



## **Terms of Reference for the Preparation of an Appropriate Assessment**

**PA08622/20; EA/00059/20**

**Demolish existing breakwater, and construct a new breakwater designed to accommodate wave and sea conditions due to changing climatic conditions, with new mooring facilities for boats, new ferry landing facilities, including a terminal for passengers and to provide better access to users**

**Site at: Bugibba Breakwater, Dawret il-Gzejjer, Bugibba, San Pawl il-Bahar**

**April 2021**

- Note 1** This document is intended to set out minimum specifications that need to be satisfied in order to determine whether the proposed intervention or any part thereof will have a significant impact on the integrity of any relevant protected sites, ecosystems, habitats and species covered by the provisions of the Flora, Fauna and Natural Habitats Regulations (S.L. 549.44).
- Note 2** The applicant is to propose consultants for ERA approval prior to the commencement of the Appropriate Assessment (AA) studies.
- Note 3** It is the consultants' responsibility to adopt and justify the appropriate methodologies and areas of influence. Furthermore, in the interest of optimising the assessment process, the proposed methodology is to be discussed with ERA prior to actual commencement of the studies,
- Note 4** Unless otherwise specified in these Terms of Reference (TORs) and in the absence of any site-specific conservation objectives drawn up by ERA, the assessment shall be guided by the following environmental objectives:
- Where the conservation status is favourable, this is retained and not reduced; and
  - Where the conservation status is not favourable, this is improved.
- Note 5** The requirement for further AA studies needs to address the issues outlined in the screening carried out by ERA, as well as any other AA-relevant impacts identified by the consultants. Should further surveys be deemed necessary by the consultants, ERA is to be informed of such need PRIOR to the commencement of such surveys.
- Note 6** Wherever available, already-existing information should be made use of without any unnecessary duplication of work. Any uncertainties and gaps in information should be acknowledged.
- Note 7** The consultants should refer to the appropriate EU guidance documents, and should clearly quote such sources accordingly.
- Note 8** ERA reserves the right to question (or disagree with) the methodologies and area of influence, to request revisions thereof, and to request additional information or studies at any stage prior to, during and following completion of the AA.
- Note 9** These TORs are primarily intended to guide the AA investigations rather than as a basis for tendering or other non-ERA processes. In this regard any use for such purposes is at the sole risk of the applicant, as requirements may vary following technical negotiations, updating of legislation or standards, changes to the proposed project, or other circumstances.

The proposal requires the submission of an Appropriate Assessment (AA) as per Regulation 19(1) of the Flora, Fauna and Natural Habitats Protection Regulations (S.L. 549.44), given that the project may cause significant impacts on the Special Area of Conservation of International Importance (MT0000105) designated under the Habitats Directive for the presence of *Posidonia* beds, and on the Special Protected Area (MT0000112) designated under the Birds Directive for the presence shearwater colonies (*Calonectris diomedea* and *Puffinus yelkouan*), as declared through the provisions of the Flora, Fauna and Natural Habitats Regulations of 2006 (S.L. 549.44).

*Note: It should be noted that the AA shall not be restricted to the above-mentioned protected sites only, which have been identified through screening to determine whether the proposal requires the submission of an AA. It is the consultants' responsibility to adopt and justify the appropriate area of influence, based on the available information, which takes into consideration any relevant protected site, ecosystems, habitats and species covered by the provisions of the Flora, Fauna and Natural Habitats Regulations (S.L. 549.44).*

**The Appropriate Assessment report should follow the following format:**

**1. Executive Non-Technical Summary**

A description of the salient points of the AA study including surveys, impacts and their significance, proposed mitigations measures, and any residual impacts.

**2. Project Description**

A description of the proposed project, with particular emphasis on those elements that are likely to give rise to potentially significant effects on the on the integrity of the protected site, or on its habitats species and ecosystems. The description shall also address any foreseeable consequential requirements or implications of the proposal (e.g. need for new or altered access or infrastructure).

**3. Site Description**

A general description of the site environment within the area of influence, with particular emphasis on the salient features of the site and its species, habitats and ecosystems. Any other aspects of the physical environment and its processes that may in any way interact with the development or its impacts shall also be described.

The description shall also address any other constraints relevant to the site, including statutory legal protection, any relevant management plan framework.

**4. Impact Assessment vis-à-vis the integrity of the site and its species, habitats and ecosystems.**

An evaluation of the way in which the integrity of the site and its species, habitats and ecosystems are likely to be affected by the project.

Impact assessment should clearly indicate all foreseeable direct and indirect impacts, and their expected timeframes (short/long-term, etc.). Any impact interactions (e.g. accumulation, synergy, interaction with natural forces) shall also be identified and assessed. The significance of all AA-relevant impacts must also be discussed.

Impact assessment shall also take into account practical implications (e.g. conflicts with site protection or management plan implementation, any foreseeable constraints on future management plan formulation, etc.)

**5. Mitigation Measures**

Where possible, measures should be identified to eliminate and/or mitigate adverse effects on the integrity of the site as well as on the relevant habitats and species.

In this regard, the AA should include:

- A reasonably detailed identification of the measures to be introduced for all relevant phases of the project;
- An explanation of how the measures will eliminate and/or mitigate adverse effects;
- Evidence of how the mitigation measures will be tangibly implemented and by whom;
- Evidence of the degree of confidence in their likely success;
- A timescale, relative to the project, when they will be implemented;
- An explanation of any proposed monitoring scheme and how any mitigation failure will be addressed; and
- Proposals for decommissioning as may be appropriate.

## **6. Residual Impacts**

The report should include a prediction of residual impacts and implications of the proposal on the site and its species habitats and ecosystems, following the implementation of the mitigation measures. The report shall also evaluate the significance of such residual impacts and implications. Residual impacts are to be evaluated individually as well as holistically.

## **7. Alternative solutions**

A list of alternatives to the proposal is to be submitted. Examples of alternatives may include, but not necessarily limited to, alternative technologies, alternative layouts, and relocation or downsizing of the project. The zero-option (do-nothing scenario) should also be considered. Each alternative is to be thoroughly assessed by comparing it with the original proposal and clearly indicating the relative effects on the site's listed habitats and species.