Mandatory Building Inspection Scheme;
- (ii) establish a Registration Committee to examine the professional standard of building inspectors for registration;
- (iii) issue a code of practice and detailed guidelines on the requirements and standards of building and window inspection and rectification to facilitate inspectors and contractors to comply with the requirements under the BO;
- (iv) check all the inspection reports to ensure compliance with the requirements under the law. BD will further conduct detailed audit checks on

such reports. In the initial years after the launch of the Mandatory Building Inspection Scheme, we intend to audit about 30% of the reports received; and

(v) the registered contractors will also be regulated under the BO.

(e) Penalties

There will be penalties against owners and OCs who fail to comply with the statutory requirements without reasonable excuses; and inspectors and contractors involved in building inspection and rectification works who are in breach of the BO are liable to prosecution and penalties to be provided for in the legislation. BD may carry out the inspections and/or rectification works on behalf of owners in default. To deter the owners from over-relying on BD to take up their maintenance responsibility, we propose that BD should be empowered to recover all the costs incurred plus a surcharge from the owners.

We propose to implement the Mandatory Building Inspection Scheme by legislation, i.e. by legislative amendments to the BO. The details of the scheme may be fine-tuned during the legislative process. The major changes made to the implementation details of the Mandatory Building

Inspection Scheme as previously proposed in the public consultation in the light of public views received are set out in **Annex A**.

(B) Mandatory Window Inspection Scheme

23. For public safety, we need also to deal with falling windows which occurred from time to time. The consensus view we obtained from the public consultation is to introduce a Mandatory Window Inspection Scheme requiring owners to regularly inspect their windows and carry out proper maintenance. The key features of the proposed scheme include –

- (a) mandating owners of private domestic (except those of 3 storeys or less), composite and non-domestic buildings aged 10 years or above to inspect all windows, both in common areas and within private premises, fixed and openable, every 5 years (by reference to the date when BD last issued the inspection notification to owners) and to carry out the necessary rectification works;
- (b) selecting about 5,800 target buildings each year to be subject to the scheme. A selection and notification mechanism similar to the Mandatory Building Inspection Scheme will also be developed for window inspection; and
- (c) adopting a “fixed penalty” approach akin to the fixed

penalty for littering to deal with non-compliant cases in view of the large number of cases to be handled each year.

This scheme will also be implemented by way of amendments to the BO. The major changes made to the implementation details of the Mandatory Windows Inspection Scheme as previously proposed in the public consultation in the light of public views are set out in **Annex B**. The details of the scheme may be fine-tuned during the legislative process.

## **BENEFITS OF THE PROPOSED SCHEMES**

24. The proposed schemes would bring the following benefits to our society:

- (a) besides ensuring building and public safety, the schemes would bring about an overall improvement to the built environment as proper building maintenance will slow down the dilapidation of buildings. Pollution and hygiene problems caused by building defects, e.g. defective drainage system, would also be minimized;
- (b) the two mandatory schemes will ensure that owners take preventive measures to maintain building and window safety and promote a building care culture in society. In the long run, the number of prematurely aging buildings would be reduced,

the overall life span of private buildings prolonged, and the living and working environment of Hong Kong improved. This will be instrumental in providing a sustainable living and working environment for the Hong Kong people;

- (c) the two schemes will trigger positive impact on gross domestic product and generate employment opportunities in the building maintenance services. On the assumption that 2,000 buildings will be inspected annually under the Mandatory Building Inspection Scheme, about 6,000 jobs may be created per year for the respective industries and their workforce. Similarly, if 5,800 buildings are to be subject to the Mandatory Window Inspection Scheme annually, there could be about 1,700 jobs created each year; and
  
- (d) there will be economic benefits for building owners as well, since the property values can be upheld with an improvement to the utility, durability, safety and appearance of their buildings. There may be positive implications on the ease of the older buildings in obtaining insurance coverage and the related costs. An improved living environment will also generate external benefits by enhancing the asset value of the neighborhood. A better managed property stock with enhanced asset value will be beneficial for the economy as a whole.



## **WAY FORWARD**

25. To keep up the momentum, it would be preferable to introduce the legislative proposals into the Legislative Council by early 2008. We have already kick-started the preparatory work for the legislative drafting exercise. We realize this is a very tight timetable for a relatively complicated piece of legislation. If the complex legislative drafting process does not allow an early completion of the bill, the alternative timetable will be to introduce the legislation into the Legislative Council at the beginning of the 2008/09 legislative session.

Housing, Planning and Lands Bureau

May 2007

**Changes Made to the Implementation Details  
of the Proposed Mandatory Building Inspection Scheme**

<b>Scheme Features</b>	<b>Proposal in the Consultation Paper</b>	<b>Changes To be Made in light of Public Views</b>
Target Buildings	Private buildings aged 30 years or above (except domestic buildings of 3 storeys or less)	No change
Inspection Items	Common parts of buildings and features on the external walls	No change
Inspection Cycle	7 years	10 years
Building Inspectors	Authorised Persons/Registered Structural Engineers (AP/RSEs)	In addition to AP/RSEs, other professionals with sufficient qualification and relevant experience
Penalty	Mainly targeting at uncooperative owners/occupiers	No change

## Annex B

### **Changes Made to the Implementation Details of the Proposed Mandatory Window Inspection Schemes**

<b>Scheme Features</b>	<b>Proposal in the Consultation Paper</b>	<b>Changes To be Made in light of Public Views</b>
Target Buildings	Private buildings aged 5 years or above (except domestic buildings of 3 storeys or less)	Private buildings aged 10 years or above (except domestic buildings of 3 storeys or less)
Inspection Item	Openable and fixed windows in both common parts of buildings and individual private premises	No change
Inspection Cycle	3 years	5 years
Penalty	Fixed Penalty	No change