

Hon Dr Deborah Schembri
Parliamentary Secretary for Planning
and Simplification of Administrative Processes
Office of the Prime Minister
Auberge de Castille,
Valletta

15 February 2016

Dear Hon Dr Schembri,

RE: DC15

Reference is made to the Development Control Design Policy, Guidance and Standards 2015 published by the Malta Environment and Planning Authority (MEPA) in November 2015, hereinafter referred to as DC15.

The *Kamra tal-Periti* draws your attention to the following matters, which have already been discussed with your predecessor with whom we had arrived to an understanding. These issues have resulted in significant burdens and anomalies which are creating a sense of uncertainty, and which are causing unwarranted frustration and unjust treatment both to its members and to their clients on whose behalf they act.

(1) Applicability of DC15

Part 4 of MEPA Circular 5/15 (hereto attached) states the following:

"DC15 will come into force on Monday 16th November 2015. All applications validated from this date onwards will be processed in line with the new policy. All applications validated prior to this date will be processed according to Development Control - Policy and Design Guidance, 2007 (DC 2007), unless specifically instructed otherwise by the Perit. Periti who have submitted applications which have already been screened and have not yet complied with the requirements of the Screening Letter and wish to have their application assessed against DC 2007 are requested to upload any pending documentation and effect any payment by not later than Thursday 12th November 2015."

This Circular was issued on the 9th November 2015, thus effectively only giving *periti* and applicants less than four working days to comply with the last sentence quoted above, that is to submit the information requested in the Screening Letter. In some cases, the submission of outstanding information may have been possible, however in most cases the information requested requires significant time and expense to execute, and therefore it is submitted that the minimal, not to say negligible, time allowed was **unacceptable**.

The *Kamra tal-Periti* is concerned about the way in which DC15 was brought into force without adequate notice. The process of design involves a number of months during which

periti and their clients explore a number of options for the site in question, based on the policies applicable at the time. The design process which was carried out for applications submitted before the 16th November 2015 was based on DC07, and therefore it is grossly unfair and unacceptable that MEPA has changed the goalposts without making adequate provisions for a smooth transition.

The *Kamra tal-Periti* also notes with regret that it was not consulted on these procedural matters, and that therefore it was not in a position to put forward the profession's concerns in this regard.

In view of the above, the *Kamra tal-Periti* puts forward the following requests for your consideration and immediate action:

- i. Any applications validated prior to the 16th November 2015 are to be processed according to DC07 as provided for in Circular 5/15.
- ii. In the case of applications for which a Screening Letter had been issued prior to the 16th November 2015, and which have not yet complied with the requirements of the Screening Letter, applicants/*periti* are to be requested to submit the required information by not later than the date established in the Screening Letter, and to indicate in their response whether they wish their application to be assessed against DC07 or DC15. If the Screening Letter requirements are not submitted by the date indicated in the Screening Letter, following which the Screening Letter ceases to be valid, then the provisions of DC15 will apply to the assessment of the application.
- iii. In the case of applications which had been screened before the 16th November 2015, and where the Screening Letter requirements were submitted after the 12th November 2015, then the applicants are to be requested to confirm in writing, within 4 weeks from the announcement of this provision, whether they wish their application to be assessed on the basis of DC07 or DC15. The processing time permitted by legislation is to be suspended during this period.

(2) Applications for Minor Amendments

An anomaly that has arisen out of the way in which DC15 was summarily introduced is that it is causing great confusion in the assessment of Applications for Minor Amendments. As you are aware, during the five years within which a permit is still valid, the applicant may request minor amendments to such permitted development. Very often these minor alterations are executed on site, and then an application is submitted at the end of the construction process to bring the permit drawings in line with the situation on site. Many of these changes will, in fact, be considered as "*permitted development*" under the relevant legislation.

However, it appears that MEPA is now assessing such requests on the basis of the provisions of DC15, rather than on DC07 which prevailed at the time when such permit was granted and on the basis of which the application was assessed, and subsequently the basis on which

the building was, or is being, built. A number of situations have arisen where the minor amendments would have normally been permissible on the basis of DC07, but it is not necessarily the case that they are permissible under DC15.

Various members of the *Kamra tal-Periti* have reported that MEPA is insisting that there is an issue with the legislation governing Applications for Minor Amendments which does not permit MEPA to assess these applications on the basis of DC07. This needs to be addressed with urgency.

In view of the above, the *Kamra tal-Periti* puts forward the following requests for your consideration and immediate action:

- i. In the case of permits which were still valid as at the 16th November 2015, and for which an Application for Minor Amendments is submitted to the Authority, such Application is to be determined on the basis of DC07 unless the *perit* indicates otherwise in the Application Form or in a covering letter accompanying the Application.
- ii. The above provision is also to be applicable in the case of permits which were issued after the 16th November 2015, but where the DPAR was published prior to such date.

While taking this opportunity to thank you in advance for giving the above matters your due consideration, the *Kamra tal-Periti* wishes to **stress the urgency** with which these matters need to be addressed, and offers its availability to discuss these matters with you at your earliest convenience.

Yours sincerely,



Perit Christopher Mintoff

President Kamra tal-Periti

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cc. Mr Johann Buttigieg, CEO (MEPA)
Perit Vincent Cassar, Chairman (MEPA)
Perit Christopher Borg, Director of Planning (MEPA)

Encl MEPA Circular 5/15

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