

L.N. 162 of 2016

**DEVELOPMENT PLANNING ACT
(CAP. 552)**

**Development Planning (Procedure for Applications
and their Determination) Regulations, 2016**

IN EXERCISE of the powers conferred by article 85(2)(b) of the Development Planning Act, the Parliamentary Secretary responsible for Planning and Simplification of Administrative Processes, in consultation with the Planning Authority, has made the following regulations:-

1. (1) The title of these regulations is the Development Planning (Procedure for Applications and their Determination) Regulations, 2016.

Citation,
commencement
and transitory
provisions.

(2) These regulations shall come into force on the 9th May 2016.

(3) For those applications which:

(a) have been submitted to the Authority prior to the date of coming into force of these regulations and which do not include the applicant's or his representative's, who shall not be the *perit* responsible for the application, mobile number and, or e-mail address, the Authority shall notify the applicant of this requirement with a letter and the applicant shall provide this information within two months from the coming into force of these regulations, failing which the application will be deemed as tacitly withdrawn by the applicant;

(b) are still not valid by the date of coming into force of these regulations, the applicant shall be notified with a letter to indicate to the Authority, within two months from notification, whether the applicant wishes to continue with the processing of the application, in which event if the applicant confirms his interest then the application shall be processed under the provisions of these regulations and if no confirmation is forthcoming, the application will be deemed to have been tacitly withdrawn by the applicant;

(c) were validated prior to 2011, the applicant shall be informed by a letter to submit the information which had been requested within two months, failing which the application will be deemed to have been tacitly withdrawn by the applicant. The

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letter shall inform the applicant that the Executive Chairperson shall apply the provisions of the Development Planning (Procedure for Applications and their Determination) Regulations, 2010 to those applications which comply with the requirements of the letter;

(d) were validated between the first day of January of 2011 and the coming into force of these regulations, such applications shall continue to be processed under the Development Planning (Procedure for Applications and their Determination) Regulations, 2010 up to the compilation of the report.

Interpretation.

2. In these regulations, unless the context otherwise requires:

Cap. 552.

"the Act" means the Development Planning Act;

"application" shall have the meaning assigned to it in these regulations:

Provided that for the purposes of a Stop or Enforcement Notice issued under the provisions of the Act, either the submission of an application or a validated request for screening shall be construed as an application;

"the Authority" has the same meaning as is assigned to it in article 2 of the Act;

"drawing" means site plans, floor plans, elevations, sections, block plans and any other method of illustrating a proposed development;

"electronic system" means the eApplications infrastructure, or any other system in use from time to time by the Authority which system provides a secure interface enabling electronic communications throughout the application process;

"electronic means" means electronic communication to the electronic address provided by the applicant and registered interested third parties;

"the Executive Chairperson" has the same meaning as is assigned to it in article 37 of the Act;

"external consultee" means a person, including any government agency, authority or department mentioned in Schedule 3 which is consulted by the Executive Chairperson during the processing of a development application;

"internal consultee" includes any body or entity established in the Act;

"material change" means any of the following:

(a) a change in site configuration which increases the site area by more than five percent and which change in the site area does not result in a change in the categorization of the proposal in terms of the schedules of these regulations;

(b) an addition in the number of floors;

(c) an increase in height of the building which would exceed the maximum height limitation in metres;

(d) an increase in volume, area or units by more than ten percent that does not result in a change in the categorization of the proposal in terms of the schedules of these regulations;

(e) a change in the proposed use which does not fall within article 3(1) of the Development Planning (Use Classes) Order, 2014;

(f) a change in the official alignment of the building;

(g) a change in the positioning of development/s within the site but which would fall within an area subject to additional constraints; or

(h) a change in the positioning of the development/s vehicular access which will result in such vehicular access being located in a different road;

"Minister" means the Minister or Parliamentary Secretary under whose portfolio the Authority is included;

"other consultees" means any department, agency, authority or other body corporate wholly owned by the Government but not being an external consultee, or an internal consultee, which may be consulted by the Executive Chairperson during the processing of a development application;

"outline development permission" means a permission which gives approval in principle to the proposed development, but specifies reserved matters which need to be included in a full development permit application or applications. A period of time shall be stated within which the full development permit application or applications shall be submitted, failure of which would render the outline

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development permit null. Such period shall in no case exceed five years;

"recommendation" means the reply lodged by an external consultee or any other consultee, which may either indicate a no objection to an application, or an approval of the application subject to conditions indicated by the external consultee or any other consultee or that the application is objectionable for reasons indicated by the external consultee or by any other consultee;

"renewal application" means a development application submitted in respect of the same site for which permission has already been granted and is still valid and which requests to extend the validity period of the said permission by such further period as stipulated in the same application, without any changes whatsoever to the approved plans, documents and conditions in the permission;

"report" means the report prepared by the Executive Chairperson in relation to an application for a development;

Cap. 390. "*perit*" or "partnership of warrant holders" has the same meaning as is assigned to it in the Periti Act;

"Planning Board" has the same meaning as is assigned to it in article 63 of the Act;

"screening" means the process during which the proposed development is preliminarily assessed by the Executive Chairperson at the request of an applicant;

Cap. 551. "Tribunal" means the Environment and Planning Review Tribunal as defined in the Environment and Planning Review Tribunal Act;

"valid application" has the same meaning assigned to it in regulation 4.

Development Planning Applications

Screening. **3. (1)** The applicant must always request the Executive Chairperson to conduct screening of any development falling under Schedule 1, which screening shall be carried out in consultation with the external consultees:

Provided that the applicant may opt to submit an outline development application instead of a screening request.

(2) The applicant may not request the Executive Chairperson

to conduct screening of any development whenever:

(a) a separate outline development application has been submitted;

(b) a valid outline development permission has been issued;

(c) a summary procedure application has been submitted as established in Schedule 2;

(d) such development falls outside the provisions of Schedule 1.

(3) When the applicant has, in terms of sub-regulation (1), requested the Executive Chairperson to conduct screening of the development proposed, the Executive Chairperson shall, within two weeks, inform the applicant and the *perit* of any additional initial submission requirements. If the applicant fails to comply with the requirements indicated in the notification within twelve weeks, the screening request shall be deemed tacitly withdrawn by the applicant.

(4) The screening process shall be finalised within eight weeks from the submission of a request in full by the applicant and the applicant and the *perit* shall be informed of the respective date.

(5) The Executive Chairperson shall notify the applicant and the *perit* with a screening letter which will include all or any of the following:

(a) a reference to those major issues, policies and regulations with which the proposed development does not conform, namely considerations relating to demolition, land-use zoning, height limitation, constraints, environment, enforcement, and other issues, policies and regulations directly relating to the principle of the development;

(b) additional submissions, studies, assessments and documentation required;

(c) the fees and contributions which shall be payable to the Authority in accordance with the provisions of regulations relating to fees and contributions;

(d) a date within which the development application has to be submitted in accordance with the requirements set out in the screening letter, which date shall not be more than twenty-six weeks and which period may be extended by the

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Executive Chairperson at the request of the applicant:

Provided that unless the requirements of the screening letter are complied with within the twenty-six weeks or within the period as extended by the Executive Chairperson, the screening request shall be deemed tacitly withdrawn by the applicant.

Cap. 551.

(6) For the purposes of the provisions of the Environment and Planning Review Tribunal Act, only the items mentioned in sub-regulation (5)(b) and (c) shall be construed as a decision of the Authority and it is only on such decisions that the applicant may lodge an appeal therefrom before the Tribunal. The appeal shall be filed in accordance with the provisions of the Environment and Planning Review Tribunal Act.

In the case of an appeal before the Tribunal, the terms established in accordance with the provisions of sub-regulation (5)(d) shall commence to run from the date of the final determination of the appeal.

(7) Where the applicant, not having lodged an appeal in terms of sub-regulation (6), and after having paid the fees and contributions payable to the Authority, formally requests the validation of the application without full submission of the requirements set out in the screening letter, the application will be validated and shall be referred for refusal on the basis of lack of information.

(8) Where a screening request has been made and the development application as submitted is not compiled as stated in regulation 4(2), including all outstanding fees and contributions, the Executive Chairperson shall within two weeks from submission inform the applicant and the *perit* that the development application is not compiled in full. The Executive Chairperson shall allow a term not exceeding two weeks from the date of such notification within which the applicant shall comply to enable the validation of the application. The Executive Chairperson may extend the period of submissions provided such extensions in aggregate do not exceed eight weeks from date of submission of application. If the applicant fails to comply within the extended period, the development application and its accompanying documentation shall not be validated and no further consideration shall be given to such a development application by the Executive Chairperson, which application shall be deemed as tacitly withdrawn by the applicant.

Development applications.

4. (1) The development application shall only be considered as valid if it is submitted as stated below and has been published on the website of the Department of Information. The

Authority shall establish such date, as from when it considers the application to be valid, as the 'validation date'.

(2) A development application shall consist of the following:

(a) the completed application form wherein:

(i) all sections of the form shall be filled in correctly in the electronic submission. Moreover no section or question shall be left blank and where sections or questions are irrelevant, they shall be marked accordingly. Where a yes or no or similar answer is required, one of the alternatives shall be correctly selected. The original signed application form shall be retained by the *perit* who submitted the application and a scanned copy of the original signed application form shall be uploaded on the electronic system.

(ii) the particulars of both applicant and *perit* should be fully and clearly indicated, particularly the name, address, mobile number, valid e-mail address and identity card number, or passport number. Contact details of the *perit* or of the partnership of warrant holders as well as the warrant number of the *perit*, or partnership of warrant holders are obligatory;

(iii) in the case of applications that are submitted on behalf of a body corporate or by a partnership of warrant holders, an identifiable individual, duly authorised by the body corporate and, or the warranted partnership, shall take responsibility for the application on behalf of the body corporate and, or warranted partnership. Accordingly, the particulars of the individual person are still required;

(iv) unless a *perit* is submitting his own personal application, the applicant's name, address, mobile number, valid e-mail address and identity card number or passport number, shall be always provided and they may not be substituted by a repetition of the *perit*'s contact details. In the case of a body corporate the relevant company/partnership registration number is always to be clearly indicated;

(v) only one type of application that correctly corresponds to the proposed development shall be processed. Renewal applications shall be filed separately

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from any other application;

(vi) the description of the development should be clear and in detail. It should include, *inter alia*:

- the overall type of development;
- the existing and proposed use or uses;
- the number and type of units (such as dwellings, garages, shops, offices);
- in the case of alterations, a concise but complete summary of proposed works including a comprehensive outline of the differences between the original proposal and the new proposal;
- in the case of extensions, the location and number of floors;
- full details of sanctioning when an application is to sanction:

Provided that proposals that contain conflicting details will not be acceptable;

(b) a full set of fully dimensioned drawings is required for all types of development. In the case of renewal development applications, re-submission of plans is not required and shall not be allowed by the electronic system. Such drawings should be clear enough to enable printing without loss of detail. All text entries contained therein should be clearly legible without the need for magnification;

(c) a most recently available correctly marked site location plan as available at the date of submission;

(d) at least three good quality colour photographs faithfully showing the current state of the site and its surroundings. The photographs shall be taken from three different angles;

(e) drawings listed with their title, date of issue and the *perit's* unique reference number. Legends and dimensions on drawings should be clear and legible;

(f) mandatory site-related information;

(g) additional supplementary information which may be required; and

(h) any fees and contributions due in relation to the proposed development:

Provided that if the development application is not compiled in full, the Executive Chairperson shall within two weeks from submission inform the applicant and the *perit* that the development application is not compiled in full. The Executive Chairperson shall allow a term not exceeding twelve weeks from the date of such notification within which the applicant shall comply to enable the validation of the application. If the applicant fails to comply, the development application and its accompanying documentation shall not be validated and no further consideration shall be given to such a development application by the Executive Chairperson, which application shall be deemed to be tacitly withdrawn by the applicant.

(3) When a screening request has been made as stated in regulation 3, the development application shall be submitted within the period established by the Executive Chairperson in the screening letter and shall consist of all the requirements indicated in sub-regulation (2) together with any updated or new documentation including studies and other requirements, as set out in the screening letter; unless the period for submission of the development application has been extended in terms of regulation 3(5)(d).

(4) The requirements established under sub-regulation (2)(a), (c), (d), (e), (f), (g) and (h) shall *mutatis mutandis* apply to an outline development application. In the case of outline development applications, in lieu of sub-regulation (2)(b), appropriate drawings shall be submitted by the *perit* which shall contain such detail as to enable the determination of the principle of the development.

(5) The requirements established under sub-regulation (2) shall *mutatis mutandis* apply to the screening request.

5. (1) Changes to the screening request or the application, drawings or documents may be made by the applicant: Changes in the application.

(a) during the period between the screening letter and the validation date of the application or between the submission date of the development application and the validation date:

Provided that in the event that any changes constitute a material change that necessitate a change in the building levy and, or any additional fees, such building levy and

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additional fees shall be paid according to the provisions of the regulations relating to fees within the period specified by the Executive Chairperson:

Provided further that when a request for screening is made in terms of regulation 3(1), the application shall continue to be processed without the issuance of a further screening letter unless the changes to the application, drawings or documents necessitate further studies and, or raise new issues;

(b) after validation date and during the processing of the application, but prior to the finalisation of the report, provided that the changes constitute a minor amendment as defined by regulation 15 and provided that if there has been a request under regulation 12(1) it has been duly complied with.

(2) Changes in the application, drawings or documents which do not constitute a material change may be made by the applicant at the request of the Executive Chairperson at any time during the processing of the application and this within the time frames given by the Executive Chairperson.

(3) Changes in the application, drawings or documents which constitute a material change may be made by the applicant at the request of the Executive Chairperson at any time during the processing of the application and this within the time frames given by the Executive Chairperson:

Provided that when the applicant agrees to such a material change which involves additional fees, such fees shall be paid by the applicant according to the provisions of the regulations relating to fees within the period specified by the Executive Chairperson.

(4) When a material change in the application, drawings or documents is requested as aforesaid and is subsequently made, the procedures set out in regulation 6(1) to (5) shall apply.

(5) Any change of applicant or of the *perit* may only be made through a form established by the Authority and electronically submitted. The original signed application form shall be retained by the *perit* who submitted the original application and a scanned copy of the original signed application form shall be uploaded on the system. A copy of the original signed application form shall be given by the *perit* who submitted the original application to the *perit* who assumed responsibility for the application.

6. (1) The Executive Chairperson, upon receipt of any development application submitted under these regulations, and following the assignment of the appropriate planning application number, shall cause the proposal contained in the application together with the name of the applicant to be published on the website of the Department of Information and also advertised by means of a notice affixed on site.

Notification of application and decision, and communications by the Authority.

(2) The Executive Chairperson shall be responsible to:

(a) affix the notice on site and the applicant shall be responsible to ensure that the notice remains affixed on site for the period stipulated in the said notice. An administrative fine may be imposed on an applicant for failure to retain the notice affixed on site for the period stipulated in the said notice;

(b) make electronically available to the local councils the list of development applications pertaining to their locality and the local council shall publicize and maintain updated such a list in the manner it deems appropriate.

(3) The Executive Chairperson shall inform the applicant and the *perit* that the notice has been affixed on site.

(4) In the case of a development application for a development mentioned in Schedule 1, the notice on site shall be in a format established by the Executive Chairperson and shall be placed by the applicant in those areas specified by the Executive Chairperson. The applicant may also be requested to place additional adverts in local newspapers and to hold consultations in relation to such an application and the term for any person to declare an interest in the said application in accordance with the provisions of the Act shall apply for each advert.

(5) In the case of a development application for a development which falls within the remit of the Seveso III Directive [Directive 2012/18/EU] the Executive Chairperson shall upon the assignment of the appropriate planning application number cause the proposal contained in the application together with the name of the applicant to be published on the website of the Department of Information separately from other development applications and in a prominent manner. The applicant may also be requested to place additional advertisements in local newspapers and to hold consultations in relation to such an application and the term for any person to declare an interest in the said application in accordance with the provisions of these regulations shall apply for each advertisement.

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(6) Upon the determination of any application submitted under these regulations, the Executive Chairperson shall establish the publication date of the decision which shall not be later than fifteen days from such decision. The proposal together with the name of the applicant and a note as to whether the application has been approved or refused shall be published on the website of the Department of Information.

Prior to the publication date, a non-executable permit or a full development permit or an outline development permit shall be issued. In the case of a non-executable permit, this shall not be republished upon the issuance of the full development permit. The validity of the permit shall run from the publication of the decision.

(7) For the purposes of these regulations and of article 34 of the Act, exchange of all communications, including the submission of a screening request or a development application, and any notification or service of a decision, between the Authority and the *perit*, the applicant, the external consultees and any other consultee and the registered interested parties shall be made in the following manner:

- (a) with the *perit*, through the Authority's electronic system;
- (b) with the applicant, by electronic means;
- (c) with the external consultees and with the other consultees, through the Authority's electronic system;
- (d) with the registered interested parties, by electronic means.

Internal
consultees.

7. (1) Where applicable, the Executive Chairperson shall consult the Agricultural Advisory Committee and the Design Advisory Committee.

(2) The Executive Chairperson shall establish time-frames not exceeding thirty days within which these Committees shall submit their representations.

(3) Failure to comply with these time-frames shall be construed as a no objection by the said Committees;

(4) No late submissions will be accepted from such Committees. A rejection notification to the Committees that proves the date of submission shall be uploaded on the electronic system:

Provided that in the event that no representations are sent

by these Committees, the Planning Board may still apply the conditions as deemed necessary.

8. (1) The Executive Chairperson shall cause any application, except those falling under Schedule 2 in accordance with regulation 18(1), to be notified to the external consultees indicated in Schedule 3 and such notification shall take place by not later than the date of publication on the website of the Department of Information of the notice of an application: External consultees.

Provided that for applications which fall under Schedule 2 which necessitate consultation with the National Commission Persons with Disability (KNPD), the Executive Chairperson shall notify the National Commission Persons with Disability (KNPD) officer within the period stipulated in regulation 11(2)(b).

(2) External consultees shall submit their recommendations within thirty days from such notice.

(3) Failure to comply with these time-frames will be construed as a no objection by the said external consultees.

(4) No late submissions will be accepted from such external consultees. A rejection notification to the external consultee proving the date of submission shall be uploaded on the electronic system:

Provided that in the event that no recommendations are sent by the external consultees, the Planning Board may still apply any conditions as deemed necessary.

(5) External consultees shall be notified of the date of the sitting of the Planning Board during which the said application shall be discussed and determined by the Planning Board and shall also be invited to be present at the sitting.

(6) The provisions of this regulation shall apply *mutatis mutandis* to other consultees.

9. Recommendations by the external consultees, other consultees and representations by the Agricultural Advisory Committee and the Design Advisory Committee are not binding on the final decision of the Planning Board. When the recommendation of the external consultees and, or other consultees indicates an approval subject to a condition that a further authorization is required from the relevant external consultee and, or other consultee, and the Planning Board decides to grant a development permission, it shall include this condition requiring an authorization from the relevant consultee and, or external consultee as part of the development Recommendations by external consultees, etc.

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permission.

Registration on
the electronic
system.

10. All external consultees, other consultees and the applicant's *perit* shall register with the Authority through the Authority's electronic system.

Declaration of
interest.

11. (1) Any person may declare an interest in any development application made under these regulations, in accordance with the provisions of article 71(6) of the Act, and may make representations thereon.

(2) Such an interest must be registered with the Authority:

(a) within thirty days from the date of publication of the notice of an application on the website of the Department of Information in the case of applications falling outside the provisions of Schedule 2;

(b) within fifteen days from the date of publication of the notice of an application on the website of the Department of Information in the case of applications falling within the provisions of Schedule 2:

Provided that such periods may be shortened to seven days in urgent cases as may be indicated in the publication.

Provided further that if the last day for submissions as set out in this sub-regulation is a public holiday or a day when the offices of the Authority are closed to the public, the time limit for such submissions shall be deemed to expire on the next following working day.

(3) Such an interest must be registered by any means of communication, written or electronic, in the Maltese or English language, and must include an electronic address which will be used for any future exchange of communication between the Authority and the registered interested party.

(4) For the purposes of these regulations and of article 71(6) of the Act, any notification or service of a decision to such a registered interested party in terms of sub-regulation (1) shall be made by the Authority in accordance with the provisions of regulation 6(7).

Applicant to
comply with
requests from
the Executive
Chairperson.

12. (1) The applicant shall comply with a request for a change of drawings, including a revised development profile form, or any documents as requested by the Executive Chairperson within fifteen days from such a request. The applicant may request an extension which cannot exceed in aggregate two years for

development applications falling within Schedule 1 and six months for all other development applications falling outside Schedule 2. Failure to submit within these periods shall be construed as a refusal by the applicant to comply with such a request and the Executive Chairperson shall process the development application on the basis of the last submission received.

(2) If, following the consultation period established in regulation 8(2), revised drawings and, or a revised development profile form and, or other documents are submitted by the applicant as stated in sub-regulation (1), the Executive Chairperson shall notify any of the external consultees indicated in Schedule 3, and, or any other consultee and, or the Agricultural Advisory Committee and the Design Advisory Committee, where applicable, within five days from receipt of such revised drawings or documents:

Provided that no further consultation may be carried out following a second consultation.

(3) External consultees, other consultees and the Agricultural Advisory Committee and the Design Advisory Committee shall comply with a second request for consultation by the Executive Chairperson and shall submit their recommendations within fifteen days from such request.

(4) Failure to comply with the time-frames referred to in this regulation shall be construed as a no objection. No late submissions will be accepted. A notification of rejection to the external consultee and, or any other consultee and the Agricultural Advisory Committee and the Design Advisory Committee that proves the date of submission shall be uploaded on the electronic system.

(5) The Executive Chairperson shall cause a copy of the report compiled in relation to the proposed development to be communicated to the *perit* and the applicant. The *perit* and the applicant shall be allowed to make submissions on the said report within ten days from the date of communication of the report.

(6) Any person who has declared an interest and has complied with the terms of regulation 11 in the said application, as aforesaid, shall:

(a) be notified by the Executive Chairperson with the revised drawings and, or a revised development profile form and, or other documents within five days from receipt of said drawings and, or documents; and

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(b) be informed of the date of completion of the report compiled and shall be allowed to make representations on the said report by not later than ten days from the date of the communication of the report.

(7) Any such notification of the report shall also include the date of the sitting of the Planning Board during which the said application shall be discussed and determined by the Planning Board.

(8) Late submissions, representations or recommendations shall be rejected. A notification of rejection to the party that proves the date of submission shall be uploaded on the electronic system.

Submissions, representations or recommendations with erroneous reference numbers will not be considered.

Determination
of an
application.

13. (1) Subject to the provisions of the Act and of these regulations, the Planning Board shall appoint the first sitting during which the application for a development shall be discussed by the Planning Board within one hundred days from the validation date:

Provided that the above time period shall not apply to development applications falling within the provisions of Schedule 2:

Provided that the above period shall be extended by further periods whenever an extension may be required under these regulations:

Provided further that the Executive Chairperson may withdraw any application from the agenda for further review as deemed necessary.

(2) The terms established in sub-regulation (1) shall not be suspended unless:

(a) otherwise provided for in the Act; or

(b) whenever the Minister communicates to the Authority that a particular policy is being revised, and in such case, the Authority shall notify the public of such an intention by means of a publication on its official website and the Planning Board receives a request of an applicant within the period established in regulation 12(5). This suspension shall remain in force until the policy to be revised comes into force or unless the applicant withdraws the request for suspension.

(3) In the circumstances where:

(a) the Executive Chairperson is required to cause the proposal together with the name of the applicant to be re-published on the website of the Department of Information and also re-advertised by means of a notice affixed on the site, then the term established under sub-regulation (1) shall be automatically extended by a period of six weeks;

(b) the applicant makes a request, within the time-frame set out in regulation 12(5), for a deferral of the sitting of the Planning Board based on a valid reason, and such a request is upheld, the term established under sub-regulation (1) shall be automatically extended by a period of four weeks.

(4) (a) The Planning Board shall decide and determine any application during the first sitting, saving if a request for suspension or deferral has been upheld. During the first sitting, the Chairman of the Planning Board shall request each member of the Board present for the first sitting to express a provisional opinion on the recommendation of the Executive Chairperson. If the majority of members of the Planning Board present for the first sitting express a provisional opinion that, given no further clarification, their intention is to go against the recommendation of the Executive Chairperson, the Planning Board shall, in addition to the requirements of the Act, defer the determination of the application within a period not exceeding six weeks, propose a list of conditions or reasons for refusal, and add comments in the committee notes section of the report. The *perit*, the applicant, registered interested parties, the external consultees and, or other consultees shall be informed of the Planning Board's proposal prior to the date of the deferred sitting.

(b) The Planning Board may:

(i) request the applicant to file fresh plans and documents, in which case the Planning Board shall give reasons for such a request and provided that the request shall not constitute a material change;

(ii) request the applicant to furnish further information, in which case the Planning Board shall give reasons for requiring such further information; or

(iii) consult in terms of article 31 of the Act, in which case the Planning Board shall give reasons for requiring such consultation;

in which case the Planning Board shall, during the sitting put off the decision on the application and establish a date for the next sitting for

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the determination of the application, such date being not later than six weeks from the date of the last sitting:

Provided that any external consultees, and, or any other consultees and, or person who has made submissions on the application in terms of article 71(6) of the Act shall be informed that such fresh plans and documents, further information and replies to consultation in terms of article 31 of the Act have been so filed and shall also be invited to be present at the Planning Board's sitting, as the case may be, when such application shall be discussed:

Provided that any fresh plans and documents, and any further information and replies to consultation in terms of article 31 of the Act as above stated, have to be submitted at least fifteen days before the date of the next sitting and shall be directly referred to the Planning Board:

Provided further that the Planning Board may also delegate to the Chairperson or any of its members, the power to endorse any revised plans or documents relating to any application under its consideration but shall not delegate such power to the Executive Chairperson.

(5) If the Planning Board imposes the payment of a fine, planning gain or any other contribution, or the provision of a financial guarantee or any other requirement, as a condition for the approval of a development application, the applicant shall, unless otherwise instructed by the Planning Board through the parameters as set out in any regulations relating to fees and contributions, make such a payment within a period of six months from the date of notification of a notice to this effect, failing which, the application will be dismissed.

(6) The Planning Board shall be authorised to amend the proposal of any application so as to better reflect the principle of the development without the need to comply with the provisions of regulation 6(1) to (5). However the amendments may not depart from the scope of the development or affect negatively the vested rights of the applicant.

(7) The decision notice shall be communicated to the applicant, the *perit*, external consultees, any other consultees and any registered interested party, within fifteen days from the date of the decision.

(8) For the purposes of these regulations:

(a) a copy of any approved drawings or documents

shall be served by the Planning Board to the *perit* by electronic means;

(b) a copy of any approved drawings or documents shall be served by the Planning Board to the applicant by normal post to the postal address of the applicant as indicated in the application form.

The term mentioned in article 13 of the Environment and Planning Review Tribunal Act shall commence from the date of publication of the notice of the decision on the website of the Department of Information in accordance with the provisions of regulation 6(6). Cap. 551.

14. (1) An applicant shall be allowed to apply for a reconsideration of a decision of the Planning Board within thirty days from the date of publication of the decision on the website of the Department of Information. A request for a reconsideration may only be made in relation to a fine or a condition imposed in the decision of the Planning Board. The request for reconsideration shall be made on the prescribed electronic form and shall be accompanied with the required fee. Reconsideration of a decision.

(2) No change in the application, drawings or documents may be allowed at reconsideration stage. The request for reconsideration can only be made by the same *perit* and applicant of the original application, unless the change of *perit* and, or the change of applicant procedures are followed.

(3) The provisions of regulations 11(4) and 13(5) shall apply *mutatis mutandis* to the procedure to be used by the Planning Board in the processing of the request for a reconsideration.

(4) The reconsideration hearing shall be held within thirty days from receipt of the request for reconsideration. The *perit*, the applicant and registered interested parties shall be notified of the sitting date as required.

(5) If an appeal has been lodged with the Tribunal by any party other than the applicant in accordance with the provisions of article 77(3) of the Act and the applicant submits a request for reconsideration in accordance with the provisions of this regulation, the procedures before the Tribunal shall be suspended until the request for the reconsideration has been determined and a copy of the decision has been submitted to the Tribunal by the Planning Board, and any time periods established under the provisions of Environment and Planning Review Tribunal Act in relation to the procedures before the Tribunal shall commence from the date of receipt by the Cap. 551.

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Tribunal of the decision on the reconsideration.

(6) No reconsideration may be lodged by the external consultees, and, or any other consultees or any registered interested party.

Procedure for dealing with requests for minor amendments to approved drawings etc. of development permissions.

15. (1) Minor amendments requests can only be submitted to amend approved drawings and documents of development permissions and are to be made by the same *perit* and applicant of the original application, unless the change of *perit* and, or the change of applicant procedures are followed.

(2) Conditions of permissions cannot be amended through the minor amendments procedure.

(3) An amendment to approved drawings and documents shall be considered as minor when it relates to:

(a) changes which refer to a development otherwise permitted through a development order;

(b) amendments which satisfy all of the following specifications:

(i) do not result in a development that no longer accords with the character of the surrounding area;

(ii) do not significantly alter the overall form or nature of the development;

(iii) do not involve a change of use or change in the number of permitted units;

(iv) do not affect the substance or overall form of a landscaping scheme;

(v) do not entail the need for further onsite parking provision which cannot be physically provided on site;

(vi) do not constitute a material change from the previously approved drawings;

(vii) do not extend beyond the building or site boundaries as defined on the approved site plan and drawings; and

(viii) do not affect the objections raised during the

public consultation period where they have been material to the decision.

(4) Requests for minor amendments are to be submitted through the electronic system, provided that:

(a) the minor amendment application form is used and duly filled in; and

(b) the permission has not expired and it is still valid.

(5) The minor amendment request shall include:

(a) amended drawings and documents;

(b) the correct fee due; and

(c) any revision or update of approved documents, where applicable.

(6) Each drawing must indicate clearly all the proposed changes in conventional colours. The colour coding needs to be indicated on the same drawing. The same number and format of drawings (including positioning of floor plans, elevations, sections on drawings) shall be retained.

(7) Revisions to approved documents may arise from the proposed minor amendments, such as amendments to Fire Safety and Ventilation Reports, Accessibility Audit Reports, Restoration Method Statements, or conditions set out by other authorities or Government Departments. In such cases, the relevant clearance should be sought by the Executive Chairperson from the relevant consultee. The relevant consultees are to reply within fifteen days, failing which it shall be considered that no objections arise from the revision. No late submissions will be accepted. A notification to the consultee that proves the date of late submission shall be uploaded on the electronic system.

(8) Requests for minor amendments are to be dealt with by the Executive Chairperson and a decision is to be issued not later than thirty days from a complete electronic submission.

(9) Registered interested parties shall be notified of the receipt of a request for minor amendments. Where a registered interested party submits an objection to the minor amendment within fifteen days from the notification of receipt of a request for a minor amendment, the request for minor amendments shall be processed by the Executive Chairperson and a recommendation shall be referred to

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the Planning Board and this in no case later than thirty days from submission of the request for minor amendment.

(10) Any requests for minor amendments which do not conform with any of sub-regulations (1) to (9) shall be refused by the Executive Chairperson or the Planning Board, as the case may be, provided that the deciding body clearly specifies the reasons for refusing such requests. There shall be no refund of the fees paid.

The conditions of the original permission shall always remain valid and the development, as amended, shall still be subject to those conditions. The validity of the minor amendment approval expires with the validity of the permission.

(11) There shall be no right of reconsideration or appeal, from a decision on a request for minor amendments. Where the request cannot be considered through the minor amendment procedure or the development order, a full development application shall be submitted.

Suspension of periods.

16. The periods established in these regulations shall be suspended during such period as specified in Schedule 4.

Dealing with illegalities and other developments on site during the processing of an application.

17. (1) When an application is submitted on a site which is subject to an enforcement notice, the Planning Board may dismiss the application unless the illegal development is included for sanctioning and, or any payments due as a result of any enforcement notice on site are settled prior to the issue of the permission.

(2) The illegal development may either be regularised through a specific development application made solely for that purpose or through a development application which includes the sanctioning of illegal development as well as the proposed new development.

(3) Where sanctioning of illegal development is being requested in a development application, the proposal description and the drawings shall clearly indicate the development which is to be sanctioned so as to ensure that the illegal development forms part of the development application.

(4) The proposal description of a development application and the drawings submitted may not propose the removal of illegal development from the site. The development application shall include only illegal development which is proposed to be sanctioned. Any illegal development which is not indicated for sanctioning in a development application shall be removed prior to the issue of a development permission, provided that where the application is determined by the Planning Board, or the Tribunal subject to the removal of the illegal development prior to the issue of the

development permission, the period by which the applicant is required to comply with this requirement shall not exceed six months or within a period specified by the Planning Board or the Tribunal, failing which, the application may be dismissed by the Planning Board or the Tribunal, as the case may be.

(5) Where parts of a site or building are illegal, permission for new development elsewhere on the site or on the building shall not be refused solely because there are illegalities on the site or on the building, subject, however, to all of the following conditions:

(a) the illegal parts do not form part of the application;
and

(b) granting permission for the new development will not physically prevent, hinder or make difficult enforcement action, either for the removal or for the rectification, of the illegal parts; and

(c) the applicant has no control, whether directly or indirectly, over the illegal parts and the applicant was not involved directly or indirectly in the illegal development, even if the development formed part of a larger development which includes the illegal parts.

18. (1) Applicants may apply for a Summary Procedure Application whenever the proposed development is included in Schedule 2 and it complies with all relevant applicable plans, policies and regulations:

Summary
Procedure
Application.

Provided that for those applications which are subject to this regulation and which have been notified to the National Commission Persons with Disability (KNPD) officer in terms of regulation 8(1), the notification procedure shall form an integral part of the summary procedure and shall be regulated by the provisions of this regulation. The provisions of regulation 8(2) and (3) shall not apply.

(2) The application shall be accompanied by:

(a) all the drawings, documents, fees and contributions specified in regulation 4(2)(a) to (h); and

(b) a report explaining how the application complies with all relevant applicable plans, policies and regulations and that it should be processed under the Summary Procedure:

Provided that if the development application is not

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compiled in full, the Executive Chairperson shall within two weeks from submission inform the applicant and the *perit* that the development application is not compiled in full. The Executive Chairperson shall allow a term not exceeding twelve weeks from the date of such notification within which the applicant shall comply with the request for further drawings, documents, fees and contributions as necessary. If the applicant fails to comply, the development application and its accompanying documentation, shall be given no further consideration by the Executive Chairperson, which application shall be deemed as tacitly withdrawn by the applicant.

(3) If no representations on a Summary Procedure Application are received within the period stipulated in regulation 11(2)(b), the Executive Chairperson shall prepare a recommendation on whether the application satisfies all the requirements of these regulations and the development is included in Schedule 2, which recommendation shall be referred for a decision to the Chairperson of the Planning Board or his delegate who shall decide the application by not later than six weeks from the publication of the application.

(4) If representations on a Summary Procedure Application are received within the period stipulated in regulation 11(2)(b), the Executive Chairperson shall evaluate the merits of the representations and shall prepare a recommendation on whether the application satisfies all the requirements of these regulations and the development is included in Schedule 2, which recommendation shall be referred for a decision to the Chairperson of the Planning Board or his delegate who shall decide the application by not later than six weeks from the publication of the application.

(5) If the Chairperson of the Planning Board or his delegate deems that the representations have any planning merits, he shall not accept the application and the provisions of sub-regulation (8) shall apply.

(6) If the application is accepted by the Chairperson of the Planning Board or his delegate, he shall validate the application and a full development permission shall be issued within five days and the decision shall be published on the website of the Department of Information by not later than fifteen days from the date of such decision.

(7) If post-decision fees are due and the application is accepted by the Chairperson of the Planning Board or his delegate, he shall validate the application and a non-executable permit shall be issued within five days and the decision shall be published on the website of the Department of Information by not later than fifteen

days from the date of such decision. A notification of the further payments required, which further payments shall be paid within six months from notification, shall be sent to the applicant and the *perit*. If the applicant fails to pay the fees due as indicated in the notification, the non-executable permit shall be withdrawn and the application shall be dismissed.

(8) If the application is not accepted by the Chairperson of the Planning Board or his delegate, the decision shall be notified to the *perit*, the applicant and to any registered interested party where applicable. The application shall then be referred to the Executive Chairperson to be further processed and the provisions of these regulations relating to development applications shall *mutatis mutandis* apply.

(9) A non-acceptance of a summary procedure application may not be appealed.

19. (1) Whenever a development application is submitted for a Project of Common Interest [EU Reg (EU) no 347/2013] or a development application is submitted which falls within the remit of the Seveso III Directive [Directive 2012/18/EU] the Authority shall ensure that the necessary information is made available and transmitted to the public and the necessary public consultations are carried out in accordance with the relative regulations and, or directives, as amended from time to time, in order to ensure that the public is informed and has sufficient time to prepare and participate effectively.

Project of
Common
Interest.

(2) The Authority shall moreover ensure that any such development applications are decided upon within any time-frames as may be established by the relative regulations and, or directives and in such manner as to ensure efficient administrative processing whilst the level of protection of the environment remains the same or is increased and to ensure public safety as may be determined by competent authority for the control of major accident hazards.

(3) In the determination of applications for Projects of Common Interest [EU Reg (EU) 347/2013] the Planning Board shall adopt the integrated scheme in accordance with the relative European Union regulations and, or directives as amended from time to time.

20. Prior to the commencement of any works relative to a valid permit, the *perit* must submit the relative commencement notice on behalf of the applicant to the Executive Chairperson within the period of five days in advance to the date of commencement of works or utilization of permission. The *perit* shall notify the Executive

Commencement
notice.

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Chairperson with the date of commencement of works or utilization of permission. Unless specifically exempted by the Planning Board, the *perit* shall include the contact details of the licensed builder and the site manager as defined in the site management regulations, including details where they can be reached at any time, and any other documents which may be specifically required in the permit:

Provided that if the *perit* deems that any of the information required in the commencement notice is not applicable by reason of the specific circumstances or any provision at law, he shall give detailed reasons for not including such information:

Provided that works may duly proceed according to permit after the date of commencement of works or utilization of permission if the Executive Chairperson fails to make any reply within fifteen days from submissions of the commencement notice.

Requests for
payment of
refunds.

21. (1) The applicant may request the Planning Board for a refund of the original fees paid to the Authority:

(a) when the report has not been communicated to the *perit* and the applicant within one hundred working days from the validation date for development applications falling outside the provisions of Schedule 2; or

(b) when the decision of the Chairperson of the Planning Board or his delegate exceeded forty two working days from the publication of the application for development applications falling within the provisions of Schedule 2:

Provided that the above stated periods shall not include any periods of suspension and, or extension required under these regulations.

(2) The request shall be submitted to the Planning Board by not later than thirty days from the expiry of the periods established in sub-regulation (1)(a) and (b), as the case may be. The Planning Board shall determine the request within sixty working days and notify the applicant of its decision.

(3) If the Planning Board accedes to the request, the refunds will be paid at the following rates:

Applications in Schedule 1: Euro 500

Applications in Schedule 2: Euro 25

Applications outside Schedules 1 and 2: Euro 100

for every day beyond the one hundred working days, excluding any periods of suspension and, or extension required under these regulations, up to the date of issue of the report or for every day beyond the forty two working days up to the date of the decision, as the case may be:

Provided that the refund does not exceed fifty percent of the development planning fee:

Provided further that no interest shall be accrued.

(4) When a credit agreement in terms of the regulations relating to fees and fines has been signed, and the Planning Board has acceded to a request for refund made in terms of this regulation, the refund amount due shall be deducted from the balance owed to the Authority as specified in the credit agreement, where such balance exceeds the refund due.

(5) The determination by the Planning Board of a request for refund shall be construed as a decision in terms of article 11(1)(a) of the Environment and Planning Review Tribunal Act from which an appeal may be lodged by the applicant in terms of the same Act. Cap. 551.

22. The Development Planning (Procedure for Applications and their Determination) Regulations, 2010, are hereby revoked without prejudice to anything done or omitted to be done thereunder. Revocation. L.N. 514 of 2010.

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Schedule 1

Major Applications

[Regulations 3(1), 4(2), 6(4), 12(1)]

For the purposes of these regulations "gross floor area (gfa)" has the same meaning as is assigned to it by the Development Control Design Policy, Guidance and Standards, 2015 or any other document which may from time to time succeed the said document.

- (a) Projects which require or may require:
- an Environment Impact Assessment
 - an Appropriate Assessment
 - a Traffic Impact Statement, or
- (b) development which falls within a site covered by an approved Development Brief;
- (c) development with a site area larger than 5,000m²;
- (d) development which falls within the following:
- (i) Residential: 75 units or more (including old people's homes)
 - (ii) Office:2,000 sq.m (gfa~) or more
 - (iii) Retail (supermarket/restaurant): 500 sq.m. (gfa~) or more
 - (iv) Retail (non-food): 2,000 sq.m. (gfa~) or more
 - (v) Industry: 4,000 sq.m (gfa~) or more
 - (vi) Warehousing: 8,000 sq.m. (gfa~) or more
 - (vii) Schools (new or extensions): new schools with more than three hundred students, or extensions of schools in congested areas, where the number of students will increase by more than one hundred students
 - (viii) Health/ Day Care:..... facilities with 2,500 sq m (gfa~) or more
 - (ix) Hotels/tourist accommodation: sites with two hundred bedrooms and, or major conference facilities;
 - (x) Sports/entertainment: projects with more than

two hundred seating capacity

- (xi) Assembly/leisure/wedding halls: 500 sq.m.
(gfa~) or more.

Schedule 2

Summary Procedure Applications

(Regulation 18)

Type 1 Development related to existing buildings and development within the curtilage of buildings

1. Chimneys and flues in residential buildings;
2. Water cisterns or reservoirs not on scheduled property or archeological buffer zones;
3. Extensions to dwellings which do not create a separate dwelling not in ODZ;
4. Extensions to non-residential buildings except for major applications (Schedule 1) and not in ODZ;
5. Parapet walls and party walls;
6. Changes to doorways, window apertures, and other similar openings;
7. Changes to facades;
8. Basements neither on scheduled property, nor in UCAs, nor in ODZ nor on archeological buffer zones;
9. Swimming pools neither on scheduled property, nor in UCAs, nor on archeological buffer zones;
10. Clearance of sites from buildings, structures and accretions only subject to prior clearance from the Environment and Resources Authority when the site is subject to a valid environmental permit and the Superintendent of Cultural Heritage and subject that this will not entail new access routes (and/or modification of existing access routes) if the land in question is scheduled property.

Type 2 Development related to minor works

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1. Air conditioning units on the façade;
2. Replacement or reconstruction of roofs on scheduled property;
3. Maintenance dredging to maintain existing navigable waterways, or vessel maneuvering areas, within port areas subject to prior clearance from Transport Malta and the Environment and Resources Authority.

Type 3 Minor infrastructural development

1. All works related to waste receptacles, including waste separation bins or similar containers and including signage. Waste receptacles which are assembled or constructed in-situ and waste receptacles for any liquid waste are excluded;
2. All works related to lamp standards, public seats, small-scale litter bins or similar baskets serving public recreational areas or walkways, bollards, barriers and similar works in ODZ areas;
3. All works related to posting boxes, self-service machines or Automated Teller Machines, or vending machines in ODZ areas;
4. All works related to monuments and art installations in ODZ areas within the road boundary subject to prior clearance from Transport Malta and the Arts Council.

Type 4 Development related to public transport

1. Passenger shelters and barriers by Transport Malta or subject to prior clearance by Transport Malta not on scheduled property nor protected areas.

Type 5 Development related to agriculture

1. Pump chambers;
2. Irrigation reservoirs.

Type 6 Temporary use of land

1. The reversible use of land, by government entities, Local Councils and other public entities appointed thereby, for the temporary placing and use of a caravan or a camp as well as any temporary structures required for such use during a period not exceeding four months within a twelve month period, not on scheduled property and provided that the land used is fully

restored to its pristine condition and any structure is removed before the expiry of such period;

2. The use of land for the parking of vehicles within the Development Zone (DZ) not being heavy goods vehicles, trailers, buses and coaches, as well as site leveling and surfacing and any temporary structures required for such use where the footprint of such temporary structures does not exceed ten square metres and their height does not exceed three metres subject to prior clearance from Transport Malta for up to three years and not on scheduled property nor protected areas.

Type 7 Development related to aviation

1. Development on operational land within airport perimeter except the construction or extension of a runway subject to prior clearance from Civil Aviation Department;
2. Development for air traffic control services, navigation and monitoring subject to prior clearance from Civil Aviation Department;
3. Construction, alteration or extension of an operational building in the perimeter of an airport subject to prior clearance from Civil Aviation Department.

Type 8 Development related to tented structures

1. Erection of tented structures and awnings for not more than four months within a twelve month period not on scheduled property.

Type 9 Development related to beach management facilities

1. The temporary use of land for the erection, placing and installation of structures required in relation to mobile sanitary facilities and life saving management practices on beaches, provided that the notification is submitted by a Government entity, a Local Council, any other public entity appointed thereby, or a registered institution versed in civil protection subject to the prior clearance from the Environment and Resources Authority when located in protected areas.

Type 10 Other development

1. Construction of new residential buildings or extensions or alterations of existing residential buildings which do not create more than sixteen dwelling units and their ancillary

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parking facilities, not in UCAs nor in ODZ nor in villa nor in bungalow areas;

2. Upgrading of existing public spaces.

Type 11 Renewal applications

1. All applications for a renewal of permission.

Type 12 Development related to advertisements

1. The display of advertisements, except billboards.

Schedule 3

External Consultees

External Consultees:

- (1) Superintendent of Cultural Heritage;
- (2) National Commission Persons with Disability (KNPD);
- (3) Environment and Resources Authority;
- (4) Occupational Health and Safety Authority;
- (5) Transport Malta;
- (6) Water Services Corporation;
- (7) Enemalta Corporation;
- (8) Local Councils within whose boundaries the application is located;
- (9) Civil Protection Department;
- (10) Malta Tourism Authority;
- (11) Environmental Health Directorate.

External Consultees with representatives in the Authority:

- (1) National Commission Persons with Disability (KNPD) officer.
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Schedule 4

Shut down Period

The offices of the Authority shall be closed between 23rd December of any year and 1st January of the following year, both days included.

The following periods shall be construed as inactive periods:

- (a) one week prior to Easter Sunday;
- (b) between the 8th and the 22nd of August of any year.

The provisions of regulation 16 shall also apply to inactive periods.

The Authority may establish other periods of time during the year where these periods shall be construed as inactive periods. The notification of such inactive periods shall be established by not later than the first week of December of the preceding year.

