



Analysis Report

Bill 144

Environment and Planning Review Tribunal Act, 2025

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**Kamra
tal-Periti**

Reference is made to Bill 144 tabled in Parliament on 18th July 2025 and which was brought to our attention through media reporting on 25th July, 2025.

The KTP can confirm that it was presented the draft text of this Bill during two consultation meetings held with the PA, and was also involved in various discussions over the past twelve months on the principles that were to inform the changes to the planning appeal legislation.

The Council notes, however, that there were a number of changes and additions to the final Bill as tabled in Parliament.

The Kamra tal-Periti is hereby providing its position on the proposed amendments in the Bill.



Specific Feedback

	Description	Proposed Amendment	Comments
1	Article 13 Power of the Tribunal	<p>Subarticle (2) proposes a distinction between factual determinations and the legal correctness of decisions based on those determinations.</p> <p>The term “factual determination” is not defined, however all determinations made by a Tribunal are based on evidence presented to it and are thus subject to interpretation. It is unreasonable to exclude such determinations from the scope of an appeal.</p>	<p><u>The term “factual determination” needs to be better defined to improve clarity.</u></p>
2	Article 21: Frivolous or vexatious appeals	<p>This article gives the power to the Tribunal to impose a fine of up to €5,000 if it is of the opinion that the appeal is frivolous or vexatious. Such a decision is not appealable.</p>	<p>While the need to curtail frivolous and vexatious appeals is recognised by the Council, the amendment should be better calibrated not to have a chilling effect on potential objectors.</p> <p><u>It is recommended that the article in this Bill be amended such that the fine is commensurate to the scale of the project (by for example making it</u></p>

			<u>proportionate to the appeal fee) and that a right of appeal on the fine is allowed without in any way affecting the permit holder.</u>
3	Article 29: Time periods for filing appeals	<p>This article reduces the time-period for the filing of an appeal before the EPRT from the current 30 days down to 20 days.</p> <p>The time-period commences from the date of publication of the decision by the Planning Board / Commission in the Government Gazette and not the date of the hearing when the decision is taken. There is normally a gap of 10 to 15 days between the decision date and publication date.</p>	<p>The Council finds no objection to the lowering of the period to file an appeal, as this forms part of a wider compromise within the reform aimed at expediting the process while maintaining the permits suspended for the entire appeal phase.</p> <p>The twenty-day period from publication date is deemed adequate for the filing of an appeal, particularly considering that written and oral submissions would have already been submitted during the previous phase of the application process by the applicants or their representatives.</p> <p><u>Nevertheless, the Council has no issue with retaining the 30-day period provided that the overall appeal period of approximately ten months as envisaged in this amendment is not extended.</u></p>
4	Article 31 (2) Content of an appeal by an interested third party	<p>Grounds of appeal are limited to those raised between the representation period on affixation of the site notice and the two weeks allotted for the submission of a response to the case officer report (DPAR).</p> <p>Objectors are allowed to make additional submissions about any change in plans at the request of the Planning Board / Commissions, and these submissions are</p>	<p>Public statements about the grounds of appeal being restricted to submissions made during the 30-day representation period at the early stages of a planning application are not grounded in the actual text of the Bill as published. Indeed, it is unclear what has given rise to such a wildly different reading of the text in the Bill.</p> <p>The Council of the Kamra tal-Periti has no objections to the wording of this article.</p>

		also included within the scope of an appeal before the EPRT.	
5	Article 31 (10) Request for extension by permit-holder	Subarticle 10 gives the permit-holder the opportunity to request for an extension of one month to file responses to defend the permit.	<u>It should be clarified, perhaps through improved wording, that if the permit holder avails him/herself of such an extension, the overall period for the Tribunal to take a decision is also extended by a month.</u>
6	Article 33 (4) Administrative penalties	Subarticle 4 introduces administrative penalties when a decision about a permit is overturned. Such penalties, fees, and contributions are collected and administered by the Planning Authority.	<p>The text in the Bill is unclear about who should pay these penalties and on what grounds. However, appeals are always filed against the PA's decisions so it would not make sense for the PA to pay fines to itself. There is a conceptual flaw or unclear wording behind this amendment which should be addressed.</p> <p><u>It is recommended that it be made clear that the fines and penalties referred to in this article are being imposed by the Tribunal on the PA.</u></p> <p><u>Additionally, it is proposed that any such fines are placed in a fund used to cover in part or in whole the fees and costs of the parties that successfully made their case to overturn the decision, be they applicants or interested third-parties.</u></p> <p><u>Moreover, a fee and penalty schedule should be published in a legal notice to ensure uniformity and consistency.</u></p>
7	Article 33 (5) Modification of plans	Subarticle 5 allows for the Tribunal to order the reduction of the intensity of the development without consulting with the interested parties or external parties.	The eventuality of the Tribunal imposing a modification of a permit when not requested by either of the parties should only be utilised when the <u>parties are given ample opportunity to react to this.</u> Moreover, <u>it is recommended that proposals for the modification of permit should be</u>

			<p><u>made by experts appointed pursuant to Article 23, to ensure impartiality and lack of prejudice by the Tribunal in its eventual determination.</u></p> <p>More importantly <u>it should be clear that this modification of permit is also subject to appeal, and does not constitute a “factual determination”.</u></p>
8	Article 44 Right of Appeal from EPRT Decisions	The current law talks about “aggrieved parties” while the Bill mentions them specifically, namely “the appellant and the Planning Authority, as parties to an appeal before the Tribunal, as well as interested third parties and external consultants who shall have notified their intention in terms of article 30 (4)”. This wording excludes applicants/permit holders from filing an appeal if the appellant is this interested third party or the external consultant.	<p><u>The text should be revised to address this anomaly.</u></p>
9	Article 46 Functions of the Court of Appeal (PA decisions)	This article gives the Court of Appeal two powers: confirmation or annulment of Tribunal’s decision. The annulment however does not end with a revocation, but with the case being sent back to the Tribunal for a new decision to be taken, presumably invoking its power to reduce the intensity of the development without consulting the interested third-parties discussed above.	<p>This provision is expected to exacerbate the speculative nature of our planning system by disincentivising developers to exercise restraint when applying for a permit to increase the probability of a successful outcome.</p> <p>What is likely to happen, instead, is that applicants will file wildly non-compliant proposals and hope that the Tribunal exercises its discretionary powers to only slightly reduce the size of the project.</p> <p>This is not good planning.</p>

			<p>The outcome of the Court of Appeal should be final, as it is in all other appeal decisions.</p> <p><u>It is, thus, recommended that subarticles 46 (1)(b), (2) – (4) be deleted.</u></p>
10	Article 51 Functions of the Court of Appeal (ERA decisions)	Ditto	Ditto



General Comments

The Bill proposes much-needed streamlining of the appeal process, by introducing short, specific time-frames, complete digitalisation, and, most importantly, the suspension of validity of planning permits during the appeal period.

The Kamra views this Bill positively as it strikes a fairer balance between applicants and representees. Nevertheless, there are some important amendments, outlined above, that must be introduced to eliminate some conceptual flaws.

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