

**For discussion
on 27 February 2024**

**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

**Proposals to Enhance the
Implementation Arrangements of Building Maintenance**

PURPOSE

As a follow-up to the 2023 Policy Address (PA), Development Bureau together with Buildings Department (BD) and Urban Renewal Authority (URA) have reviewed the implementation arrangements of building inspection and maintenance, with a view to achieving better policy outcomes. Subject to Members' views, we will implement the following improvement measures –

- (a) refine the scoring system of the Mandatory Building Inspection System (MBIS) so that high-risk buildings can be identified in a more precise manner for issue of MBIS notices;
- (b) put in place a regular programme to inspect with the aid of technology and if necessary carry out emergency works for potentially higher-risk buildings among those MBIS-eligible buildings not yet issued with MBIS notices; and
- (c) strengthen procurement support with stepped-up monitoring for owners joining the OBB 2.0 to speed up appointment of registered inspectors (RIs) and contractors so that inspection and repair works can be undertaken in a more timely manner.

Opportunity is also taken to update Members about BD's intensified enforcement efforts against non-compliance with MBIS notices.

BACKGROUND

2. Aging buildings lacking proper care and maintenance pose potential safety threats to both occupiers and the public at large. Based on the principle that owners should primarily be responsible for maintaining their properties in good condition, the Government adopts a two-pronged approach in enhancing building safety – (i) encouraging and supporting building owners to maintain and repair their properties, and (ii) intervening proactively through enforcement, repair works in default of owners, etc. when a defective or dilapidated building endangers public safety. Key elements of the two-pronged approach include –

- (a) under the MBIS implemented in 2012, BD selects annually about 600 private buildings¹ aged 30 years or above on a risk basis, and owners of such buildings served with statutory MBIS notices are required to carry out prescribed inspections and repairs for their buildings. There are currently about 19 800 MBIS-eligible buildings, about 7 800 of which have been issued / identified for issuance of MBIS notices;
- (b) to provide financial and technical support to owners/owners' corporations (OCs) to carry out inspection and repair works voluntarily or in compliance with MBIS notices, Government has since 2018 introduced a number of subsidy schemes in partnership with URA with a total financial commitment of \$19 billion. Among which, Operation Building Bright 2.0 (OBB 2.0) (with a funding of \$6 billion) aims to assist eligible owners to carry out inspection and repair works for common parts under MBIS. URA has so far approved about 1 360 applications for Category 1 buildings and BD has selected about 1 640 Category 2 buildings²;
- (c) ensuring building safety is a core part of BD's day-to-day business. Each year, BD attends to around 9 400 public reports on building defects, and proactively selects and inspects about 100 target

¹ Except domestic buildings not exceeding three storeys.

² Category 1 buildings are those where owners are able to coordinate the prescribed inspection and repair works among themselves and apply to URA for subsidy reimbursement. For cases where the owners are unable to coordinate the prescribed works among themselves, BD will, on a risk basis, exercise its statutory power in carrying out the necessary inspection and repair works on behalf of the owners, with the cost recovered from the owners after completion of works (i.e. Category 2 buildings). Eligible owners may apply for OBB 2.0 subsidy to reimburse part or all of the cost of the works for both Category 1 and 2 buildings, subject to a cap of \$40,000 for owner-occupiers per unit and \$50,000 for elderly owner-occupiers per unit.

buildings for conducting Large Scale Operations against building defects and unauthorised building works. For building defects identified through these sources, BD will issue statutory investigation / repair orders requiring owners to carry out rectification works, or in case of immediate public danger, arrange government contractors to undertake emergency works and recover costs from owners afterwards. In 2023, BD served about 590 investigation / repair orders, conducted about 100 emergency works in respect of public reports and repaired about 30 dilapidated / dangerous buildings arising from owners' non-compliance with investigation / repair orders; and

- (d) as the enforcement authority, BD will take enforcement actions against non-compliance with MBIS notices. BD has instigated prosecution proceedings against owners or OCs of about 170 buildings with expired MBIS notices since the fourth quarter of 2023. Prosecution may also be instigated if owners fail to comply with the investigation/repair orders without reasonable excuse.

3. In light of the series of incidents of fallen concrete or rendering from external walls of buildings last year, the Government undertook in the 2023 PA to review the implementation arrangements of building inspection and maintenance along three directions: (a) adopting a more precise approach in selecting target buildings under MBIS; (b) proactively identifying higher-risk buildings to carry out emergency works; and (c) reviewing the workflow of various stages of OBB 2.0 to assist owners/OCs to speed up inspection and repairs of their buildings. The review outcome and our recommendations are set out in the ensuing paragraphs.

RECOMMENDATIONS

Selecting Target Buildings under MBIS

4. Every year, BD selects about 600 target buildings, on a risk-based approach, for issuance of MBIS notices based on the building score system (BSS) and advice of a selection panel³. The current BSS accords varying scores to factors such as building age, building condition, building

³ Comprising representatives from BD, professional institutions, relevant non-government organisation, property management professionals and District Councils.

management and potential risk to the public (due to critical building elements such as cantilevered slab canopy or cantilevered slab balcony). Buildings with higher scores will be issued with MBIS notices. Scores for each MBIS-eligible building are updated annually.

5. We have reviewed and recommended refining the scoring criteria / allotted scores of the BSS as follows –

- (a) putting greater emphasis on the exterior elements of buildings as they pose a greater safety risk to the public. More scores will be allocated to reports on general or slight building defects / dilapidated condition / emergency involving external components;
- (b) according higher scores to “three-nil” buildings which are more likely to be lacking proper building management or maintenance; and
- (c) capturing more relevant data by including BD’s inspection findings under the regular inspection programme (please see paragraph 7 below) and URA’s Condition Survey conducted once every three years⁴. For example, buildings ranked as in “poor” condition in the URA’s Condition Survey will be allocated scores under the revised BSS.

The proposed changes over the existing BSS marked in revision mode are at **Annex A**. We have conducted reality check using the revised BSS and are satisfied that the revised BSS should facilitate BD to identify target buildings for issuance of MBIS notices more precisely, thereby allocating the annual 600-building quota to buildings most in need of action. The revised BSS will be put into effect starting from the second quarter of 2024 for selecting buildings.

Proactive Identification of Higher-risk Buildings

6. Comparing the age profile of the about 12 000 MBIS-eligible buildings yet to be issued with MBIS notices with the 7 800 buildings issued with / identified for issuance of MBIS notices, the former is noticeably younger than the latter since 71% of buildings in the former are aged 30 to 49.

⁴ URA conducts visual surveys to assess the conditions of external facades of all private domestic and composite buildings in Hong Kong that are 30 years or older, excluding remote rural areas and affluent residential areas. Buildings are accorded ratings of “Satisfactory”, “Acceptable”, “Marginal”, “Varies” and “Poor”. This survey is conducted every three years to keep the database updated.

However, it should be noted that there are still 29% buildings aged 50 or above in the former group. As public safety risk increases with building age, there is a need from risk management perspective for interim actions to be taken by BD pending the rolling of the buildings into MBIS.

7. In light of experience gained from a special drone inspection for potentially higher-risk buildings initiated by BD in the latter half of 2023⁵, we propose putting in place a regular inspection programme starting from the first quarter of 2024 to inspect 360 buildings across the territory and carry out any necessary emergency works by government contractors. We expect the inspection and emergency works for two thirds of these selected buildings will be completed before rainy season arrives. BD will then recover the costs of emergency works from owners, and issue investigation / repair orders for owners' follow-up. Among aged buildings yet to be issued with MBIS notices or investigation / repair orders, BD will select those with relatively poor external building condition and/or without proper building management (e.g. "three-nil" buildings) for inspection. Buildings with outstanding MBIS notices and RI yet to be appointed may also be included in the regular inspection programme.

8. Apart from better risk management, the regular inspection programme will also have the additional advantage of helping BD build up a database on potentially higher-risk buildings, the information of which will be fed into the BSS for selecting target buildings under subsequent rounds of MBIS (please see paragraph 5(c) above).

9. BD will capitalise on new technologies to carry out the regular inspection programme – apart from engaging drone service providers and outside consultants to conduct inspection and subsequent follow-up work, the department will also consider tapping into the artificial intelligence technology for generation of inspection reports based on images collected by drone inspections. To leverage the expertise of the private sector, BD will collaborate with professional bodies, including the Hong Kong Institute of

⁵ To reduce the risk to public safety from buildings with outstanding MBIS notices and RI yet to be appointed, the special drone inspection was conducted by BD from August to December 2023 for 180 buildings mainly with higher building age, surrounded by major roads, with reports of dilapidation, without proper building management (e.g. "three-nil" buildings) and with balconies/canopies of cantilevered slab structures. Emergency works for about 60 buildings were carried out by government contractor in cases posing obvious danger to the public, and the cost of the works would be recovered from the owners afterwards. Emergency works for some other 100 buildings were completed by owners/OCs voluntarily upon BD's notification of obvious defects identified during inspection.

Architects, the Hong Kong Institution of Engineers and the Hong Kong Institute of Surveyors, to carry out inspections for some of the buildings.

Enhancing Support for Owners/OCs joining OBB 2.0

10. Under OBB 2.0, owner / OC-applicants are required to engage through open tender their own RIs and contractors to carry out inspection and repair works respectively. While URA has been providing procurement assistance to owners / OCs through its “Smart Tender” Building Rehabilitation Facilitation Services (Smart Tender) platform⁶, provision of standard tender documents, etc., the average time required for awarding repair works contract was as long as 43 months upon receiving approval of application by URA. Setting aside unforeseeable circumstances and delays caused by the COVID-19 pandemic, based on URA’s experience and feedback from owners / OCs, the challenges and / or difficulties in arranging inspection and repair works mainly lie in - (i) long time spent by owners to discuss and reach consensus on the **scope of RI services or repair works** for tender invitation; and (ii) **tender evaluation and assessment**.

11. Following URA’s thorough, stage-by-stage review of the OBB 2.0 workflow, we consider that for improvement measures to be effective and useful to owners / OCs lacking experience in works contracts, they should be targeted towards the following areas – (i) enabling early appointment of RI so that owners / OCs can benefit early from RI’s professional expertise to move things ahead; (ii) lessening the procurement burden on owners / OCs by having common procurement procedures to be conducted by URA centrally while leaving building-specific tender procedures to owners / OCs; (iii) simplifying tender assessment procedures through standardisation as far as practicable; and (iv) enforcing pre-set milestones and consequences for non-compliance in a more robust manner.

⁶ Under Smart Tender, owners/OCs have to invite tender from RIs and contractors registered on the Smart Tender electronic tendering platform. Tenderers will remain anonymous until after tender opening, thereby reducing the risk of manipulation or interference of the tender process. All returned tenders are opened by an independent Certified Public Accountant arranged by URA in the presence of representatives from the owners/OCs. In addition, URA will arrange independent building professionals to provide technical advice and independent cost estimates for owners’ reference. These measures aim to reduce the risk of collusion and corruption, and promote fairness and transparency.

12. Key proposals are summarised as follows –

(a) **Specifying basic scope of RI service contracts** –

While URA currently provides **standard contract documents for procuring RI services**, owners / OCs still have to agree and decide on certain contract particulars before tender invitation, such as scope of services (which may include other works on top of prescribed MBIS inspection), contract period, milestones, number of meetings the RI must attend, payment schedule, etc. Given the scope of prescribed inspection is highly similar irrespective of building size, to minimise the variables owners / OCs need to discuss and agree on before tender invitation, URA will **stipulate a set of default specifications**, including the basic scope of RI services for complying with MBIS requirements and key performance milestones, for consideration by owners / OCs. Owners / OCs may amend and / or add optional services so long as the progress of engaging RI (which should be completed within five months from receipt of approval from URA as at **Annex B**) will not be unduly affected;

(b) **Pre-qualifying RIs and contractors for tender invitation** –

To simplify tender procedures to be conducted by owners / OCs while strengthening URA's "gatekeeping" function given OBB 2.0 is publicly funded, **URA will conduct a pre-qualification exercise to compile lists of pre-qualified RIs and contractors for mandatory adoption by OBB 2.0 applicants** in their procurement of RI or contractor. The lists will be managed and updated annually by URA. To be considered for pre-qualification, RIs and contractors must meet the requirements in **Annex C**, including staffing requirements and minimum project experience for contractors. Under this arrangement, URA's pre-qualification exercise will ensure the technical competency of RIs and contractors on the lists so that owners / OCs can focus their assessment on the fee proposals returned by pre-qualified RIs and contractors. By limiting owners / OCs' decisions to fee proposals only, decision-making will be quickened thereby enabling early contract award;

(c) **Standardising tender assessment** –

To assist owners / OCs in assessing returned bids, URA will compile **a tender assessment table** comparing individual bids in terms of man-day, service fee and man-day rate proposed by tenderers, with outliers (as compared to medians) highlighted. Guidelines on the assessment of RI consultancy tender will also be provided for owners / OCs' reference.

The tender assessment for repair works contracts will be conducted by RI. To make sure the tender report compiled by RI is of quality and contains necessary assessments to help owner / OCs select the most suitable contractor, URA will **stipulate and mandate the aspects an RI should consider and compare among bidders** in the tender assessment and identify outliers in the process, and **require the RI to comment on adequacy of tender submissions and put forth a tender recommendation** for owners / OCs' consideration. Apart from proposed fees, factors to be evaluated by RI should include, for example, duration of repair works, manpower deployment and materials to be used. By standardising tender assessment as described above, owners / OC will find it easier to compare across bids thus facilitating the decision-making process;

(d) **URA to step in when necessary to invite tender** –

If an owner / OC fails to invite tender for RI within three months from approval of application by URA (i.e. two months before Milestone 1 at **Annex B**), URA will step in and **invite tender on behalf of the owners / OCs for basic RI services**, covering only the prescribed inspection (and services related to the prescribed repair works) under the MBIS without any optional item/service. Similarly, if an owner / OC fails to invite tender for works contract within the required period from approval of application by URA (i.e. Milestone 2 at **Annex B**), URA will step in and **invite tender for the works contract to carry out the prescribed repair works under the MBIS** based on RI's inspection report without any optional item / service. The award of RI and contractor contracts remains with the owners / OCs and for avoidance of doubt it does not alter the eligibility of owners for OBB 2.0 subsidy; and

(e) **More robust enforcement of pre-set milestones** –

URA has proposed at **Annex B** new milestones for three procurement checkpoints, viz. appointing an RI, inviting tenders for repair works contract, and awarding the repair works contract. These practical and achievable milestones are to guide owners / OCs of different building sizes throughout the process and help monitor the procurement exercise is progressing on track. **Requests for extension of deadlines (EOD) will be vetted critically** and approved by URA only where warranted with EOD granted only once for each milestone and a maximum period of EOD imposed. Reminders will be issued to applicants approaching their milestones. Approval of application by URA will be revoked for applications that cannot meet the milestones or the extended milestones (if granted). With URA's enhanced support as set out above, we envisage that owners / OCs should be more capable and confident in arranging the prescribed MBIS inspection and repair works in a timely manner. As such, we expect that revocation of approval should be rare.

13. We propose implementing the measures in paragraph 12 above for applications received under the third round of OBB 2.0⁷. The time taken for owners / OCs to award works contract is expected to be shortened from originally 43 months to 19 months the earliest and 29 months the longest, depending on the building size (please refer to **Annex B**).

Other Measures

14. To strengthen compliance with the MBIS regime, the Government will continue to step up publicity and education to cultivate the culture of regular building maintenance and rehabilitation in the community. Last year, BD, URA and the Home Affairs Department had actively involved the community and jointly organised nine district briefings from August to December in Sham Shui Po, Kowloon City, Yau Tsim Mong, Central and Western, Wan Chai, North, Tsuen Wan, Wong Tai Sin and Eastern districts to explain the procedures for complying with MBIS notices, formation of OCs and application for subsidies from URA.

⁷ Applications for third round was closed on 30 September 2023 and URA expects to approve applications in batches starting from the second quarter of 2024.

15. For the 2 700 cases with outstanding MBIS notices, we last reported their status through a press release issued on 29 December 2023. BD has been instigating prosecution against non-compliant cases without reasonable excuse, such as those showing no progress despite repeated urges and assistance offered by the Government. An update on the 2 700 cases is at **Annex D**. We are also reviewing the penalties against non-compliance with MBIS notices under the Buildings Ordinance (BO), including raising the penalty level and streamlining the prosecution procedures, so as to enhance the deterrent effect. These and other legislative proposals arising from the BO review will be formulated within 2024.

ADVICE SOUGHT

16. Members are invited to comment on the proposals.

**Development Bureau
Buildings Department
Urban Renewal Authority
February 2024**

Revised Building Score System

	Score
A. <u>Building Age</u>	(10 20) Maximum)
(i) 30 - 39	0
(ii) 40 - 49	5
(iii) 50—54 50 or above	10
(iv) 55—59	15
(v) 60 or above	20
B. <u>Building Condition</u>	(70 60) Maximum)
(i) General/slight building defects (no. of reports = 1 to 5)	5 10
(ii) Dilapidated condition (no. of reports > 5)	10 20
(iii) <u>Either B(i) or B(ii) involving exterior elements [New]</u>	10
(iv) Emergency reports	5 10
(v) <u>B(iv) involving exterior elements [New]</u>	5
(vi) Outstanding orders for common parts of building served under sections 26/26A/28 ⁸ of the Buildings Ordinance	25 30
(vii) <u>“Poor” rating under URA’s Condition Survey [New]</u>	15
C. <u>Building Management</u>	(10 5) Maximum)
(i) “Three-nil” building	10 5
D. <u>Critical Building Elements</u>	(10) Maximum)
(i) Building with cantilevered slab balcony	5
(ii) Building with cantilevered slab canopy	5
Total :	100 95

⁸ Sections 26, 26A and 28 concern dangerous buildings, defective buildings and drainage respectively.

Proposed New Milestones for Applicants of OBB 2.0*

Number of Units in Building	Milestone 1 Award of RI Consultancy Contract (months)[#]	Milestone 2 Invite Tender for Works Contract (months)[#]	Milestone 3 Award of Works Contract (months)[#]
0 - 50	5	12	19
51-100	5	13	21
101-150	5	14	23
151-200	5	15	25
201-250	5	16	27
More than 250	5	17	29

* Buildings with more units involve more owners. They are given a longer duration to meet the milestones as it usually takes a longer time to reach consensus.

Counting from approval of application by URA.

Proposed Pre-qualification Requirements for RIs and Contractors

URA will invite both current practitioners⁹ as well as all registered inspectors and registered contractors under the Buildings Ordinance (BO) meeting the requirements in this Annex to apply for inclusion in the pre-qualified lists. URA will also consider whether the applicant has been convicted of any building or construction industry-related offenses within the past five years. The pre-qualifications of RIs and contractors will be renewed annually. URA will review the performance of RIs and contractors during the renewal process, taking into account whether the RI has performed their duties as required under MBIS, or if the contractor has been involved in any fatal site accidents, etc. If it has come to URA's attention at any time that a pre-qualification requirement has been violated, the RI or contractor concerned will be suspended or delisted from the pre-qualified lists without awaiting the annual review. New applicants may be added to the lists during the year if they meet the pre-qualification requirements.

For RIs

2. An RI must fulfill the following conditions in order to be pre-qualified by URA:

- The consultancy firm (including its directors, partners and/or sole proprietor) has not been convicted in the past five years under any of the laws relating to building works, site safety, occupational safety, corruption, immigration and competition.
- The consultancy firm shall not be subject to any current suspension and restriction (including voluntary suspension and restriction) from tendering under any of the relevant approved consultancy lists of the Government and the Hong Kong Housing Society.

⁹ It includes the RIs and contractors already registered on the Smart Tender platform, the list of Consultants (only for Architectural, Building Surveying and Structural Engineering Category) of Architectural and Associated Consultants Selection Board (AACSB) as well as the list of Approved Contractors for Public Works.

- Any professional who is subject to disciplinary action under the BO or their respective professional bodies will not be eligible for consideration in the staffing requirements.
- The consultancy firm shall meet the staffing requirements (including minimum number of RI/Authorized Person (AP), professional staff and technical staff provided).
- To cater for the experience needed for providing prescribed inspections and supervision for repair works for large and small buildings, two lists of RIs (List A and B) with different project experience requirements (including (i) minimum number and size of buildings inspected and/or supervised for the repair works as an RI in the past years; and (ii) minimum number and size of buildings with alterations and additions (A&A) works / minor works completed as an AP in the past years) will be compiled. List A of RIs could only serve buildings with 200 units or less and list B could serve buildings of any size. The consultancy firm shall meet the corresponding project experience requirements in order to be qualified for List A or B.

For Contractors

3. A contractor must fulfill the following conditions in order to be pre-qualified by URA:

- The construction firm (including its directors, partners and/or sole proprietor) has not been convicted in the past five years under any of the laws relating to building works, site safety, occupational safety, corruption, immigration and competition.
- The construction firm shall not be subject to any current suspension and restriction (including voluntary suspension and restriction) from tendering under any of the relevant approved contractors lists of the Government and the Hong Kong Housing Society.
- The contractor must be on the list of Registered Minor Works Contractor (Class 1) or Registered General Building Contractor under the BO.
- To cater for the experience needed for carrying out prescribed repair works for large and small buildings, two lists of contractors (List A and B) with different project experience requirements (including minimum number and size of buildings with repair works/A&A works undertaken

in the past years) will be compiled. List A of contractors could only serve buildings with 200 units or less and list B could serve buildings of any size. The construction firm shall meet the corresponding project experience requirements in order to be qualified for List A or B.

**An Overview of the Progress of the 2 700 Buildings with Outstanding
MBIS Notices
(as of January 2024)**

1. Cases with progress	No. of buildings (Approximately)
(a) Notices have been complied with	200
(b) Positive progress of inspection/repair works (e.g. RIs or contractors appointed/inspection or repair works being commenced or in progress)	1 190
(c) BD/Home Affairs Department (HAD)/URA is providing assistance to owners to comply with the notices (including assistance to procure RIs, form OCs, resolve disputes among owners, etc.)	700
(d) Have been selected as Category 2 buildings under OBB 2.0 (i.e. the BD will exercise its statutory power in carrying out the inspection and repair works on behalf of the owners or OCs incapable to organise inspection and repair works on their own, with the cost be recovered from them afterwards)	150 (Some 90 of which have been assigned with consultants for inspections)
2. Superseding notices issued by the BD due to change in ownership, etc.	30
3. Prosecution proceedings instigated since the fourth quarter of last year	170
4. Cases to be considered for instigating prosecutions (BD/HAD/URA will provide further assistance to cases with no progress or response according to the actual situation and difficulties encountered. In case there is still no progress, BD will consider instigating prosecution proceedings)	260
Total	2 700