



THE PROFESSIONAL CENTRE
SLIEMA ROAD
GZIRA GZR 1633 - MALTA

TEL./FAX. (+356) 2131 4265
EMAIL. kamratelperiti@go.net.mt
WEBSITE. www.ktpmalta.org

K A M R A T A L - P E R I T I

To support members of the profession in achieving excellence in their practice of architecture and engineering in the interest of the community

The Director of Planning
Planning Directorate
St Francis Ravelin,
Floriana

20 February 2017

Dear Sir,

Re: Procedure for Minor Modifications to Subsidiary Plans

Reference is made to the current public consultation process regarding proposed amendments to Legal Notice 71 of 2007. This Legal Notice deals with provisions for minor amendments to subsidiary plans, which, as defined in the Act, includes “*subject plans, local plans, action plans or management plans and development briefs.*”

The following are the comments of the *Kamra tal-Periti* on the proposed changes:

- (1) Regulation 7 of the principal Regulations (LN 71 of 2007) is titled “*Applications for changes to the zoning in the official alignment or Subsidiary Plans*”, yet the proposed revised Regulation is titled “*Applications for changes to the zoning*”. It is therefore not clear whether this proposed regulation is replacing the whole of Regulation 7 of LN 71 of 2007, or only a part of it. The proposed Sub-Regulation 7(1) seems to limit the applicability of the proposed new regulation only to those instances outlined in Article 54(2)(b) of the Act, namely “*changes in zoning, other than: (i) changes in height limitation; and (ii) changes in zoning of a site which lies in an Outside Development Zone or which is within the Development Zone but not designated for the purpose of development.*” Clarity is required on this matter, and also whether this procedure applies to subject plans, local plans, action plans, management plans and development briefs as defined in the Act.
- (2) The *Kamra tal-Periti* hopes that it has misinterpreted the proposed provisions of the new Regulations, which appear to suggest that, in instances where the Planning Authority refers an application to the Minister for approval, such Minister may disagree with the contents of the application and may instruct the Planning Authority to effect changes to it without the need for any further public consultation and without allowing the Planning Authority or any interested third parties any say in the application as amended from a technical and urban planning viewpoint. This is unacceptable, in particular, in view of the fact that an appeal from a decision relating to instances covered by Article 54(2) of the Main Act is not contemplated by the Act. This is effectively a retrograde step which unacceptably places decisions of an urban planning nature squarely within the Minister’s remit.

- (3) In addition, these provisions are in significant conflict with the provisions of Article 53 of the Main Act which deals with the procedure to be adopted for the preparation, review or withdrawal of a subsidiary plan or policy. This provides that, following the initial public consultation phase, the Executive Council shall refer such plan to the Minister for approval. If the Minister agrees with the final draft, this shall be forwarded to the Parliamentary Standing Committee for its effective scrutiny. Where the Minister does not agree with the draft, he shall prepare a position statement in this regard, which will also be submitted to the Parliamentary Standing Committee for its scrutiny. This procedure allows for public review of the changes proposed by the Minister, which is completely absent from the draft regulation under discussion.
- (4) Finally, it is unclear why the proposed regulations will apply to those applications “*published for public consultation after the 3rd of April 2016*”. Since when is legislation applied retroactively? What applications is this regulation trying to accommodate? Does this mean that there has been a procedural lacuna for over 18 months?

In view of the lack of clarity as outlined above, the *Kamra tal-Periti* is not in a position to comment further, and requests a meeting with your good self to discuss these proposals in further detail.

Your sincerely,

Simone Vella Lenicker
Vice President, Kamra tal-Periti