

# Kamra tal-Periti

Minutes of the EGM held 26<sup>th</sup> May 2022 at the Catholic Institute, Floriana.

## AGENDA

Registration

President's Address

Discussion and Approval of Motions

## ATTENDANCE

The meeting was attended by 214 periti.

## MINUTES

Perit Pizzuto (AP) opened the meeting at 17.00, welcoming the participants.

He then proposed a motion (Motion 1) that all warranted periti and graduate periti be allowed to participate in the meeting and that all warranted periti would have the right to vote. Perit Lara Brincat seconded the motion. The motion was put to a vote and approved unanimously. The full text of the motion is included in the appendix.

AP then addressed the meeting starting with a timeline of events that had led to the current state of affairs, outlining the positions taken by the Council:

- The letter of commitment from Government to the Kamra
- The collapse of the building in Santa Venera where Miriam Pace lost her life, which led to the introduction of LN 136 of 2019
- The Covid Pandemic with associated difficulties for Council to hold meetings, and for meetings with public entities to undertake the necessary reforms.
- Meeting with the Prime Minister
- Meeting of the Council with the Quintano Commission
- Launch of the Kamra's Building Regulation Framework
- Passage of the Periti Act and BCA Act in Parliament
- Publication of the Quintano report which vindicated many of the positions taken by the Council
- Launch of the Community Wellbeing Scheme by Government
- Redraft of LN 136 by Council in consultation with Members.
- Forwarding of draft building codes to Council for consultation
- Amendments to LN136 in November and December 2021, which disproved the BCA's justification that LN 136 of 2019 would not be amended but replaced by the Building Regulations
- Kamra's EGM in December 2021 which authorized the Council to issue a directive on practising ethically within the constraints of LN 136 of 2019 in its current form. This directive, which has not yet been issued, dealt mainly with the separation of roles, avoidance of conflicts, and distribution of liabilities.
- Numerous complaints regarding the processes being applied by BCA, clearly misinterpreting the Legal Notice.

- Meetings of Council with BCA leading to the issue of a written guidance note. AP went through this guidance note in detail explaining what the Council had agreed to. However, the BCA is not applying this guidance note, issued by itself.
- Information session by the BCA for Periti on May 23 in which the BCA unilaterally introduced new procedures which are to come into effect on 30th May. AP noted that the Council had not yet even been notified of these changes, let alone agreed with them.

AP then spoke on developments on the building regulations. According to the Kamra's Framework Document, regulations have to be based on three principles: Standards that are identifiable, clear and consistent, and necessary; procedures that are simple, necessary and proportionate to project scale and risk; and the required Skills and Competencies of all involved, particularly Periti and Contractors. AP noted lack of progress on competencies in spite of the increased risk due to the changing nature and scale of projects and the prevalence of amateurs. There has been no progress on the licensing of contractors. The Council is now insisting that at least a requirement for basic licensing should be introduced, including PI. This would be a start since the contractor would have a deterrent from acting irresponsibly or incompetently, as they could lose their license. The courses leading up to licences in the different skills can come later. The STO has shifted the responsibility away from the contractor. The BCA seemed to have acknowledged this and there was an agreement with the Council that the role would be phased out. However, in practice the BCA are engaging in all sorts of manoeuvres to keep the role, and even expand it.

The Periti Act has come into force; however, efforts continue by others to carve out sectors of the profession. The latest attempt is the draft Legal Notice, promoted by the BCA, on warrants for project managers.

The Building and Construction codes are being developed without the involvement of the Kamra and they are clearly being developed in an un-coordinated manner. This is not to criticise the good work of periti who have contributed to the drafts however the brief which they were given has resulted in codes which are heavy on process and low on standards. Construction regulations are being mixed in with building codes. The most outrageous proposal is that Government buildings would be exempt!

AP then introduced four motions to be discussed, asking the members to endorse the Council's position on the different issues which he had addressed in his presentation and to empower the Council to take any action it deems necessary on each of these issues. Motion 2 is related to the licensing of contractors; Motion 3 is related to LN136 and its implementation by the BCA; Motion 4 is related to the Building Regulations; and Motion 5 is related to the complexity of the compliance process and the responsibility which the perit is implicitly assuming for matters not related to the profession.

AP then opened the discussion to the members present. The following are some of the interventions:

Perit Felic Micallef asked about the guidance note and the way the BCA were interpreting Regulation 26. There is also a discrepancy between the English and Maltese versions in the Legal Notice itself. AP replied that this is an example of the BCA misreading the LN and the spirit behind it. Perit Micallef asked if there is a form. AP replied that the perit does not have to sign. There is no form, the request has to be made through a letter. However, it seems that in the changes which the BCA is going to issue next Monday, there will be forms.

Perit Karl Farrugia asked how we can justify all this to non-professionals and third parties. The perit is being lumped with all the problems. He did not agree with the timeframes being given in the motions for the Kamra's demands to be met. The Kamra should take immediate action. AP noted that amendments to the motions could be proposed. However, there is a new minister and the Government appears more receptive. Under the circumstances AP thinks that the new minister should be given some time.

AP noted that the Legal Notice itself was not designed to be so cumbersome. For example, there was no requirement for a clearance.

Perit Kevin Abela pointed out that the BCA was not so diplomatic. The new regulations which they had imposed would come into force on Monday.

Perit Chris Mintoff asked who are the problems which the Kamra is facing. The general public cannot comprehend the implications of what is happening. Bureaucracy has increased but safety has not. We are put in a situation where we are being distracted from practising our profession.

Perit Reuben Sciortino stated that we should follow the Legal Notice word for word and do nothing beyond what it requires. He was in favour of giving clear timeframes and avoiding immediate confrontation. Detailed information should be made available to the public on what is going on so that when the time comes to take action, it does not come out of the blue. Also, periti checking the method statements of other periti is not acceptable. With regards to this last point AP noted that audits are not a requirement of LN136 but the BCA needs to ensure that method statements are in line with the regulations. What is happening is that the BCA has a checklist of what the method statement has to contain and the auditors are ticking the boxes.

Perit Catherine Galea noted that there is a confusion especially for clients. The licensing of contractors is very urgent. It is important to clarify the different roles in a simple language that the public can understand.

Perit Chris Mintoff replied that he had tried to do this through an article in the Times of Malta in 2019.

Perit Ondre Camilleri Gaglione agreed with not taking a confrontational position with Government in the short term. Although we should promote greater efficiency we should choose our language carefully as the push for less bureaucracy is associated by the public with the MDA. With regards to clearances from the BCA, if this is not a legal requirement, we should agree to proceed without it. The Kamra can issue a directive.

At this point, reference was made to the latest version of the Legal Notice and it was noted that a provision has been introduced whereby clearance by the BCA is, in fact, required.

Perit Nicky Mallia stated that periti engaged by government or the BCA in drafting legislation affecting the profession should be obliged to follow the line set out by the Council. AP replied that ideally, the Authority should appoint the Kamra directly.

Professor Alex Torpiano stated that what the Council needs from the EGM is the backing of the members. We should not attack bureaucracy as such, but the fact that it has not led to greater safety. It is true that the bureaucracy bothers our clients but our clients are a very small proportion of the public. He agrees that the Kamra should take a stand. For example, we can say no to the new regulations which are due to come into force next Monday. We also have to look at ourselves. We have all seen examples of ridiculous method statements. The profession is partly to blame for no longer being credible.

Perit Stephen Archer asked what escalation was being considered and how this would affect the industry. We need to envision the consequences. AP replied that this has been left one since circumstances change. It is difficult to anticipate what actions the Council will take.

Perit Pierre Poulton asked what the ultimate goal is. Our aim should not be to eliminate bureaucracy but to have simple and effective processes. The focus should be on getting the profession working properly. Good building regulations are needed.

Perit Anthony Fenech Vella stated that licensing is a problem in the case of demolition and excavation contractors. For construction there is the mason's licence. The public may feel that they are protected by the

paperwork, but the important thing is that periti are professional in their work and take responsibility for it. We are ready to do our job, but our job only.

Perit Daniel Micallef stated that LN136 was an emergency measure and the letter of commitment was a way forward. With regards to the motions there is a common denominator in that the Council is requesting authorisation from the EGM to act. In his opinion they could be consolidated into one motion. The victims of all this are the people with small works who are our clients, and who do not understand.

He also agrees that we do need to look at ourselves sincerely as there are periti who act unethically.

Perit Anthony Bezzina noted that politicians take advice from experts. Here the BCA are acting as experts. AP replied that while it is true that politicians appoint the Board of the BCA, this is supposedly an independent authority not a government department.

Perit Simone Vella Lenicker noted that in this field we are the experts and the government is obliged to consult us. The situation is different now than with LN136. Then there was a confrontation with Government which had rushed to impose the Legal Notice and then needed to save face. Now it is different. There is a better understanding at a political level. Now this issue is incompetence and not understanding the industry by those who are implementing the policy. She agrees with allowing a reasonable time for Government to act. With regards to licensing, it is true that masons have a licence but they know how to build terraced houses. That is not what we are building today.

Perit Anthony Fenech Vella stated that periti do not have any remedies and this needs to be addressed.

Perit Mannie Galea stated that this is in the national interest because everything is stagnating. He agreed in general that members should entrust the Council with taking action as needed. It is positive that the political climate is better.

Perit Martin Debono stated that he works with BICC and is involved in the development of the Building Codes. He noted that the BCA is very new, it is like a baby still learning. The industry needs to improve its standing in society. BICC can help since it represents 25 entities. In his opinion licensing of contractors depends on training. There is a lot to be done and collaboration is important. On this last point AP replied that organising the courses will take time. We need to start with licensing now. After all the contractors are working in the meantime.

Perit George Pullicino stated that at the end of the day the buck stops with the Minister. He is the one who has to take responsibility.

Perit Sergio Degabriele noted that many of the workers on site are foreign. How can you give instructions to someone who does not understand the language?

Perit Simone Vella Lenicker agrees that the buck stops with the Minister however she believes that the Minister does not yet know what is happening. There hasn't been time to explain the issues to him. She also stated that we are professionals, and that we should not have to deal with babies.

Perit George Pullicino stated that the least we can expect is that the minister postpones the introduction of the new BCA procedures which are due to come into force on Monday.

At the end of the discussion on the motions it was agreed that instead of four motions there should be only one, empowering the Council to act as it deems fit on the issues discussed. A motion was drafted (Motion 6) and the text was discussed and amended as necessary before voting took place. The final text of the motion is included in the appendix. A vote was taken. There were no votes against, four abstentions and all other votes in favour. The motion was therefore passed.

Following this vote, AP spoke briefly about the different ways in which members can help with the vast amount of work which the Council is doing. One of these ways is by accepting to be nominated for election as Council member. There are currently three vacant posts including the post of Hon. Secretary. This increased the pressure on Council and sometimes even made it difficult to have a quorum at Council meetings. In view of this, in order not to have to wait until the next AGM, AP proposed a motion (Motion 7) to empower the Council to conduct elections electronically for the vacant positions on the Council. The motion was briefly discussed. Perit George Pullicino stated that there should still be an Electoral Commission to ensure that proper procedures are followed. The text of the motion is included in the appendix. A vote was taken and all votes were in favour. The motion was therefore passed, and this concluded the meeting.

## APPENDIX

Motions presented at the EGM held 26<sup>th</sup> May 2022 at the Catholic Institute, Floriana.

### MOTION 1

Whereas Regulation 31 of the Kamra tal-Periti Regulations stipulates that “A general meeting shall be notified to all full members ...”, and therefore by inference only full members may attend and participate in a General Meeting of the Kamra tal-Periti; and

Whereas the Council of the Kamra tal-Periti unanimously agrees that the matters to be discussed as communicated in the Meeting Agenda are of national importance and of significant relevance to the profession; and

Whereas in view of the above, the Council decided to invite all Warranted Periti to attend this General Meeting, and graduates of the Faculty for the Built Environment at the University of Malta were allowed to register for this Extraordinary General Meeting;

Now, therefore, this Extraordinary General Meeting of the Kamra tal-Periti hereby agrees to authorise the presence of all warrant holders, and graduates of the Faculty of the Built Environment, and to extend voting rights to all warrant holders, irrespective of whether they are full members or not.

Graduates will not be allowed to vote.

### MOTION 2

Whereas the Council of the Kamra tal-Periti has been calling for the licensing of contractors since at least 2007, and

Whereas discussions at the Building Industry Consultative Council on the draft regulations have been ongoing since January 2018, and

Whereas the absence of a licensing regime for contractors is resulting in the undue transfer of liabilities onto the profession,

Now, therefore, this Extraordinary General Meeting of the Kamra tal-Periti hereby:

- demands that the Government and BCA enter into immediate discussions with the Council of the Kamra tal-Periti to agree on the text relative to the licensing of contractors regulations; and
- authorises the Council to issue any directives it deems appropriate should the regulations on the licensing of contractors not be published and made effective within four months from the date of this General Meeting.

### MOTION 3

Whereas the General Meeting reiterates the profession’s opinion held that Subsidiary Legislation 623.06 (LN 136 of 2019, as amended) is a flawed set of regulations that have not made construction sites safer nor resulted in any noticeable improvement in the execution of works, and

Whereas the General Meeting supports the Council’s position that the Building & Construction Authority:

- is misinterpreting the provisions of the regulations,
- extending its regulatory powers beyond its legal scope,
- unduly focused on bureaucracy rather than addressing the critical problems within the industry.

Now, therefore, this Extraordinary General Meeting of the Kamra tal-Periti hereby:

- demands that the BCA immediately reviews its interpretations and applicability of the current regulations, including in its recently published Guidelines, in particular regulations 4 and 26 of the current regulations to conform with the position of the Council of the Kamra tal-Periti;
- demands that the BCA immediately eliminate all unnecessary paperwork and bureaucracy to allow periti to perform their professional duties without hindrance;
- demands that the Government and BCA enter into immediate discussions with the Council of the Kamra tal-Periti to agree on an overhaul of the Avoidance of Damage to Third-Party Property Regulations to reflect the principles outlined in the President's Address; and
- authorises the Council to issue any directives it deems appropriate should the overhaul of Avoidance of Damage to Third-Party Property Regulations not be published and made effective within two months from the date of this General Meeting.

#### MOTION 4

Whereas the General Meeting recognises the important work of the drafters engaged by the BICC in relation to the draft Building and Construction Codes, and

Whereas the General Meeting notes that the Codes have been drafted in the absence of a clear and comprehensive overarching direction.

Now, therefore, this Extraordinary General Meeting of the Kamra tal-Periti hereby demands that the BCA enters into immediate discussions with the Council of the Kamra tal-Periti to begin a process of review and redrafting of these and future codes against adequate remuneration.

#### MOTION 5

Whereas the General Meeting has noted that the Planning Authority has, over recent years, incrementally added permit conditions related to building and construction regulations, and

Whereas the Planning Authority has further consolidated this process by encouraging its external consultees to develop portals for the issuance of their respective clearances, rather than initiate a reversal of such a practice, and

Whereas this has resulted in extensive and futile bureaucracy in the processing of compliance clearance requests, and the submission of declaration forms designed to place liability for compliance of development with building regulations exclusively on periti who may not have been commissioned by their clients to take such responsibility.

Now, therefore, this Extraordinary General Meeting authorises the Council of the Kamra tal-Periti to issue a standard form to be submitted by periti to supersede the declarations on the online compliance request forms.

#### MOTION 6

Whereas the Extraordinary General Meeting took cognisance of the five motions presented by the Council, and  
Whereas the Extraordinary General meeting expresses its full confidence in the Council's position regarding the need:

- i. to introduce and bring into force licensing of contractors regulations within four months from today's EGM;
- ii. to replace LN 136 of 2019 with effective regulations that truly ensure public safety and quality;
- iii. for the Government to consult and adequately finance the Kamra tal-Periti.

Now, therefore, this Extraordinary General Meeting of the Kamra tal-Periti resolves to:

- a. demand that the Government withhold the BCA Guidelines circulated on 23rd May 2022 until the Council is in agreement with their contents;
- b. demand that the Government repeal regulation 7(12) of S.L. 623.06;
- c. authorise the Council to issue any directives or take any action it deems appropriate to safeguard the profession and the public good should a resolution to any of the above not be reached.

#### MOTION 7

Whereas Regulation 16 of the Kamra tal-Periti Regulations stipulates that "The council shall consist of ten full members elected by the vote of at least twenty members at a general meeting to be held during the month of December", and

Whereas at the last Annual General Meeting, there were insufficient nominations to fill the vacant positions on the Council of the Kamra tal-Periti;

Now, therefore, this Extraordinary General Meeting of the Kamra tal-Periti hereby agrees to authorise the Council to issue a call for nominations and conduct an online election among paid-up members for new Council members.