

Social Impact Assessments - Representations filed on behalf of FUTUR AMBJENT WIEHED

2 messages

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Mon, Jun 10, 2019 at 2:32 PM

Dear Sir/Madam

I am submitting the following representations in response to the ongoing public consultation exercise in relation to the further implementation of SIAs.

This representation is being made on behalf of FUTUR AMBJENT WIEHED and on my own behalf.

Background

We have already had some experience of SIAs being carried out for developments which apply the Floor to Area ratio mechanism (tall buildings). It is submitted that in these cases, the preparation of a SIA was a box-ticking exercise which was not given much importance and had no real and/or tangible effects on the affected communities. Specific reference is being made to the following appeals made from permits for development.

PAB 261/16 Kunsill Lokali Ta Sliema vs PA (Townsquare)

This relates to the appeal in the Townsquare, Sliema case in which the EPRT had acknowledged the fact that the SIA carried out was outdated (having been carried out in 2007 when the application referred to plans changed in 2016).

The relevant extract from the EPRT's decision is reproduced below. It should be noted that SIA's should be carried out in a timely ongoing manner, reflecting changing socioscapes and even different circumstances. A SIA carried out 3 years ago is no longer relevant in view of the construction blitz taking place all over the island.

Illi dan it- Tribunal mhux tal-istess fehma, u dan ghar-ragunijiet segwenti:

- (1) Zvilupp differenti li qed jigi analizzat bejn dak propost fis-snin 2007, 2010, 2012 u dak li gie prezentat fis-sena 2014/2015 (huja biss bejn is-sena 2014 u 2015 fejn l-izvilupp jista jittqies wiehed simili);
- (2) Illi t-trapass taz-zmien mis-sena 2007 (meta sar l-ewwel studju) ghas-snin 2014/2015 huwa certament prejodu twil li kien jirrikjedi revizjoni tista tghid f'kull qasam tal-EPS, inkluz dak tal-SIA;
- (3) Certament f'tali zmien sar bidla fil-morfologija kemm soċjali kif ukoll fizika f'din il-parti ta' Tigne f'Ta' Sliema, li certament kien jisthoq ri-eżami tal-istudju soċjali;
- (4) Illi dan it-Tribunal kien jistenna u jara li l-konkluzzjoni jekk kienx hemm htiega ta' *update* fl-SIA tigi mill-awtur tar-rapport jew minn espert fl-istess qasam u ma jidhirx mill-provi prezentati illi l-koordinaturi kienu kkonsultaw ma tali esperti sabiex waslu ghal din il-konkluzzjoni.

Illi l-fatt li l-izvilupp propost ma kienx ser iwassal ghal xi tibdil sostanzjali f'dak li ghandu x'jaqsam ma *landuse* u *design* (ghalkemm f'dan tal-abhar kien hemm bidla sostanzjali) mhumiex fatturi jcw bazi sodisfacenti sabiex tikkonkludi jekk kienx jehtieg *update* fl-SIA tenut illi dan jitratta aspetti soċjali li fin-natura taghhom huma dinamici. F'dan ir-rigward dan l-aggravju qed jigi milqugh.

PAB 419/18

This was the appeal filed from the approval of the project proposing the demolition of the scheduled St George's Barracks in St Julians (former ITS site) and its replacement with massive hotel and residential development.

This was objected to by more than 4000 persons. Moreover the SIA findings showed overall negative impact on residents. The mitigation factors suggested in the SIA ranged from those not included in the application (a 1.4 km long tunnel gouged out under the NATura 200 site and which had not been assessed for its impact on human health and/or geology) to the ridiculous (a newsletter from the developers sent to the residents. Not exactly life-changing) to the insulting and hypothetical (the promised provision of parking places in "abandoned" areas in Pembroke. Wouldn't these require more public land take-up?).

- Participants in the SIA voiced their concerns about:
- Upgrade of infrastructure
- Parking issues
- Transparency concerns
- Enjoyment of Public Goods (See extract from EPRT decision below)

These concerns were not addressed in any way and yet because there was a SIA (as a document) the development went ahead without these concerns being addressed. So the SIA served as a PR-wash for developers and delivered

no tangible result for residents.

Social Impact Assessment:

Illi jibda sabiex jinhad illi minkejja li l-izvilupp propost huwa fil-lokal ta' Paceveille u Pembroke, ir-ricerkaturi responsabbli minn dan l-assessment wessaw l-istudju taghhom billi nkludew ukoll il-lokalitajiet ta' Swieqi u San Giljan. Dan sar sabiex jkun hemm analizi usa ta' kwistjonijiet kollha relatati mall-progett propost minn firxa usa ta' nies u mhux biss minn dawk tal-madwar immedjat.

Illi fil-pagna 3 ta' l-istess assessment, kif ukoll f' pagni ohra, hemm elenku tal-kwistjonijiet magguri li tqajjmu mir-residenti u l-operaturi. Hemm analizi cara tal-kwistjonijiet, minn fejn tqajjmu tali kwistjonijiet, u l-istess rapport huwa fidli ghall-fatu rizultanti f' dan il-kuntest.

Sabiex l-analizi tkun kemm jista jkun korretta, "research tools" kemm kwalitattivi kif ukoll kwantitattivi intuzaw.

L-istess resident gew mistoqsija dwar l-ideat taghhom dwar l-azzjonijiet li l-Awtoritajiet ghandhom jiehdu sabiex jigi salvagwardjati l-interessi taghhom f' kaz li l-progett isehh, u dawn kienu elenkati hekk:

"The six key issues that emerged were,

- (i) *transparency concerns,*
- (ii) *active citizenship procedures,*
- (iii) *upgrade of the infrastructure including*
- (iv) *parking arrangements,*
- (v) *enjoyment of public goods,*
- (vi) *law and order and effective monitoring."*

Id-Data li harget mill-analizi kwalitattiva tqabblet mad-data li harget mill-ghodda kwalitattiva. Oltre dan fl-ewwel fazi ta' l-istudju sar element ta' profiling, mentri fit-tieni fazi sar izjed fieldwork. Oltre dan saru erba' focus group sessions. It-tielet u l-ahhar fazi kienet tinkludi rakkomandazzjonijiet dwar mizuri ta' mitigazzjoni, moniteragg, rimedji u enhancement. Illi f' kull kaz tali rapport kien u ghadu dejjem konsistenti u fidli ghar-risultanzi ta' l-istess u jinkludi kull opinjoni u konsiderazzjoni anke dawk imqajjma minn min kien joggezzjona ghall-progett.

Illi ghalhekk dan l-aggravju ghandu jigi skartat.

With that context in mind the following submissions are being made in respect of the draft document tendered for consultation.

1. The applications which must be preceded by a SIA must be specified in law, not chosen by the Executive Council at its total and unfettered discretion, resulting in an unbalanced playing field for some residents and applicants. Criteria should be laid down specifying which applications should be subject to a SIA. These should be mandatory, and not vague and nebulous - as is the case with much of the planning legislation enacted in the last years. The decision not to carry out a SIA should be appealable by any persons.

2. The qualifications of the person/s carrying out the SIA have to be clarified and be appropriate. They should include qualifications in social and legal issues. . We have witnessed cases where assessments such as Appropriate Assessments and Green Travel Plans are carried out by persons who have no indepth expertise of the subject at hand and who arrive at ridiculous and insulting conclusions (GTP prepared by accountant firm of developers and AA where the person compiling it concluded that the only way to bring about a clean-up of a Natura 2000 site was to bore a tunnel beneath it and to pop in a batching plant for good measure). This should not be repeated.

The social impact assessment should be prepared by individuals who have qualifications in a social science discipline and/or demonstrated experience and capabilities in social impact assessment. The name, qualifications and experience of the person preparing the social impact assessment (or the principal preparer, if prepared by a team) should be provided, along with the date on which the assessment was completed. Details of the qualifications and experience of any other person who has conducted research or investigations relied on in preparing the social impact assessment should also be provided. The preparer should observe, wherever relevant, ethical considerations that apply to research involving humans.

Appropriate safeguards should also be put in place to ensure the process and the results provide an impartial assessment of the likely social impacts and avoid potential conflicts of interest. For instance, the preparer should certify that the assessment does not contain false or misleading information. Moreover it is vital to ensure that the individuals involved in compiling the SIA have no commercial or other ties with the developer. If these ties so result, then the whole SIA should be scrapped on the request of any party and compiled anew. This should be the case even if interested third parties cannot prove material change on SIA findings. It is sickening to see (as we have in the recent past) supposedly independent EIA consultants sign reports about a project which is being applied for by developers with which they have contractual commercial arrangements.

3. A compulsory methodology for the compilation of SIA's has to be laid down. This will exclude wildly varying, discriminatory and substandard SIAs.

In all cases the following should be compiled:

- Ante assessment of social impacts
- Mitigation of social impacts
- Due diligence and human rights assessments
- Enhancement of benefits from projects
- Community engagement and FPIC
- Local procurement arrangements • Monitoring of social issues
- Social investment (design, delivery, governance)
- Compensation mechanisms - These should be effective and tangible mechanisms not simply unenforceable proposals by developers
- Grievance procedures - Again these should be effective and tangible and accessible to all interested parties
- Negotiating Impacts and Benefits Agreements
- Social Impact Management Plans
- All national and international legal instruments should be scrutinized for reference to issues that might be construed as having a bearing on human rights, including access to health care, water, clean environment and good air quality.

4. SIAs must be reviewed by qualified institutions and/or individuals independent of the Authority and/or developer.

Otherwise we will simply be introducing another box-ticking exercise where a report is compiled for the sake of saying that a report has been filed with no tangible benefit to anyone.

5. SIAs should include a Health Impact Assessment

The SIA should include a Health impact assessment by which a policy, programme or project may be judged as to its potential effects on the health of a population, and the distribution of those effects within the population. It should identify what potential changes in health determinants might result from a new policy or project, for example an employment or transport policy, and what effects these changes might have on the health of a population. The assessment of the differential distribution of effects across the community and/or population should be analysed to study the potential impact on health inequalities or localised ailments and/or conditions.

6. Mitigating and/or compensatory measures identified in the SIA and which require further planning permission or assessment (such as an EIA or an SIA in their own right) should not be considered for the purposes of granting permission to the initial application. Otherwise this will result in fragmented studies and potentially hypothetical mitigating factors. For example in the case cited above (PAB 419/18) a subterranean tunnel was not included in the application. It was proposed by developer as a mitigating measure. The public had no real opportunity to file representations or objections about it as it was not part of the application. So the beneficial effects of the tunnel (redirecting traffic) were taken into account, whilst the disadvantages (geological effects, air quality and emissions from tunnel, excavation waste, batching plant inside it - the second one on site) were not). These were shrugged off by stating that they could be dealt with in a separate application. This is totally unfair and shifting of goalposts.

It should also be ensured that the mitigating measures themselves do not breach planning laws or policies. So - for example the adoption of a method statement mitigating the effects of construction and /or excavation, should not be acceptable if construction and/or excavation is prohibited on site by the relative local plan or policy.

7. If the conclusions of the SIA are to the effect that the impact on communities and /or residents is negative, then the proposed project should either be turned down or significantly down-sized. And this means a real regard to the wishes and impacts of a community and not approving the project at all costs with the introduction of superficial mitigation or compensatory measures. More often than not, we have witnessed projects approved on the back of superficial and trivial "mitigation" measures which are not enforceable by any one.

So - for example - a development which will bring about a huge influx of cars on an already-congested peninsula is passed off just because a Green Travel Plan is being provided. No consideration is given to the fact that:

- a) the Green Travel Plan has been compiled by a nameless person working for the financial consultant of the developer
- b) It is a superficial desk top exercise with little reference to substantiated information.
- c) it is largely a trite wish list of unenforceable measures Consent – for example an undertaking to hold discussions with Transport Authorities to include more public transport routes. What happens if the discussions are not held? Or if they are not fruitful? Absolutely nothing - as the permit would have already been issued.

Communities must have a real choice, that they can say 'yes' if there is a good flow of benefits and development opportunities to them, or they can say 'no' if they are not satisfied with the deal. Residents must be considered as rights-holders with legal standing whose human rights have been affected.

8. Mitigation and/or compensation measures must be clearly identified and made enforceable on the request of interested third parties within a specific time-limit. In the same way that the Planning Authority fines itself when it does not decide upon an application within a stipulated time frame, the PA should be made financially liable to interested third parties if it does not enforce the implementation of mitigation measures approved by it. This is only fair

- - if the PA is the regulator authorizing applications which may be detrimental to residents and/or communities, then it should also enforce the measures which make such development tolerable. An easily accessible mechanism whereby the PA is brought to account for its enforcement action (or lack of it or delay in proceeding with it) should be introduced at once.



Kind regards
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Mon, Jun 10, 2019 at 2:34 PM

This is to acknowledge receipt of your feedback which will be taken into consideration.

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