MANAGEMENT OF MINOR WORKS BY THE BUILDINGS DEPARTMENT

Executive Summary

1. Under the Buildings Ordinance (Cap. 123), prior to 31 December 2010, all building works, with the exception of exempted works, required the prior approval and consent of the Buildings Department (BD) before commencement. On 31 December 2010, the Minor Works Control System (MWCS) regulated by the Building (Minor Works) Regulation (B(MW)R) (Cap. 123N) came into full operation. With the introduction of MWCS, building owners may carry out minor works (MW) under simplified requirements without the need to obtain prior approval and consent of BD before the commencement of such works. MWCS aims to facilitate building owners and occupants in carrying out small-scale and low-risk building works safely and lawfully through simplified statutory procedures and thereby improve the quality of such building works and building safety in Hong Kong.

2. Under MWCS, MW are classified into three classes (i.e. Classes I, II and III, with degree of control in descending order) according to their scale, complexity and risk to safety. All MW (i.e. Classes I, II and III MW) are required to be carried out by prescribed registered contractors (RCs). If the works involve Class I MW, the owners should engage prescribed building professionals (BPs) to design and supervise the carrying out of the MW. BD is responsible for processing the applications for registration for prescribed BPs and prescribed RCs. The Audit Commission (Audit) has recently conducted a review to examine BD's work in management of MW.

Processing of minor works submissions

3. ***Late submission of some notices of commencement of works and certificates of completion of works.*** According to B(MW)R, the prescribed BP or prescribed RC is required to submit MW documents to BD not less than 7 days before the commencement of the works (for Classes I and II MW) and within 14 days after the date of completion of the works (for Classes I, II and III MW). From January 2019 to March 2022, 138,474 notices of commencement of works and

173,830 certificates of completion of works were processed by BD's Minor Works and Signboard Control Section. Audit noted that there was late submission of some documents: (a) of the 138,474 notices of commencement of works, 9,348 (7%) were submitted to BD less than 7 days before the commencement of works. Of the 9,348 notices, the commencement dates of works for 2,327 (25%) were even earlier than the submission dates of the notices (i.e. the notices were submitted after the works had commenced) by 1 day to 1.9 years (averaging 40 days); and (b) of the 173,830 certificates of completion of works, 4,762 (3%) were submitted to BD more than 14 days and up to 3.2 years (averaging 51 days) after the completion of works (paras. 2.4 and 2.5).

4. ***Long outstanding certificates of completion of works.*** From January 2017 to September 2021, 192,161 notices of commencement of works for Classes I and II MW were processed by the Minor Works and Signboard Control Section. Audit noted that, as of March 2022, certificates of completion of works had not yet been received for 11,336 (6%) notices of commencement of works (including 3,402 (30% of 11,336) notices received more than 3 years but without corresponding certificates of completion of works). According to BD, it had conducted two reviews of Classes I and II MW submissions relating to notices of commencement of works received from 2014 to 2016 and 2017 to 2019 without corresponding certificates of completion of works in May 2018 and March 2022 respectively and issued reminder letters to all relevant prescribed BPs and prescribed RCs. There are different reasons for notices of commencement of works without corresponding certificates of completion of works. Late submission of MW documents would only be identified when submissions were selected for its audit checks. Audit noted that there was scope for making use of Minor Works Management System (MWM System) (a computer system implemented in June 2010 and revamped in January 2020 for recording submission information) to keep track of MW submissions (paras. 2.7 to 2.10).

5. ***Scope for encouraging the use of e-submission.*** In 2016, BD launched the Electronic Forms Submission System to facilitate online submission of forms through BD's website. From January 2017 to December 2021, of some 95,000 to 116,000 MW submissions processed each year by the Minor Works and Signboard Control Section, e-submission accounted for only 8% to 13.7% (paras. 2.11 and 2.12).

6. ***BD's audit checks of some selected MW submissions not timely completed.*** MW submissions will be selected at random by BD for its audit checks (i.e. audit fundamental check (AFC) and site audit check (SAC)). From January 2019 to March 2022, 20,828 MW submissions were selected for AFC and 2,835 MW submissions were selected for SAC. Audit noted that BD had not met the time target of 60 days for completing its audit checks of some submissions. As of March 2022: (a) AFC for 15,339 (74%) submissions had been completed. Except 372 submissions without completion date of AFC, for 7,405 (49%) of the remaining 14,967 submissions, BD took more than 60 days and up to 3.2 years (averaging 215 days) to complete AFC after the selection dates. AFC for 5,489 (26%) submissions were still in progress, of which 4,629 (84%) submissions had been selected for AFC for more than 60 days and up to 3.2 years (averaging 1.3 years); and (b) SAC for 1,561 (55%) submissions had been completed. Except 648 submissions without completion date of SAC, for 463 (51%) of the remaining 913 submissions, BD took more than 60 days and up to 1.9 years (averaging 191 days) to complete SAC after the selection dates. SAC for 1,274 (45%) submissions were still in progress, of which 1,137 (89%) submissions had been selected for SAC for more than 60 days and up to 3.2 years (averaging 1.4 years) (paras. 2.17 and 2.22).

7. ***Scope for enhancing the monitoring of irregularities found during BD's audit checks of MW submissions.*** Of 15,339 and 1,561 MW submissions selected for AFC and SAC respectively from January 2019 to March 2022, 566 (4%) and 172 (11%) submissions were found not in order in AFC and SAC respectively. Audit noted that there was no readily available information on the follow-up actions on 30 (5% of 566) and 79 (46% of 172) submissions with irregularities found in AFC and SAC respectively. Of these 109 (30+79) submissions, 60 submissions' completion dates of audit checks were recorded by BD. The audit checks for 49 (82%) of these 60 submissions had been completed for more than 6 months and up to 3.2 years (averaging 1.9 years) (para. 2.26).

8. ***Scope for improvement in conducting site inspection.*** Audit noted that, of the 1,561 completed SAC for MW submissions selected from January 2019 to March 2022, the subject premises of 382 (24%) were inaccessible. In Audit's view, there is merit for BD to explore measures to increase the successful rate of site inspection for MW submissions selected for SAC (paras. 2.29 and 2.31).

9. ***Advisory letters and warning letters.*** According to BD guidelines, for MW submissions with irregularities found during BD's audit checks, BD may issue advisory letters to the prescribed BPs and/or prescribed RCs in accordance with its time targets. If the irregularities identified during BD's audit checks are not or cannot be rectified, or for any major irregularities identified even if they are rectified eventually, a warning letter should be issued in accordance with BD's time targets instead (para. 2.32). Audit noted the following issues:

(a) ***Some advisory letters not timely issued.*** BD issued advisory letters for 308 MW submissions selected for its audit checks from January 2019 to March 2022 (comprising 191 and 117 letters issued for AFC and SAC respectively). A total of 131 (69%) advisory letters issued for AFC and 58 (50%) advisory letters issued for SAC were not timely issued in accordance with BD's time targets (para. 2.33); and

(b) ***Some warning letters not timely issued.*** BD issued warning letters for 84 MW submissions selected for its audit checks from January 2019 to March 2022 (comprising 54 and 30 letters issued for AFC and SAC respectively). A total of 36 (67%) warning letters issued for AFC and 23 (77%) warning letters issued for SAC were not timely issued in accordance with BD's time targets (para. 2.33).

10. ***Referral of non-compliant cases for instigating prosecution actions.*** According to BD guidelines, non-compliant MW submissions should be referred to BD's Legal Services Section for instigating prosecution actions within 180 days from the selection date of MW submission for AFC or from the date of discovery of irregularities for SAC. In instigating prosecution actions against non-compliant MW submissions, priority should be given to, for example, submissions involving major irregularities identified (para. 2.36). Audit noted the following issues:

(a) ***Some non-compliant MW submissions not timely referred for instigating prosecution actions.*** Of the 24 non-compliant MW submissions referred to the Legal Services Section from January 2019 to March 2022 for instigating prosecution actions, 11 (46%) non-compliant submissions identified in AFC were referred to the Section 211 to 348 days (averaging 286 days) after the selection dates of submissions for AFC and 3 (13%) non-compliant submissions identified in SAC were referred to the Section 211 to 289 days (averaging 237 days) after the dates of discovery of irregularities for SAC (para. 2.38); and

(b) ***Some cases of serious irregularities not yet referred for instigating prosecution actions after a long time.*** BD's audit checks identified 33 submissions with serious irregularities from January 2019 to March 2022. As of August 2022, 13 (40%) submissions had not been referred to the Legal Services Section for instigating prosecution actions (including 6 submissions with serious irregularities identified for more than 1 year) (para. 2.38).

11. ***Scope for making better use of MWM System for processing MW submissions.*** While a revamped MWM System was implemented in January 2020, Audit noted that there was still scope for improvement in recording and monitoring BD's audit checks: (a) according to BD, the progress of its audit checks is recorded in both MWM System and spreadsheets. Audit however noted that completion dates of audit checks for some submissions was not recorded in MWM System or spreadsheets (see para. 6); and (b) some management reports (e.g. management information on progress of BD's audit checks and timeliness of follow-up actions taken) could not be generated from MWM System for monitoring purpose (para. 2.40).

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12. ***Performance enhancement courses.*** Under the Contractor Performance Enhancement Scheme (CPES), when warning letters are issued by BD to registered minor works contractors (RMWCs) for irregularities found, performance points will be accorded to RMWCs. BD will issue notification letters to invite RMWCs to attend performance enhancement courses when the total performance points accorded to the RMWCs reach 15 or above, or the RMWCs have been convicted or disciplined under the Buildings Ordinance arising from their carrying out of MW. BD will further issue reminder letters to the RMWCs if certificates of attendance are not submitted within 1.5 months from the dates of notification letters. Since the commencement of CPES in December 2019 and up to March 2022, 37 RMWCs were invited to attend the performance enhancement courses (paras. 3.13 and 3.14). Of these 37 RMWCs, Audit noted that:

(a) ***Long time taken for issuing notification letters to some RMWCs.*** The time taken for issuing notification letters to them ranged from 3 to 451 days (averaging 157 days) after their performance points reached 15 or their

convicted/disciplined dates. In this connection, BD had not set any time target for issuing notification letters (para. 3.14);

(b) ***Reminder letters not timely issued to some RMWCs.*** 29 RMWCs had not submitted their certificates of attendance within 1.5 months from the dates of notification letters. Of these 29 RMWCs, reminder letters had not been issued to 7 RMWCs and reminder letters to 9 RMWCs had been issued more than 1.5 months (averaging 53 days) after the dates of notification letters (para. 3.14); and

(c) ***Low attendance of performance enhancement courses and some RMWCs exceeded the specified timeframe for attending such courses.*** As of March 2022, 16 (43%) RMWCs had not attended the performance enhancement courses and had exceeded the specified timeframe (i.e. 3 months from the dates of notification letters). Of the 21 RMWCs who had attended the performance enhancement courses, 4 (19%) RMWCs had not attended the courses within the specified timeframe (para. 3.14).

13. ***Need to instigate disciplinary proceedings expeditiously.*** According to BD guidelines, administratively, disciplinary proceedings should be commenced within 12 months from the date when the relevant breach/act of default is discovered, except where a valid reason exists. From January 2017 to March 2022, 33 cases were referred to the Legal Services Section for consideration of disciplinary actions against RMWCs. Audit noted two cases which took more than 2 years to refer to the Section for instigating disciplinary proceedings (paras. 3.25 to 3.27).

14. ***Need to make better use of MWM System to keep track of progress of cases with disciplinary proceedings instigated.*** In January 2020, BD revamped its MWM System for more efficient tracking of BD's audit cases under MWCS. Audit noted that warranted cases referred to the Legal Services Section for instigating disciplinary proceedings were only maintained in spreadsheets. In Audit's view, BD needs to take measures to make better use of information technology to keep track of progress of such cases for monitoring purpose (paras. 3.29 and 3.30).

Other related issues

15. ***Validation schemes relating to specific types of unauthorised building works (UBWs).*** As of March 2022, BD implemented three validation schemes relating to specific types of UBWs, namely Household Minor Works Validation Scheme (HMWVS), Signboard Validation Scheme (SVS) and Minor Amenity Feature Validation Scheme (MAFVS) (para. 4.2). Audit noted the following issues:

(a) ***Need to encourage more building owners to validate UBWs through the validation schemes.*** In May 2011, BD commissioned a territory-wide stocktaking exercise to capture information on UBWs erected on the exteriors of private buildings and identified about 2.3 million suspected UBWs. About 1.7 million household MW and 86,400 signboards were potential candidates for validation under HMWVS and SVS respectively then. Audit noted that, since the launch of the three validation schemes and up to March 2022, BD had only received 248, 965 and 21 applications for HMWVS, SVS and MAFVS respectively. While MAFVS was newly implemented (for 7 months) in September 2021, HMWVS and SVS had been implemented for over 11 and 8 years respectively. In Audit's view, BD needs to take measures to encourage more building owners to validate UBWs through relevant validation schemes (paras. 4.3, 4.4 and 4.6);

(b) ***Long time taken for processing some applications.*** As of March 2022, 16 and 150 applications received under HMWVS and SVS respectively were still being processed by BD. In particular, 1 HMWVS application (received some 4 years ago) and 5 SVS applications (received some 3 years ago) were still being processed by BD (para. 4.7); and

(c) ***Revalidation of some validated signboards under SVS was overdue.*** Signboards validated under SVS are subject to revalidation every five years. As of March 2022, there were 234 validated signboards due for revalidation. Revalidation applications had only been received by BD for 14 (6%) signboards. Of the remaining 220 signboards, no follow-up actions had been taken by BD on 218 (99%) cases, for which the revalidation had been overdue for 0.1 to 41.1 months (averaging 18.5 months) (para. 4.7).

16. ***Need to timely update relevant guidelines.*** MAFVS was implemented on 1 September 2021. Audit noted that, as of August 2022, some guidelines had not yet been updated for MAFVS accordingly by BD (paras. 4.14 and 4.15).

Audit recommendations

17. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Director of Buildings should:**

Processing of minor works submissions

(a) **enhance monitoring of MW submissions (e.g. through making better use of MWM System) to identify cases not complying with the statutory submission time limit and take appropriate and timely follow-up actions on these cases (para. 2.15(a));**

(b) **further enhance promotion of e-submission of MW documents to prescribed BPs and prescribed RCs (para. 2.15(c));**

(c) **strengthen measures to ensure the timely completion of BD's audit checks of MW submissions and enhance the monitoring of follow-up actions on irregularities found during the audit checks (para. 2.41(a) and (b));**

(d) **explore measures to increase the successful rate of site inspection for MW submissions selected for SAC (para. 2.41(c));**

(e) **take measures to ensure that advisory letters and warning letters are timely issued for MW submissions with irregularities found during BD's audit checks (para. 2.41(d));**

(f) **take measures to ensure that warranted non-compliant MW submissions are timely referred for instigating prosecution actions (para. 2.41(f));**

(g) **take measures to ensure that information about BD's audit checks is timely and completely recorded in MWM System and make better use of MWM System for generating management information on MW submissions for monitoring purpose (para. 2.41(g) and (h));**

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(h) **consider setting out a time target for issuing notification letters and take measures to ensure the timely issue of reminder letters to RMWCs who meet the criteria under CPES for attending the performance enhancement courses (para. 3.21(a) and (b));**

(i) **explore measures to encourage RMWCs to attend the performance enhancement courses within the specified timeframe (para. 3.21(d));**

(j) **instigate disciplinary proceedings against RMWCs involving malpractice expeditiously and take measures to make better use of information technology to keep track of progress of instigating disciplinary proceedings on cases concerned for monitoring purpose (para. 3.31(a) and (b));**

Other related issues

(k) **take measures to encourage more building owners to validate UBWs through relevant validation schemes and ensure that applications under validation schemes are timely processed (para. 4.9(a) and (b));**

(l) **regarding the revalidation of validated signboards under SVS, take measures to ensure that the signboards due for revalidation are timely followed up (para. 4.9(c)); and**

(m) **take measures to ensure that relevant guidelines for MAFVS are timely updated to incorporate the latest information (para. 4.17(c)).**

Response from the Government

18. The Director of Buildings agrees with the audit recommendations.