

**Fifth Meeting of the  
EEC Subgroup on Business Facilitation**

***Agenda Item 4 : Task Force to review the Construction Stage  
of the Development Process  
– 2<sup>nd</sup> Summary Report***

**Introduction**

This report provides a gist of discussions at the second meeting of the Task Force to Review the Construction Stage of the Development Process held on 15 February 2005.

**Overseas Experience on Private Certification**

2. Buildings Department (BD) presented its findings of a desktop research on the systems for private certification in Australia, Singapore and UK. In UK and Australia, developers could choose to engage independent checkers or building authorities to undertake building control functions. In Singapore, structural designs of buildings had to be checked and certified by an independent checker before submitting to the authority for approval. In all three countries, independent checkers were regulated through registration systems administered by the government. In Singapore and Australia, certifications made by independent checkers were subject to independent audits.

3. One Task Force Member pointed out that in the three countries, there was clear separation between planning and building controls. The former covered planning aspects including building layout, environmental and traffic impacts while the latter covered technical matters. Going through building controls after obtaining planning approvals would be quite straightforward.

4. Through discussions with industry stakeholders, BD had identified several implementation issues which had to be tackled in adopting private certification in Hong Kong, including independence of private certifiers, commercial viability if private certifiers were not allowed to

submit plans to BD, availability and affordability of professional indemnity insurance (PII), public confidence in private certification and an enabling legislation for the scheme.

### **Way Forward for Private Certification**

5. Members went through a submission prepared by the Secretariat on the basis of Members' written contributions setting out the proposed scope of private certification, potential benefits, implementation issues and possible solutions.

#### ***Scope of private certification***

6. Members agreed that a distinction should be made between self-certification and third-party certification. All major parts of building designs should be subject to independent scrutiny and hence third-party certification was necessary. Self-certification should be restricted to matters which could be entrusted to designers.

7. There was general support for staged implementation starting with a set of submissions that was relatively straightforward and less critical in terms of safety and health. However, BD underscored the need for an overall implementation strategy in securing passage of an enabling legislation.

8. Most Members agreed that submissions of a technical nature, such as drainage plans, superstructure plans and curtain wall design would be suitable for private certification. Submissions related to planning aspects, such as General Building Plans (GBP) which checking would require input from government departments, should not be included. However, as different professional disciplines might have divergent views, the merits of including particular types of submissions should be carefully examined. It was also argued that superstructure plans should not be considered for private certification because the approved structural design would be of equal importance as GBP's.

### ***Benefits of private certification***

9. One of the potential benefits was greater flexibility in the manner and timing of making submissions and quicker turnaround time, giving project participants better control on the construction programme. These would be achieved through reducing paperwork, partnership between design teams and private certifiers and synchronization of the checking process with the construction programme. However, there were concerns that partnership with design teams could compromise the independence of private certifiers.

### ***Independence of private certifiers***

10. Some Members considered that given the professionalism of consultants in Hong Kong, it should be possible to assure the independence of private certifiers through suitable checks and balances. Other Members pointed out that it would be difficult for private certifiers to avoid conflicts of interest since most of the local building professionals knew one another.

### ***Uniformity of standards***

11. Some Members doubted whether codes of practice could help private certifiers apply uniform standards in certifying building submissions. Others thought that codes of practice should suffice for assuring uniformity in checking technical submissions.

### ***Professional indemnity insurance***

12. Some Members supported the imposition of statutory caps on the liability of private certifiers to make PII affordable to them on the grounds that professional liabilities should rest primarily with designers. Moreover, the Building Authority was exempted from all liabilities in exercising building control functions through statutory provisions. Others doubted the feasibility of imposing statutory caps and whether these would be accepted by the public. BD expressed concerns about the read-across effects of statutory caps on other legislation.

### ***Way Forward***

13. As a result of the divergent views on several fundamental issues, Members could not arrive at any consensus on the adoption of private certification. To facilitate further discussions, the Secretariat would examine the process of checking building plans with a view to identifying submissions that could benefit from private certification and conduct more in-depth research on overseas experience to find out further information on the benefits of private certification and the implementation issues. BD would provide for Members' reference the relevant Practice Notes on building plan checking and advise on the industry's concerns on specific aspects of the checking process.

### **Alignment of Key Development Control Parameters**

14. BD, Lands Department and Planning Department had formed an inter-departmental working group to review the definitions of development control parameters adopted by the three departments. Out of the 20 parameters reviewed thus far, the interpretations of 10 parameters were found to be consistent among the three departments. The definitions of seven parameters would need to be aligned. Alignment of the remaining three which served different purposes would not be possible. A joint Practice Note would be issued on the revised definitions after conducting industry consultation.

15. Members welcomed the efforts made by the three departments and noted that alignment of development control parameters might facilitate delegation of checking authorities and integration of the checking for compliance with related statutory requirements into the processing of building plans.