

Lands Authority Committee On Planning Control Applications

Procedural Guidelines

September 2017

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1. Introduction

- 1.1 The Lands Authority, as administrator of the land of the Government of Malta (Article 3 of the Government Lands Act, 2017, Cap. 573), is involved in the processing of planning control applications submitted to the Planning Authority by any person in terms of the Development Planning Act 2016 (Cap. 552). The Board of Governors of the Lands Authority, henceforth referred to as the “Board”, discussed the role of the Lands Authority in this process during meeting 19 held on the 18th of August 2017.
- 1.2 The Board determined to set up the Lands Authority Committee on Planning Control Applications, henceforth referred to as the “Committee”, in terms of article 14(1)(j) of the Lands Authority Act (Cap. 563) to compile a technical report on the role of the Authority and to identify procedures to be adopted.
- 1.3 This report first provides the legal requirements emanating from the Development Planning Act and the Lands Authority Act, identifies the role of the Committee and its relationship to the Board, and describes the procedures to be adopted by the Committee and the Board to arrive at a decision on the requests made to the Lands Authority as part of the planning control application process.

2. Legal Requirements

- 2.1 Article 54(1) of the Development Planning Act requires the submission of a planning control application to the Executive Council (of the Planning Authority) by any person requesting to carry out minor modifications to a subsidiary plan or policy. Article 54(2) of the same Act described minor modifications as:
 - (a) Changes in the alignment of roads and buildings in a local plan; and
 - (b) 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.
- 2.2 The procedures for the consideration of a planning control application by the Executive Council of the Planning Authority are set out in subsidiary legislation SL552.07 Development Planning (Procedures for Minor Modifications to Subsidiary Plans) Regulations.

- 2.3 Regulation 4 of these regulations requires that for both changes to the alignment of roads and buildings and changes in zoning, prior to validation of the planning control application, the applicant:
- (a) shall notify by registered letter third party owners within the same street of his intention to apply and a copy of such letter shall accompany his application; and
 - (b) when the applicant is not the owner of the land or is not the sole owner, he shall notify all the owners of the site of the requested amendment or proposal, of his intention to apply.

This notification is carried out by completing form PC-A attached as appendix 1 to this report.

- 2.4 Regulation 4 also requires that in the case of changes to the zoning of land, after validation of the planning control application, the applicant shall submit a written declaration, submitted on a form specifically provided by the [Planning] Authority, signed by the owners of at least 75% of the current potential floor area and indicating that they have no objection to the proposed change. In the case of changes to the alignment of roads and buildings in a local plan, the written declaration must be signed by the owners of all the land being affected by the application. The written declaration is known as form PC-D and is attached as appendix 2 to this report.
- 2.5 The Board determined not to delegate the functions related to the planning control application process to any of the Directorates and hence the provisions of Articles 12 and 13 of the Lands Authority Act 2017 with respect to the Board shall apply when it is considering matters arising from requests made through forms PC-A and PC-D.

3. Role of the Committee

- 3.1 From section 2 above, the Lands Authority becomes involved in the planning control application process when it either receives a copy of form PC-A notifying it that an application shall be submitted on, or in close proximity to, Government owned land or the Lands Authority, following receipt of form PC-A, is requested to sign form PC-D providing its no objection to a planning control application which has already been submitted on Government owned land.

- 3.2 In practice, the applicant would have already carried out legal searches to identify the ownership of the land in question and in those cases where he is not the sole owner, in the case of PC applications for change in alignment of roads and buildings, or does not control 75% of the land, in the case of PC applications for change in zoning, and therefore requires the “no objection” from the Lands Authority, he submits form PC-D upfront.
- 3.3 Following the submission of a recommendation from the CEO to the Board regarding notifications of a PC application (form PC-A) or requests for a “no objection” to a PC application (form PC-D), the Board shall seek the views of Committee
- 3.4 It shall be the role of the Committee to:
- (a) Review the merits of the notification or request for “no objection” and the corresponding recommendations by the CEO;
 - (b) Determine the procedures to be adopted by the Committee;
 - (c) Prepare a recommendation to the Board whether to accept the recommendations of the CEO with or without amendments or to reject the recommendations of the CEO giving reasons for rejection.
- 3.5 The Board shall discuss the recommendations prepared by the Committee under paragraph 3.4(c) above and arrive at a final decision in line with articles 12 and 13 of the Lands Authority Act.

4. Procedures to be adopted

- 4.1 In its consideration of the merits of the notification (form PC-A) or request for “no objection” (form PC-D) and the corresponding recommendation by the CEO, the Committee would need to determine whether it:
- (a) can reach a decision on the basis of the information provided by the applicant with the application; or
 - (b) requires further submissions from the applicant; and/or
 - (c) requires to make external consultations with other Government agencies; and/or
 - (d) requires to make external consultations with other third parties.
- 4.2 When the Committee requires further submissions from the applicant and/or other Government agencies and or other third parties, it may request the

necessary information in writing or request attendance at a meeting with the Committee in terms of article 12(9) of the Lands Authority Act.

Procedure for submissions in writing

- 4.3 When the Committee requires further submissions in writing from the applicant, it shall notify the applicant and the *perit* of the planning control application, through a registered letter in terms of article 53(1)(c) of the Lands Authority Act, describing the information required with reasons and allowing a period of 30 days, or within the period as may be extended by the Committee following a written request for extension of time, for the requirements to be complied with. Failure by the applicant or the *perit* to comply with these requirements within the stipulated 30 day period, or within the period as extended by the Committee, shall be deemed as the applicant having abandoned his request for a “no objection” or is withdrawing his notification form. The Planning Authority shall be informed accordingly.
- 4.4 When the Committee requires further submissions in writing from other Government agencies, it shall notify the agency in terms of article 53(1)(d) of the Lands Authority Act, describing the information required with reasons and allowing a period of 30 days, or within the period as may be extended by the Committee following a written request for extension of time, for the requirements to be complied with. Failure by the agency to comply with these requirements within the stipulated 30 day period, or within the period as extended by the Committee, shall be deemed as the agency having no comments to make on the request by the Committee.
- 4.5 When the Committee requires further submissions in writing from other third parties, it shall notify the third parties in terms of article 53(1)(e) of the Lands Authority Act, describing the information required with reasons and allowing a period of 30 days for the requirements to be complied with. No late submissions will be accepted and the third party shall be informed that the late submission was not taken into consideration.

Procedure for meetings with the Committee

- 4.6 When the Committee requires further submissions from the applicant and/or Government agency through a meeting, it shall notify the applicant and the *perit* of the planning control application and/or the Government agency, through a registered letter in terms of article 53(1)(c) or article 53(1)(d) of the Lands Authority Act, as appropriate, of the date and location of the meeting describing the information required with reasons, at least 15 days prior to the allocated

date, or on a date as agreed with the applicant and the *perit* or the Government agency provided it is not later than 30 days after the date set in the first notification by the Committee. Failure by the applicant or the *perit* to attend an agreed meeting shall be deemed as the applicant having abandoned his request for a “no objection” or is withdrawing his notification form. The Planning Authority shall be informed accordingly. Failure by the agency to attend an agreed meeting shall be deemed as the agency having no comments to make on the request by the Committee. Minutes of meeting shall be held by the Committee and shall be made available to all attendees at their request. The Committee may appoint one of its members to act as secretary to the Committee for the meeting.

4.7 The Committee shall always require submissions from all interested parties through a meeting, and shall notify the interested parties in terms of article 53(1)(e) of the Lands Authority Act, of the date and location of the meeting at least 15 days prior to the allocated date. Any person with an interest to attend the meeting shall register his interest with the Committee not later than two days prior to the allocated date of the meeting. Only persons who have registered their interest within the stipulated period shall be allowed to attend the meeting. The Chairman of the Committee shall allow any registered person to make representations to the Committee on the matter under consideration, subject to the power of the Chairman to limit the time allowed for representations and to exclude any person if he deems it necessary so to do for the maintenance of order. Minutes of meeting shall be held by the Committee and shall be made available to all attendees at their request. The Committee may appoint one of its members to act as secretary to the Committee for the meeting.

4.8 The Committee members present for meetings may make requests for further information and /or clarifications but shall not express a view in favour or against the notification or the request for “no objection”.

5. Conclusion

5.1 The Board approved these procedural guidelines during meeting 24 held on the 29th of September 2017.

Appendix 1

Form PC - A

(Form PA 15/16)

NOTICE TO OTHER OWNERS / THIRD PARTIES IN TERMS OF REGULATION 4(2) OF L.N. 71 OF 2007 AS AMENDED BY L.N. 73 OF 2015

To **NAME** _____

ADDRESS _____

SITE REFERENCE NUMBER _____

We hereby give notice to you as an/the owner of the property at _____

shown bordered in blue on the plan overleaf that is intended to be submitted through an application to the Planning Authority in terms of Legal Notice 71 of 2007 as amended by Legal Notice 73 of 2015. The site reference number of this property is indicated above.

This application is for _____

as indicated in the layout plan overleaf.

APPLICANT AND ARCHITECT DETAILS

| Applicant | PC Application Architect |
|--|--|
| Name: _____ | Name _____ |
| Address: _____ _____ _____ | Address: _____ _____ _____ |
| Tel/mob: _____ Postcode: _____ | Tel/mob: _____ Postcode: _____ |
| e-Mail: _____ ID No: _____ | e-Mail: _____ ID No: _____ |
| Signature: _____ _____ | Signature: _____ _____ |
| Date: _____ | Date & Rubber Stamp _____ |

Details next to bold captions are mandatory

Notes:

- (i) A copy of the proposed draft layout plan at a scale of 1:1000 is to be represented overleaf and is to be signed by the applicant's architect. This layout plan with the appropriate site reference number includes land/property that is owned by the person being notified. It should be noted that the proposed plan represented overleaf has to be accurately interpreted on an official survey plan (scale 1:500) for consideration by the Planning Authority.
- (ii) Send this notice by registered post to all those persons who are owners (or any one of the owners where the land is undividedly co-owned) of the land/property in respect of which the application is being made, and hand in a copy of this notice when submitting the application.

Appendix 2

Form PC - D

(Form PA 18/16)

Site Reference Number: _____

Your Ref no: _____

DECLARATION OF NO OBJECTION BY OWNERS/THIRD PARTIES

(Declaration form in terms of regulation 4(3) of L.N. 71 of 2007 as amended by L.N. 73 or 2015)

I/we _____ own the property, site reference indicated above, and shown bordered in blue on the plan overleaf having the following address, (if applicable) _____

I/we have been informed by the applicant/s representative of the proposal submitted to the Planning Authority in terms of L.N 71 of 2007, as amended by L.N. 73 of 2015 re: _____

I, representing the ownership of the parcel of land reference shown above, hereby declare that I have examined the proposed draft layout plan which was submitted to the Planning Authority (a copy of which lies overleaf) and that I find no objection to the proposed change. I also acknowledge that this proposal has to be accurately interpreted on an official surveyed plan (scale 1:500) for consideration by the Planning Authority.

CONSENTING OWNER AND ARCHITECT DETAILS

| Consenting Owner | PC Application Architect |
|--------------------------------|--------------------------------|
| Name: _____ | Name _____ |
| Address: _____ _____ | Address: _____ _____ |
| Tel/mob: _____ Postcode: _____ | Tel/mob: _____ Postcode: _____ |
| e-Mail: _____ ID No: _____ | e-Mail: _____ ID No: _____ |
| Signature: _____ _____ | Signature: _____ _____ |
| Date: _____ | Date & Rubber Stamp _____ |

Details next to bold captions are mandatory

For Completion by Architect: Checklist

- Copy of latest proposal (scale 1:1000) is attached, signed by architect and countersigned by owner/third party whose cross referenced property is shown on the same map outlined in Blue.
- This particular site is included in the general reference map showing the reference and extent of ALL the sites owned by owners/third parties.
- Proof of ownership attached for this party is attached (to be completed if necessary or requested)

NB: PC Application Proposal may be viewed at the Planning Authority offices.