

ERA Ref.: EA/00004/20

Description Proposal: The redevelopment of Mellieħa Bay Hotel

Location: Triq il-Marfa, Għadira, Mellieħa, Malta

Subject: Table with recommendations and ancillary reasoned justifications provided by the public, government entities, E-NGOs and relevant local councils, during 30-day public consultation on Terms of Reference, on any matters that they wish to see included in the EIA terms of reference.

Consultation period: 7 February 2020 – 8 March 2020

No.	From	Comment
1	Member of the public (email dated 9 February 2020)	In line with the Eu Directive 2018/844 on energy performance of buildings, this hotel must achieve a near zero energy status. This means that it must have minimum energy consumption by applying building envelope energy efficiency measures and high efficiency energy services systems, as well as integrate renewable energy systems in its building envelope and in the surrounding area forming part of the property of the said hotel. For example, hollow concrete blocks of the single or double density types are not sufficiently compliant with Technical Document F. More details on near zero energy buildings and cost optimal studies for hotels in Malta, visit EU countries' 2018 cost optimal reports - Energy European Commission
2	Futur Ambjent Wiehed (email dated 12 February 2020)	Dear Sir/Madam Scope of this public consultation stage Although this is purportedly an opportunity for the public to be consulted on the TORs of this project, it is very doubtful as to what effective use this will be. This is being stated because in a number of cases TORs are eventually published and then not adhered to. Specific reference is being made to the Central Link case where a specific methodology (requiring the measurement of queuing times) was required by the TORs. This methodology was not adhered to. Yet ERA posed no objection - a case of constant shifting of the goal posts and not enabling comparative or peer-reviewed studies. So - if TORs are published, it s unfair to change them at whim, or simply to allow departures from them. This issue of departing from the TORs begs the question of why there is this public consultation process to begin with - if ERA simply allows shifting of rules. The following studies, assessments should be carried out and published at the earliest opportunity.

		<p>- Public/Stakeholder concerns related to impacts in and around the proposed project and alternatives at least for stakeholders within the geographic scope of potential impact. The project proponent should document specific steps taken to engage the public and other stakeholders, and engage these public stakeholders as early as possible before undertaking to prepare the EIA. Concerned public stakeholders include: local governments, persons living and working in the vicinity of the project, those with interests in resources that may be affected - In this case beach goers, people who practice water sports in the vicinity, ramblers and those concerned about protected areas and the status of the ecologically sensitive areas.</p> <p>A summary of public outreach activities, audience, number of persons, organizations involved, concerns raised, responses to comments and actual copies of written comments received should be included in the final report. The responses should be in the form of concrete answers not the usual sitting-on-the-fence noncommittal non-statements Specific mention and study should be made of access routes to the coast and the rural area surrounding the hotel scheme and how this impinges upon the Public Domain.</p> <ul style="list-style-type: none"> - A clear schematic to scale representation of publicly accessible paths. - Clarification as to title over land. - The EIA should assess as appropriate the impacts of a range of reasonable and technically feasible alternatives as well as the proposed project. The alternatives to the project must include a “no action” alternative, as well as consideration of best practices that may not otherwise have been incorporated in the proposed project. Other alternatives should be developed as needed to avoid or minimize significant adverse impacts associated with the proposal -mostly concerning public access, takeup and formalization of land, effect on the marine environment and visual impact. - Direct, indirect and cumulative impacts and their significance level and what happens if these are major negative. - A study about carrying capacity of the area especially as regards further tourism requirements in the area. - Uncertainty and how that uncertainty will be addressed through monitoring and contingency plans as may be needed to reduce risk of adverse impacts in the future. <p>- Specific commitments, including who is responsible, what will be done, when and how it will be monitored, reported and audited to confirm that commitments are met. These have to be specific, realizable and enforceable obligations. It is not enough to say that there will be "careful" monitoring of X or Y or that there will be a construction management plan or a landscaping scheme or a nature permit. The recent Central Link fracas has shown us that these are all unenforceable sops to objectors and third parties so that the project gets rammed through anyway and then not even these conditions are met.</p>
3	Malta Resources Authority (email dated 14 February 2020)	The Malta Resources Authority notes that the EPS makes reference to a reverse osmosis system. We need clarification of the source of water for this system, as there is no evidence that any boreholes have been notified at the site. As such, the authority cannot issue a clearance until the position of the applicant with respect to the source of water for the reverse osmosis system is clarified and, if necessarily, regularized. If additional boreholes are being proposed on site, a technical study confirming that

		<p>non-saline groundwater resources will not be affected will be required to be submitted, together with the appropriate application form to the Authority.</p> <p>The proposed development furthermore appears to include excavation works that reach partially or totally within the saturated zone. Therefore, the developer should submit an application in writing to the MRA including the details specified in regulation 5(1) of the Borehole drilling and excavation works within the saturated zone regulations (SL423.32), together with a technical study showing that there will not be a significant impact on groundwater resources; that water resources will be used efficiently in the course of any activities carried out; and that the water environment is protected including the limitation of discharges to the environment.</p> <p>This assessment is based primarily on the documentation that was published on the weblink provided as on the date of the assessment. The Authority made its assessment on a good faith basis and reserves the right to review its position and, or to take action against the authors of the documentation and, or the applicant if information relevant to its assessment (particularly the prior use of the site where the development is proposed) is 'buried' or concealed (including through the submission of documentation that is not text searchable).</p> <p>This, and any other response in writing by the MRA to the application submitted for consultation or to any other documentation, should not in any way be deemed as approving or endorsing this application in any form or of condoning any matter that falls beyond the MRA's immediate remit as established under the Malta Resources Authority Act and as in force on the date of the relevant response. In particular, you are reminded that with the coming into force of the Act No. XXV of 2015 establishing the Regulator for Energy and Water Services, the Water Policy Framework Regulations and the Protection of Groundwater against Pollution and Deterioration Regulations have been excluded from the remit of Malta Resources Authority and as such the MRA has no authority to take a position on matters regulated by these regulations or indeed any other matter that does not fall within its remit. While this response may be published, any response by the MRA may not be publicly used or mentioned as a general or partial approval by the MRA of the matter referred to for consultation.</p>
4	Civil Protection (email dated 14 February 2020)	The applicant needs to provide the fire safety report adhering to the guidelines and standards.
5	Member of the Public (email dated 29 February 2020)	Why are you allowing the Mizzi Group of companies further ruin our bay? Why are they being allowed to build on a Natural 2000 site? What a horrendous project. Absolutely disgraceful concrete jungle. Please stop them.
6	Occupational Health and Safety Authority (email dated 2 March 2020)	The applicant is reminded of his obligation to abide by all relevant OHS legislation and in particular:

		<p>A. The planned construction works shall be carried out in conformity with the requirements of the Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations, 2018 (SL 424.36) in particular:</p> <ol style="list-style-type: none"> i. The appointment by the Client of a Project Supervisor for the required works and any such appointment shall be terminated, changed or renewed as necessary; ii. The prior notification to OHSA by the appointed Project Supervisor, at last four calendar weeks before works commence; iii. The maintenance by the Client of a Health and Safety file appropriate to the characteristics of the project containing relevant health and safety information to be considered during any subsequent works and iv. The drawing up of health and safety plan by the Project Supervisor prior to the setting up of the planned works. <p>B. The contractor/s and, or self-employed persons entrusted with the various works required to execute this application shall ensure the health and safety of themselves and their workers and shall cooperate with one another, as stipulated in various OHS legislations, particularly Act XXVII of 2000, SL 424.18 and SL 424.36;</p> <p>C. All work equipment used during these works shall comply with the relevant OHS regulations particularly, but not limited to the provisions of SL 424.35;</p> <p>D. All electrical equipment and installations used during these works shall be duly examined and tested by a competent person and a report of the examination shall be drawn up verifying that the equipment / installation is safe for use. This report shall be kept by the employer/s and made available to OHSA for inspection;</p> <p>E. All contractors engaged on this project shall ensure that that all work activities under their charge are covered by a suitable, sufficient and systematic risk assessment carried out as per SL 424.18 and other relevant OHS regulations. Without prejudice to the legal obligations of an employer, this risk assessment shall, inter alia, make reference to:</p> <ol style="list-style-type: none"> i. Measures to protect workers from falls from heights; ii. Measures against risks from falling objects / material; iii. The safety of erection, dismantling and working on support structures and / or scaffolding works. All support structures and, or scaffolds shall be inspected and certified by a competent person prior to putting into use, which certificate shall be kept by the employer/s and made available to OHSA for inspection; iv. Measures against risks from manual handling of loads as per S.L. 424.17; v. Personal protective clothing / equipment to be used by workers; vi. Measures to ensure safe structure and solidity;
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7	Environmental Health Directorate (email dated 2 March 2020)	<p>We would like to have the following issues related to public health included in the terms of reference for this proposed development:</p> <p>1. Air pollution impacts assessment For demolishing, excavation and construction Emissions from heavy vehicles Transports, storage and handling of construction materials Operational traffic And their effects on the surrounding including the bathing area.</p> <p>Necessary monitoring and mitigating measures must be clearly stated.</p>

		<p>2. Noise and vibration impacts including construction activities, operational traffic and from other operational activities. Required monitoring and mitigating measures must be clearly stated</p> <p>3. Traffic Impact Assessment and mitigation measures.</p> <p>4. Light pollution impact and mitigation measures.</p> <p>5. A Waste Management Plan shall be implemented which should include the impacts from waste generated both during the construction (demolishing, excavated and construction material) and operation phase. Hence the importance of a detailed Construction and Waste Management Plan, which should be enforced by the site project manager. Details of monitoring and feedback mechanisms must be clearly stated and adhered to. Impacts and mitigation measures related to impact on the quality of the coastal zone are to be clearly stated.</p> <p>6. Adverse impacts caused by unsafe, inadequate storage and improper handling of raw materials on site and from potential accidental spillage of hazardous fluids, fuel and lubricants.</p> <p>7. The overall cumulative impacts of the development on the general public.</p> <p>8. Details of measures proposed to be taken to prevent nuisances at all stages of the project on the Area of Influence.</p> <p>9. The provisions of L.N. 5 of 2006 regarding Legionella Control are to be taken into consideration in view of potable water within the whole project especially for hospitality facilities, and public facilities. Included the heating water system.</p> <p>10. Pools are to be registered with the Environmental Health Directorate as per L.N. 135 of 2008, Amendment to swimming pool regulations.</p> <p>11. Indicate discharge point from swimming pools that will be present on site.</p> <p>12. A hydrology assessment should be made available. Such assessment should provide details for the supply, distribution and storage of potable water. If any new reverse osmosis is installed, details of extraction water and discharge of saline water from the reverse osmosis plant system must be included. Furthermore, it must incorporate details of collection, storage, overflow and use of rainwater and second-class water. Ground water and surface water in terms of water quality including run-off management.</p>
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8	Energy and Water Agency (email dated 2 March 2020)	<p>The following are comments for The Energy and Water Agency divided by considerations which relate to specifically and solely to energy and water management.</p> <p>Energy:</p> <ul style="list-style-type: none"> No relevant points were brought up from an energy perspective. <p>Water:</p> <ul style="list-style-type: none"> Given the scale of the increase in the number of guestrooms and the intensity of use on the site, the design should ensure that beyond the Eco certification, sufficient water resources should be planned into the design of the development to cover as much as possible the full water requirement of the resort without the consideration of external water inputs such as trucked water supplies. o Landscaping which respects the Mediterranean character of the Maltese Islands and is

		<p>compatible with the surrounding environment should be preferred, in particular by utilising native species of trees, shrubs and plants which do not require excess amounts of irrigation water. Water efficient irrigation systems should be included.</p> <ul style="list-style-type: none"> ○ A connection to the New Water distribution network should be sought with the Water Services Corporation to use reclaimed water for all irrigation water requirements. ○ All rooftop catchments and hard landscaping included in the design should be considered in the collection of rainwater run-off to be used in connection with dual-flush toilets and other second class uses. Sufficient rainwater harvesting capacity should be included. ○ The installation of an onsite seawater reverse osmosis should cover all first-class requirements including the supply of water to pools and spas. Additional water should be obtained through municipal water supply. ○ Pools and Spas should utilise highly efficient technologies to ensure that maximum water efficiency in facilities with high water use. ○ The EIA should clearly define the amounts of water which will be utilised by the development and the source of water planned to satisfy the demand. <ul style="list-style-type: none"> • Given the footprint of the development will extend beyond that of the existing footprint and due to its encroachment of Areas of Ecological Importance (AEI), it is imperative that the development, including hard and soft landscaping, considers the modification of the surface hydrological regime on the Area of Ecological Importance. • Due to the planned excavation beneath the footprint of the existing complex (to accommodate three basement levels), as well as the excavation outside of the existing footprint, the EIA should take into careful consideration the geological sensitivity of the area and the impact of the development on the Mellieha coastal groundwater body. As part of the geological studies, we request that any saturated zones found are recorded.
9	Birdlife Malta (email dated 6 March 2020)	<p>General comments:</p> <ul style="list-style-type: none"> - The area occupied by Mellieha Bay Hotel and its grounds covers a total of 167,000 sqm which were given to the hotel as an Emphyteutical grant in 1963 for touristic activities for a total of 95 years. The existing Ground Floor Area (GFA) is of 26,705 sqm. While according to the new layout, the GFA is going to reach 61, 008 sqm. - Proposed development will increase the footprint (build-up area) up to 19,170 sqm (almost triple). The maximum height will increase from 33 m to 40 m. - <i>We recommend that the EIA investigates therefore fully the changes in such a development accordingly to relevant policies and local plans.</i>

	<p>- According to the North West Local Plan, the site is located within the Area for Restrained development and Outside the Development Zone. Also it is partly located on an Area of Ecological Importance and Area of High Landscape Value.</p> <p>- The northern part of the site is mostly undeveloped (inactive agricultural land, garrigue and afforested area). To the west, the site's boundary adjoins Special Protected Area, Special Area of Conservation (International Importance) and Bird Sanctuary (Foresta 2000 and Ghadira nature reserve). On the coast, the site is adjacent to Marine Special Protected Area (the coastal waters of Mellieha Bay) which is part of European Natura 2000 network. In close proximity to the eastern boundary of the site, there is Rdum tal-Madonna cliffs area where the largest colony of Yelkouan Shearwaters breeds.</p> <p>- <i>For the reasons mentioned above, we demand that the EIA considers the ecological impact of the proposed development.</i></p> <p>- As to geology and geomorphology, the PDS says the demolition stage will take at least 5 months and the excavation 4 months. The developer is planning to excavate as much as 150,000 m3 of rocks (gravel/torba) which can lead to possible negative impact on geomorphology of the area, massive dust and waste generation. Blue clay formation underlies the site, while the developer is planning to conduct hard landscaping and excavation. <i>A geological and geomorphological</i></p> <p>- <i>assessment is therefore being recommended for the development, including any potential effects vis a vis aquifers in the area.</i></p> <p>- Demolition and excavation works as well as transportation of waste during the construction phase will be a significant source of noise and vibration. This type of pollution can lead to disturbance of the largest colony of Yelkouan Shearwaters nesting on the cliffs within the close distance from the site (Rdum Tal-Madonna area), especially if mentioned activities are occurring during the breeding season (January-July). Additionally, Black-winged Stilts, which have chosen Ghadira nature reserve as their breeding habitat, can also be disturbed by the noise and vibration (their breeding season lasts from May until July). <i>A thorough assessment of potential noise pollution impact and vibration should be therefore assessed with respect to sensitive receptors which in this case are the Rdum tal-Madonna SPA, and Ghadira SPA.</i> It has to be noted that Yelkouan Shearwater activity has in the past been recorded as close as to Slugs Bay at the Rdum tal-Madonna site, therefore the site in its entirety needs to be considered as a sensitive receptor. Vibrations to shearwater colonies should be assessed in terms of perceived vibrations which can disturb birds at their nest, as well as possible causation of rocks falling blocking nests/burrows.</p> <p>- According to PDS, the whole period of demolition/excavation/construction works is going to take 2,5 years and construction is planned to be finished by 2023.</p>
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10	Mellieha Local Council (email dated 8 March 2020)	<p>Reference is to your e-mail of the 7th February 2020 and scoping meeting held on the 2nd March 2020.</p> <p>The Local Council is of the opinion that the demolition and construction phases can yield negative effects in the immediate surroundings of the hotel footprint, as well as in other outlying areas. Therefore the EIA terms of reference are to set the following requisites:</p> <ol style="list-style-type: none"> a) Establishment of route/s for the conveyance of debris construction materials to/from site; b) Consideration of the possibility that debris is conveyed away from site over land and loaded on a barge at the closest docking place; c) If method (b) is adopted, the EIA should determine the location where the debris shall be disposed of; d) In any case, the EIA should deal with the measures that need to be adopted in order to ascertain that no spillage of debris takes place along the foreshore and seabed adjacent to the construction site; e) Consideration of the possibility that at least part of the generated debris shall be recycled on site; and <p>The dust mitigation measures to be adopted during demolition and construction stages.</p>