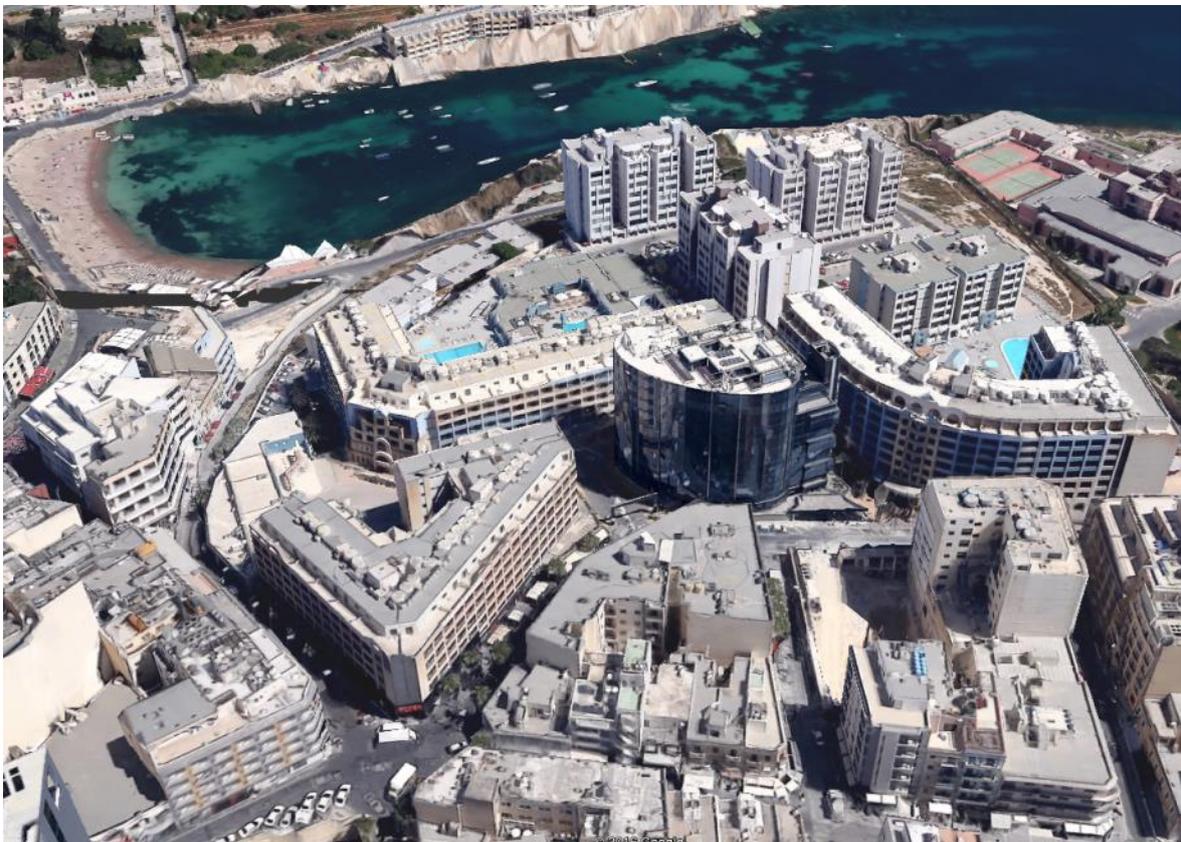




St George's Park Co Ltd



Interim submissions
regarding the Masterplan
in the
Paceville Development Framework
September 2016

28th November 2016

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Covering note

Before outlining our ad interim representations in regard to the Paceville Development Framework September 2016 document (the Masterplan) and setting out our proposals seeking a positive way forward it is opportune to provide the background to those representations and proposals.

Background 1 – who we are

St George's Park Co Ltd is a fully owned subsidiary of Mercury plc a holding company set up in the year 2000 pursuant to a merger of various long established companies.

The name chosen for the merged company 'Mercury' has proved to be an unfortunate choice because of the suspicions that we (and indeed others) have felt justified to voice in regard to one of the sites addressed in the Masterplan, namely Site 07 Mercury.

We have no connection with or direct interest in Site 07 Mercury (Mercury House) site or its ownership. For completeness' sake, we should however note that we hold, indirectly, a minority shareholding, in the publicly listed companies GO plc and Malta Properties Company plc (MPC) who had issued a Company Announcement declaring that they had *"entered into a tripartite Memorandum of Understanding with Mr Joseph Portelli (the 'Developer') and with GO plc"* regarding a development on Site 07 Mercury. This interest has not, and will not, prevent us from making the case that the conversion of the Site 07 from a space zoned as a piazza into a site on which two towers can be built has hugely detrimental and unjust effects on us and is, in any event, nothing short of scandalous. Indeed, we have formally suggested to MPC that the company may wish to investigate the interests standing behind the declared developer (Mr J Portelli) as he informed us, during a meeting we had with him, that he had co-investors (whom he described as influential, but whom he refused to name).

Background 2 – the Masterplan's implications

We understand and support the futureproofing and cohesive development aims that have moved the Government to require the Planning Authority to devise a comprehensive plan for the regeneration of the Paceville area, albeit this was only in respect of an area as gratuitously outlined by the Planning Authority.

We regret however that we have very serious reservations about the Masterplan which has resulted. This is not a Masterplan which encourages us to follow through on our well known intentions to continue investing further in a site which we have owned and developed to generate employment and taxed revenues for the past 50 years, indeed contributing to the Paceville 'success story' as it was described by certain commentators.

But perhaps it is not surprising that we have our reservations considering that even the Executive Chairperson of the Planning Authority's Executive Council (Executive Chairperson) has declared in a TV programme that he himself has his own reservations on the Masterplan, without however explaining what these are.

We had therefore been originally quite worried that the time allowed for representations in regard to the Masterplan had been announced to expire on 4th November 2016 but this had first been extended to the 25th November 2016 and then again to the 9th December 2016.

Although a positive sign it is still felt that the time allowed for such representations in regard to such a large and wide-ranging document remained far too short especially given the gravity of various elements in the Masterplan we consider to be extremely detrimental to our property rights, as we will not fail to explain. The stop-go aspect of these extensions has, in particular, contributed to our inability to engage in the requisite depth with our architects, as we again will not fail to explain.

However we have since been considerably encouraged by the assurances that the consultation process will extend well beyond the 9th December 2016 particularly as stated in various media by the Parliamentary Secretary for Planning and Simplification of Administrative Processes in the Office of the Prime Minister, The Hon. Dr Deborah Schembri (hereinafter referred to as the Parliamentary Secretary).

Nevertheless the detrimental effects of the Masterplan in our regard are so wide ranging that it remains incumbent on us to register our relevant concerns as comprehensively and clearly as possible even at this stage.

This is especially so because a significant number of the damaging provisions relating to our site (Site 04 St George's Park) would appear to be due to what cannot but be deemed a lack of a true and properly independent appraisal of the nine sites addressed in the Masterplan compounded by an obvious ignorance of the underlying property ownerships (notably whether private or public) and the legal constraints that apply for the protection of property rights as also those that are imposed by specific statutes such as the Public Domain Act ^{ACT XXV of 2016}.

This was indeed admitted at a sitting of the Standing Committee on Environment and Development Planning (hereinafter referred to as the Standing Committee).

It is also clear from the Masterplan that even the topography of the SGP site was beyond the grasp of the Consultants who have accordingly made proposals that the terrain renders problematic at best but mostly undeliverable.

But the main shortcoming of the Masterplan remains the aforesaid lack of objectivity which has produced such damaging effects for us. It is irrelevant, but nonetheless objectional and impeachable, that this bias may derive from the fact that the authors of the Masterplan are also consultants to one of the other said nine sites, namely Mercury House.

Background 3 – the Summary of Concerns

Some indications of this discriminatory treatment have already been outlined in the Summary of Concerns document that was tabled at the 2 November 2016 meeting of the the Standing Committee and is listed as Dok. 50 in the relevant Related Documents – see: <http://www.parlament.mt/file.aspx?f=59037>

These aspects are expanded on later in this document which also then explains in more detail the Masterplan's other very damaging or inappropriate proposals.

Background 4 – reacting to comments in the press et al.

Before going on to do that, however, intervening comments in Standing Committee and in the press have made it necessary for us:

1. to provide the basis of the interest that had been expressed by the owners of the St George's Park Site (SGP) to continue the re-development and re-generation process pursuant to the demolition of a previous low-lying office complex and the construction of the Aragon House Business Centre
2. to explain the way in which that interest was expressed.

The basis of our interest

First of all we have to clarify that the PA's Executive Chairperson was quite incorrect during an interview on TVM to state that SGP made an application for office space during the three month consultation period in 2013 when, as he said, 7000 applications were received. In fact SGP did not make any such application or submission. We fail to understand why the PA's Executive Chairperson chose to mention by name only SGP out of the said 7000 submissions. The Aragon House Business Centre office block, which forms part of SGP, was actually issued with a MEPA permit, and was constructed and operational well before the 2013 consultation for Paceville that the PA's Executive Chairperson referred to. Nor was he correct to state that those offices replaced residences; in fact Aragon House replaced an office block dating back several decades.

Is it therefore, one must ask, not just the Consultants who are singling out SGP for 'special' treatment that SGP can well do without?

Indeed, we have neither, as implied, made any submissions as such even in regard to our overall re-development intentions beyond a Powerpoint high level presentation and the only documentation exchanged are just basically minutes of a meeting when various points of principle had been discussed.

The matter had been left on the basis of the then MEPA CEO's email to us of 26th August 2015 which said:

We will be reviewing the points which relate to MEPA and other points we will be discussed with the Ministry to ensure that we give a comprehensive feedback to your points. We will soon be calling another meeting to discuss the issues.

This call never came.

It remains that the basis of our interest can quite simply be explained as a response to the encouraging opportunities offered by the forward looking Planning Policy Guide on the use and applicability of the FAR Approved Policy of May 2014.

This was seen to offer an enabling framework whereby to upgrade a development along the 'Golden Mile' so as to reflect a more prestigious corporate image in line with the overall objectives as had been stated for the Island. Our development of the new business centre Aragon House was already on that path.

From preliminary soundings at the Planning Authority it had been indicated to us that on the basis of the proposed policy updates to Policy NHPV08 relating to St George's Park of the North Harbour Local Plan (Approved Document July 2006) we could look to

securing approval for 278,714 sq.mt of Gross Developable Floorspace above ground floor level before increasing this further to take into account the Height Limitation Adjustment Policy for Hotels in Tourism Areas May 2013.

We accordingly sounded out internationally renowned architects on the possibilities for re-developing the site. This established that there was justification for an increase in the aforesaid GDF total due to the higher costs of developing tall buildings so as to leverage the full potential of this large site and thus maximise the overall economic benefits targeted by the FAR Approved Policy of May 2014.

We therefore presented outline indications of what we had in mind at the highest levels, accompanied by appropriate inputs by the said internationally renowned architects. These were well received as being something worth investigating and it had been left that the Planning Authority (then MEPA) would liaise with us with a view to determining the basis on which we could commission the said architects to start work on what was promising to be an exciting and truly iconic project.

That was in August 2015.

It must be emphasised that at that time it could hardly be envisaged that, for example, public land designated as open spaces would have their designation changed such as to also come on stream as now being proposed.

As a result of such further and unexpected initiatives the infrastructural pressures therefore escalate but we must straightaway emphasise that in our outline proposals we had already responsibly sought to address the most thorny infrastructural problem, namely transport, in respect of our own project.

In fact our August 2015 proposals had included a tunnel from the Regional Road area to our site so as to render the car largely unobtrusive at ground level (thus also facilitating pedestrianisation) and easing the pressure on adjoining residential areas.

The Masterplan's Option 2 includes such a tunnel but excludes it in its preferred Option 3 for reasons that we call into question in the Commentary but may also be due, as may be deduced from the Submissions ^(November 2016) of the Chamber of Architects also because of the cost to developers. If so, it must be other developers that the Consultants, or the Planning Authority, have consulted with who have raised these objections, certainly not us.

In so far as we are concerned all meaningful contact with the Planning Authority has been conspicuous by its absence and this cannot be better further underlined than by reproducing the reply received by one of our international architects when they wrote to the Planning Authority:

- a) remarking that more than a year had elapsed since the meetings when the SGP redevelopment was discussed, and
- b) asking for an update on the status of the project

The PA's Executive Chairperson just replied, on 15 June 2016, that *"The authority has been in continuous discussion with a number of interested investors to assess their interest and their commitment to the area. We are now in a point where the Authority is preparing the Local Plan Review together with the necessary infrastructural Master Plan. In the coming weeks we will start publishing our vision and strategy followed by the local draft plan. All documents will be*

available for public consultation. I invite you at the time to make your contribution to have a better plan."

We had not, of course, been included in the list of interested investors that the Planning Authority saw fit to consult with.

This naturally explains why we ourselves could not then, in the meantime, meaningfully consult with other stakeholders and, significantly, why we could also not have anything planned that we could, if we so wished, sell on plan, as certain other sites are openly doing.

It also explains why we are outraged to be labelled as one of a 'gang of nine' as the press and commentators have been wont to do.

We are not short term speculators but long term investors as our long standing investment in this area testifies to. This has provided employment in the hotels and thriving third party businesses that have operated from the SGP site over the past decades.

Admittedly some commentators have been more circumspect in their labelling but it is no less than the Chamber of Architects ^(Submissions dated November 2016) who have seen fit to voice *the conviction that the Development Framework is not based on sound planning considerations and aspirations, but is intended solely to accommodate individual interests.*

We accordingly have to:

- a) emphasise that the Masterplan does not accommodate our interests; in fact it does the opposite by materially damaging them
- b) refute most strongly any interest other than that as we are hereby declaring.

It can perhaps be more readily understood why we complain of the damaging effects of the Masterplan when one reproduces the full text of the paragraph in which their said Submissions the Chamber of Architects voice the aforesaid 'conviction' namely:

The lack of consideration for privately owned properties, which are proposed for expropriation for the provision of public space, while at the same time allocating significant development potential to public land which could easily be used for such purpose, further compounds the conviction that the Development Framework is not based on sound planning considerations and aspirations, but is intended solely to accommodate individual interests

In fact large chunks of the SGP site are abusively earmarked for some form of expropriation in the Masterplan to replace in whole or in part a piazza that to date has been earmarked for part of the land which had been sold by the Government to the previous owners of the Mercury site. Further erosions of the site are proposed to provide permeability for, essentially, views that the terrain does not allow.

So it is only certain individual interests that are being accommodated and certainly not SGP's

The way we have expressed our interest

It would be correct to assume that when we speak of the highest levels we are referring to the highest levels in Government and we were and remain grateful for the time made available to us to explain our aspirations in support of what we perceived to be those of the Government itself as stated in the FAR policy document.

However we must straight away emphasise that we did not do this with any political bias or to seek any political favour. Indeed we have openly declared that we made similar presentations to the Leader of the Opposition and Leaders of the Alternattiva Demokratika.

All, in various flavours, provided inputs that we valued as to how we could investigate further how best to be able to fashion a project that could benefit from a broad spectrum of support for a nationally desirable project.

Now, as then, we propose to maintain transparency in the manner in which we trust the present unsatisfactory state of affairs may be remedied for the benefit of all the stakeholders in the SGP site.

In this regard, it bears clarification that the SGP site includes over 300 third party residential property owners and a number of independent established and thriving businesses operated by third parties from within the property owned by SGP.

One other important aspect of the way we have expressed our interest is that of a level playing field and we have never asked, nor do we now ask for, or expect any preferential treatment.

On the other hand we do take exception to the Chamber of Architects referring to the SGP site as a privileged site (ie *as one of these nine privileged sites*) when it is so clearly different from the other sites that, as already stated comprise public land designated as open spaces as well as ex Government land sold with specific contracted purposes.

SGP feels that it is not asking for any favours in expecting that its prime role in investing and developing this area over time be duly recognised.

One can understand that the comment made by one TV panellist, that certain developers do not have the guts to innovate but are just seeking to capitalise on what was being called the Paceville success, may possibly fit some johnny come lately developers.

However it can hardly apply to a long term investor in the area such as SGP who has contributed materially to that success.

Background 5 - Focus of our comments

In now going on to expand on our already submitted Summary of Concerns and to explain the Masterplan's other very damaging proposals we must stress that we are forwarding these and all comments ad interim and without prejudice, reserving our right to add such further representations as it may be competent to us to make at the appropriate time either within the context of the present and ongoing consultation and / or in other fora.

The focus of these comments (the Commentary) is oriented primarily to the impact of the Masterplan on the St George's Park (SGP) site and the redevelopment proposals (the SGP Project) that had been presented to, and discussed with, at the highest levels as far back as August 2015.

The Commentary therefore refers to the other development sites featured in the Masterplan only in so far as they may impact negatively on the SGP site.

Preface to the Commentary

The Preface to the Commentary seeks to highlight right from the outset certain key aspects of the Masterplan that are objected to and have already featured in the Summary of Concerns.

Grid links and view corridors

This picture reproduces the St George's Park site as carried at page 217 of the Masterplan.

It shows the grid lines contemplated in the Masterplan so as to render the site *"permeable and legible and based around an easy to navigate grid of streets"* and thus *"not only create new views and a more permeable layout, but also encourage pedestrian and cycle movements through this area"*.



This picture is in fact incorrect as it excludes certain portions which are owned by SGP. This was raised in Standing Committee and was not disputed by the GPD whose representative explained that Doc 20 (Information Plan i/c/w Paceville Project) which had been submitted to the Standing Committee and contained the same error was just an indicative plan.

Apart from this, the proposed grid lines have to be objected to on the following grounds:

1. the Masterplan's grid lines slash through existing residential and hotel buildings, as well as the newly constructed Business Centre and do so for a sea and bay view purpose which the site's topography clearly does not allow.
2. the little or no public interest as claimed for the butchery of the site is entirely disproportionate to the rights of a long standing community to have their property duly protected as clearly provided for at law and supported in local and European jurisprudence.
3. implementing the notion of free and uncontrolled access as contemplated in the Masterplan is to risk the anti-social behaviour complained of elsewhere in the Masterplan which is in direct contradiction of the high end aspirations also vaunted in the Masterplan; giving free rein to lager louts sabotages that.
4. the carving up of the site also effectively sabotages the SGP redevelopment Project as had been outlined in August 2015 and the reasons for this are anything but clear.
5. the view criteria applied to the SGP site purporting to achieve that a distant clear view of a historic item (Dragonara Gate) can be procured are not applied so as to procure a clear view of the more imposing Mercury House heritage building
6. the view criteria applied to the SGP site so as to procure a sea view corridor are not consistently applied so as not to impact on other third party sites; the point here of course is that what is to be avoided in third party sites should equally be avoided in the SGP site.

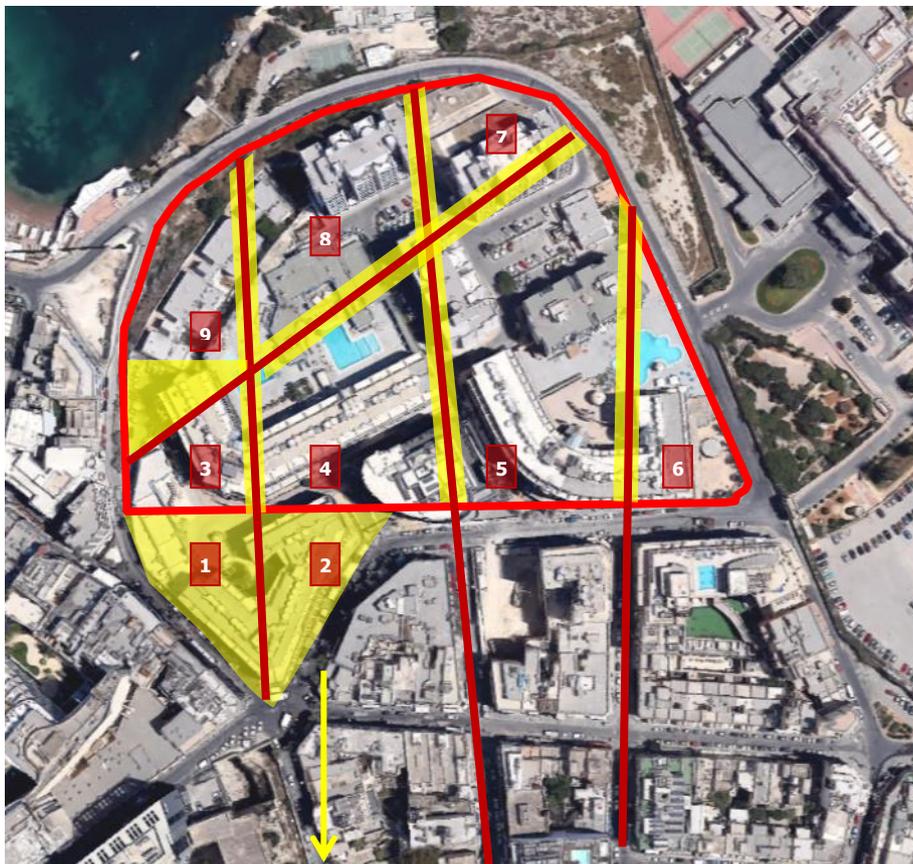
The points made at 1,5 and 6 are illustrated below.

A carve up of draconian proportions

The site presently comprises the following residential buildings and commercial properties (including hotels) as referenced to the Parcels of Land as carved up by the Masterplan.

<u>List of the building as currently existing on site</u> <i>(Residential apartments, hotels and commercial premises)</i>	<u>Parcels of Land</u>								
Point Block St George's Park Resort Complex	1	2	3	4					
Centre Block St George's Park Resort Complex		2	3	4			8	9	
Aragon House Business Centre		2		4	5				
La Vallette Resort Complex – Main block					5	6			
La Vallette Resort Complex – Perellos Annex					5	6			
Rohan block – residential apartments				4	5		7	8	
Manoel block – residential apartments					5		7		
Verdala block – residential apartments								8	
Spinola block – residential apartments								8	9
Store rooms and private garages							7	8	
Underlying commercial premises	1	2	3	4	5	6			9

The draconian effects of the drawing board cut and dice exercise on the various building is self-evident from the above table which shows the majority of the properties sliced into at least two parts and some into considerably more parts.



The enlarged Paceville Plaza as shown in the Masterplan seeks to amputate the SGP site by the larger yellow-shaded area which currently houses a sizable over 300 bed hotel and its amenities as well as various underlying commercial establishments – this is unjust and unnecessary as explained on the next pages.

An inconsistent and discriminatory tall buildings policy

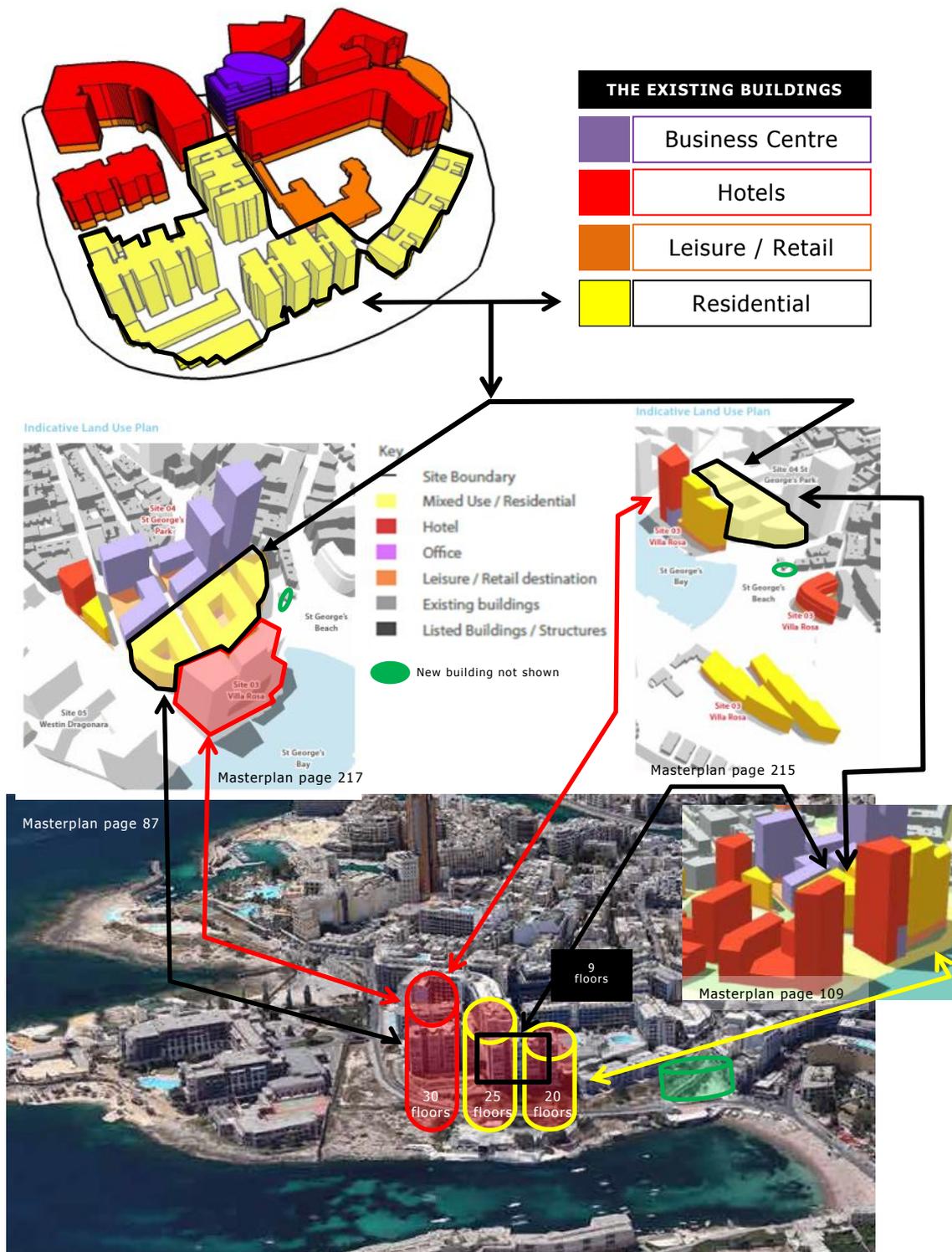
The inconsistency

At page 115 the Masterplan states:

"Tall buildings along the coastline would not work within the skyline strategy and would block views towards the sea from the rest of Paceville."

However the Masterplan does not seem to follow its own recommendation even though, in respect of the SGP site it states that *The three blocks to the north are residential with a number of apartments affording great views to the bay and beyond.* at Page 217

However the Masterplan blocks both existing bay and sea views due to the proposed new towers being recommended, as the following picture shows.

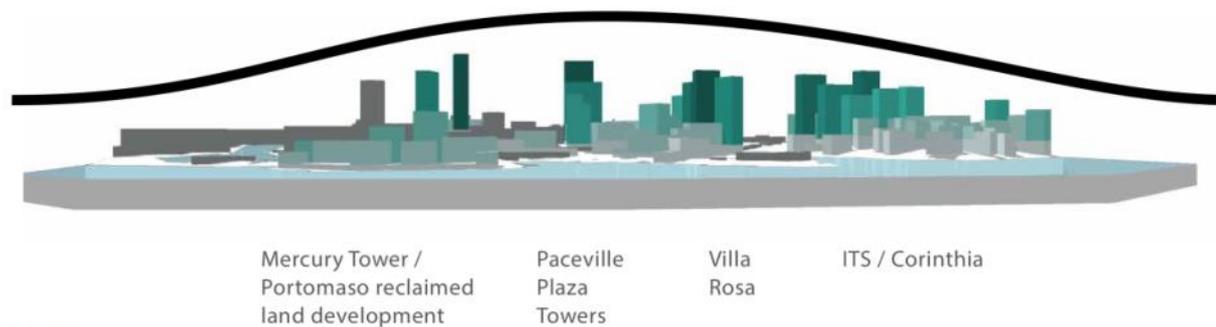


Adding discrimination to the inconsistency

The Masterplan at page 116 states its approach to a skyline strategy as follows:

Further consideration has been given to how the skyline is viewed from the water. This is not considered as important as the Valletta view, but nevertheless, it needs to have a logic to it in the same way as the key views from Valletta to the south. Here the idea is to create a skyline "dome" or wave effect with buildings increasing in height from the edges to the centre.

It then illustrates this as follows:

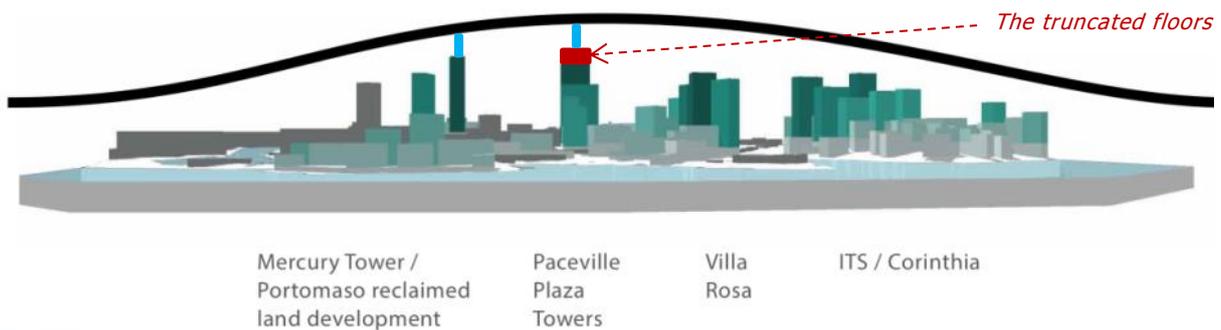


116 Paceville Master's prime coastal location - Development Framework

Elsewhere the Masterplan allocates the highest tall buildings to Mercury House.

However the 'dome' clearly peaks above what the picture labels as the Paceville Plaza Towers which are located on the SGP site.

As already commented in our Summary of Concerns, by not following its own recommended 'dome' outline the Masterplan effectively discriminates against the SGP site, truncating a significant amount of floors as now explicitly shown in the following picture.



116 Paceville Master's prime coastal location - Development Framework

Compounding the discrimination when allocating GDF

The truncation of floors obviously impacts on the Gross Developable Floorspace (GDF) but this is not the only reason why the allocation of GDF to the SGP site is considered to be discriminatory

Our Summary of Concerns has already given some indication of why this is insisted to be so and the matter is explained more fully in the Commentary.

Switch of planned piazza from public land to private land

Our Summary of Concerns that has been tabled in Standing Committee ^{Dok 50} already notably indicates our serious concerns in regard to the planned expropriation-by-stealth proposed in the Masterplan particularly, but not exclusively, in respect of what it terms as the enlarged Paceville Plaza. Further detailed consideration of the issues and principles involved has reinforced our conviction that the facts of the matter are such that the proposed expropriations can be resisted by recourse to the Courts on the basis of being unjust and in violation of the rights protected in the Constitution and the European Convention Act ^{Cap 319} (howsoever disguised and claimed to be in the public interest or hidden within comprehensive redevelopment criteria that may be valid in some instances but are certainly not so in respect of the SGP extensive and free standing land which had been earmarked for redevelopment in our outline project).

On the comprehensive redevelopment front it would be remarkable that this concept could really be dealt with as casually as the Masterplan does in Option 1 through to Option 2 and Option 3 as shown below



Option 1

Option 2

Option 3

Before commenting further on the above 3 Options it needs to be pointed out that the residential property outlines in Option 1 (which is the same as in the Masterplan's Baseline) omit certain residential properties as shown below and are named overleaf.



One has to wonder what town planning logic justifies that Option 1's recognition of individual property rights is selectively ignored in Option 2 and is completely disregarded in Option 3.

The Masterplan does describe Option 1 as being a light touch approach and that touch does in fact become harder to the point of bullying at Option 3.

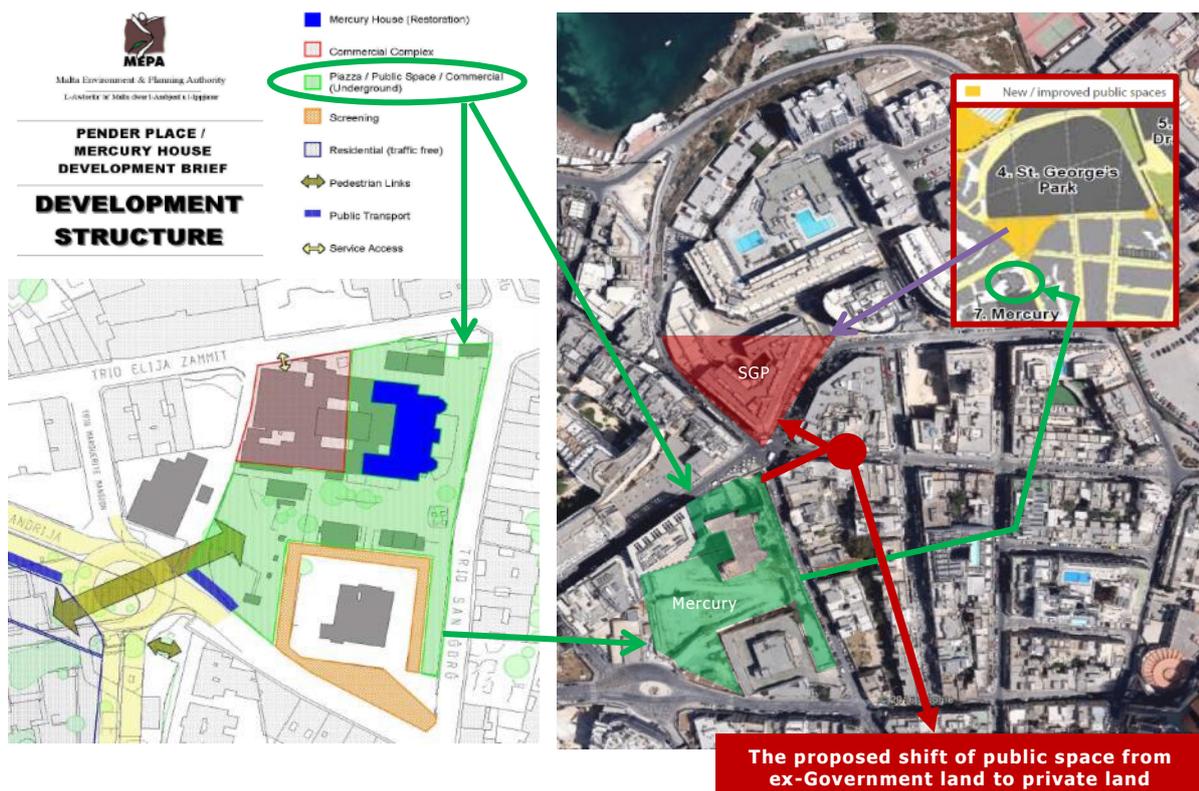
While it is indisputable that the State has the right and power to plan it is also axiomatic that it is obliged to do so only without abusing that power and thus ensure that what it plans does not create any disproportionate burden on the individual.

The Constitution and the Convention safeguard the individual's rights in that respect.

But moving away from the legalities, the outlines provided in the Masterplan as reproduced above demonstrate yet again how the Consultants have scant knowledge of the on-the-ground realities. For example (apart from the fact that the SGP site is not fully included as shown elsewhere in this document):

- Option 1 does not, as shown, include all the privately owned third party residential apartments, the omitted third party residential properties being: Spinola Block, Rohan Block and Vendome, a total of 51 apartments
- Option 2 perversely combines what is not commonly owned and not what is commonly owned – the idea here seeming to be to isolate the recently constructed Aragon House Business Centre
- Option 3 then disregards that Aragon House is a recent construction and proposes a view corridor right through it.

Apart from this, the following picture will explain why it is felt that there are sufficient grounds to successfully oppose that the Masterplan be allowed to be enacted so as to override the Approved Development Brief of 2005.

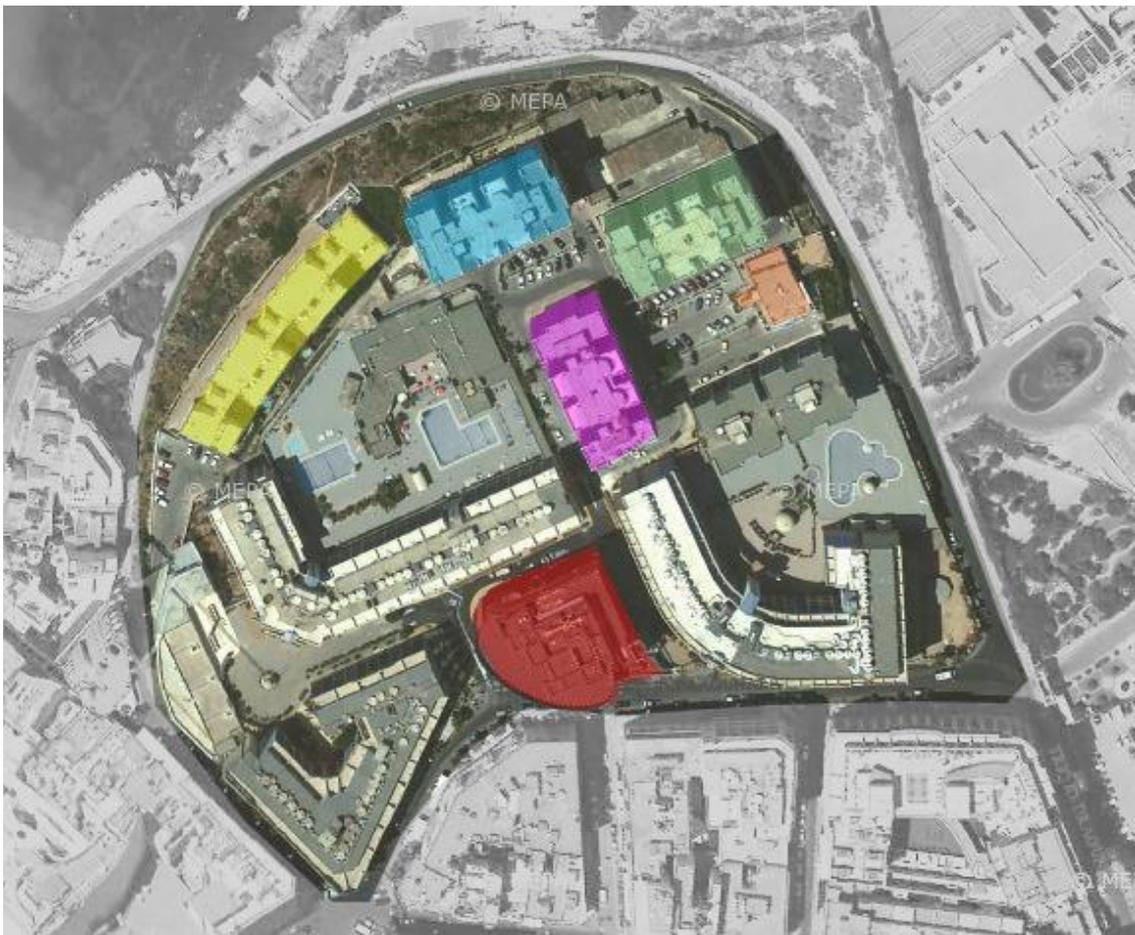


The proposed piazza switch (whether in whole or in part and in any event declared in the Masterplan to be beneficial to the adjacent Mercury site ^{Page 91}) is strongly felt to be unjust and certainly the wrong way in which to seek to achieve a mutually satisfactory solution.

This could be possible provided that it does not jeopardise the basic concepts underpinning the project outlines as had been transparently disclosed as far back as January 2015.

This will entail a review of certain other proposals mooted in the Masterplan which are held to be either discriminatory or inappropriate.

- Aragon House
- Rohan Block
- Manoel Block
- Verdala Block
- Vendome Bldg
- Spinola Block



The Commentary

The previous presentation of our Summary of Concerns and the highlighting of certain aspects in the Preface will result in the Commentary containing some repetition of points already made. This has been allowed so as to preserve the flow of the representations being made without abandoning the critical thrust provided by certain key items highlighted in the Preface.

Introduction – being further background, for the record

(A) Because this is a document for perusal by the public who may not be aware of certain facts, we should like, as a start, to place it on record that the St George's Park (SGP) site which is largely owned by our company is currently occupied by two hotels having 2000 beds and their amenities, numerous underlying commercial establishments as well as various residential apartments (dating back some 50 years) that had been developed by our company which also still retains the ownership of some apartments, common areas and the overall grounds. It is therefore a long established viable site which, as already mentioned earlier has contributed to what knowledgeable commentators are referring to as a 'success story'. Yet, instead of being encouraged and enabled to progress our even greater proposed contributions as long term investors in the area we are having to spend time and money to protect what we have already contributed let alone enhance it. Meanwhile new entrants are even managing to sell on plan buildings for which there cannot be any permit if only because the current plans do not allow it.

(B) We feel that it should also be on public record that:

(1) it is true (as may be inferred from the Masterplan) that we have expressed a formal interest in undertaking a phased 1 billion euro redevelopment of the SGP site with a view, as had been clearly stated, to contributing significantly to the transformation of Paceville by creating a high quality destination development which reflects a more prestigious corporate image for the Maltese Islands as augured in the FAR Approved Policy document of May 2014, rivalling the iconic skyline and landscapes of London and Manhattan.

(2) our outline plans and project parameters had been discussed widely and at the highest levels in 2015.

(3) all the indications given at the outset by the competent authorities encouraged further investigation but all subsequent attempts to move from an outline project to a detailed one, pursuant to all the requisite analyses and studies, were frustrated by a response that a Masterplan was in the making and we should await for its publication; the text of this response has already been reproduced in the Covering Note and is again also reproduced later in this Commentary, for emphasis.

(4) yet other developments in the area have on the other hand been selling on plan what has now materialised in the proposed Masterplan, and this therefore cannot but lead to some doubt as to whether all developments have, right from the start, been accorded the due and equal attention and consideration that they all equally deserve.

(5) such doubts cannot but start to acquire some substance when one considers that one of the consultant authors of the Masterplan (Mott MacDonald),

- especially being the lead consultant, is also a consultant to one of those advance-selling sites (Mercury House) as indicated in local newspapers and can also be readily corroborated by estate agents.
- (6) it is, of course, quite unethical, to say the least, that Mott MacDonald's connections with any development in the area were not disclosed in the Masterplan document, as they were professionally bound to do; concern about this unprofessional conduct was in fact also raised by a number of members of the Standing Committee.
 - (7) in our case, not only were we never approached by Mott MacDonald but, on the contrary, we were in fact denied the opportunity to meet the said consultant, even in the presence of PA officials, also after (let alone before) the publication of the Masterplan thus denying us the opportunity to seek to clarify why their proposals were so damaging to the SGP site apart from certain aspects being in general quite ill-considered in relation to the on-the-ground situation in Paceville.
 - (8) it has in any case resulted that the Masterplan seriously seeks to undermine the current residents, the commercial operations of the company and its commercial lessees as also effectively sabotaging the SGP project as had been outlined in 2015; it also poses serious ethical and even legal issues on the "*appropriation*" (sive expropriation) fronts.
 - (9) the pictures offered above, in the Preface, ahead of this Commentary already indicate the extent of the aforesaid undermining, and seriously damaging, consequences inflicted on the SGP site by the Masterplan; the following comments seek to:
 - (a) explain this further even though it should already be immediately apparent that, for example, one can hardly take seriously the Masterplan's proposal of the tallest tower on the SGP site to be located on the restrictively fragmented parcel of land that their cutting and dicing of the site has produced.
 - (b) outline the serious reservations we entertain about other facets of the proposed Masterplan, and which should not by any means be approved in its present form particularly in respect of the SGP and Mercury sites.
- (C) Our representations are accordingly in respect of:
- (1) **firstly**, a privately owned largely developed site identified as Site 04 in the Masterplan and the ownership and site integrity issues that automatically derive therefrom – [The Property Rights and Property Related Issues](#).
 - (2) **secondly**, in discriminating contrast to the treatment of some other sites, the seriously damaging implications of fragmenting a prime development site and the resulting sabotaging impact of the Masterplan when related to the redevelopment outlines that had been indicated to the Planning Authority nearly two years ago – [The Development Perspectives](#).
 - (3) **thirdly**, the (non) parking and other traffic arrangements proposed in the Masterplan – [Parking and traffic issues](#).
 - (4) **fourthly and fifthly**, some [Overview](#) observations regarding the process adopted in the formulation of the Masterplan and other aspects of the Masterplan that we feel should be properly commented on even if only ad interim together with
 - (5) a concluding [Moving Forward](#) section.

1) - The Property Rights and Property Related Issues

There are three main aspects that need to be addressed, namely:

- A. the effects that the proposed developments in the environs will have on the site and its occupiers - [Ambient issues](#).
- B. the rightful expectations of a private property owner to be accorded no less than equal treatment and consideration as evidently has been applied in regard to other sites deriving from publically owned property featured in the Masterplan – [Level playing field](#).
- C. the constitutional right of property owners not to be disturbed in the enjoyment of their property – [Property rights](#).

1} A - Ambient issues

With regard to Ambient issues, we have noted that at the session of the Standing Committee held on 12 October 2016 the St George's Park Resident's Association has already complained about how dramatically and severely the existing open bay views will be eliminated by a coastline development that:

- (1) allows such tall buildings on the coastline which contradicts the Masterplan's own stated skyline objective which at Page 114 is stated as follows *The lower rise buildings are located along the coastline, ensuring that no building here disrupts the important views of the sea.*
- (2) is in direct conflict with rules on the coastal perimeter and the foreshore as defined in the provisions of Act 25 of 2016, as was alleged by the representative of Alternattiva Demokratika at the same session of the Standing Committee.

We accordingly can only conclude that the inappropriateness of a number of tall buildings on this particular coastline site was one of the oversights of the consultants that will be rectified.

1} B - Level playing field

With regard to a [Level playing field](#) there are two main aspects where it seems clear that the SGP site has been unfairly treated, namely:

- (1) the first point on the '[Level playing field](#) front' is the way in which a stipulated major public plaza/piazza *"so as to create a high quality public space for the whole of Paceville"* has been in whole or in part arbitrarily shifted away from the Mercury House site to the SGP site while still being stated to be for the benefit of Mercury House as also stated at Page vi of the Masterplan.

The 2005 MEPA "Approved Development Brief" on the basis of which the Mercury House site was sold by the Government contained a specific detailed objective *"To create a major public piazza in the area surrounding Mercury House, so as to create a high quality public space for the whole of Paceville"*. This site restriction and obligation was raised by the Hon George Pullicino in the session of the Standing Committee on Environment and Development Planning held on 12 October 2016.

The Masterplan proposes to release the owners of the Mercury site from providing the public space (in whole or in part) that they were committed to plan for and, to compensate for that release, the Masterplan now seeks to impose (to all practical effects) an expropriation of privately owned land on which a hotel and underlying commercial establishments have operated for decades.

The PA's Executive Chairperson sought to justify this in Standing Committee on the basis that we are now in 2016 whereas the Development Brief dates back 11 years to 2005.

This is a *non sequitur*. The mere passage of time is not even relevant, much less can it be used as a justification. The need for a piazza was there in 2005 and it is still there, perhaps more so, today. The logic that a piazza should be created using what is, in effect, a public space was powerful in 2005 and remains equally powerful today, as does the logic, applicable today as in 2005, that one does not expropriate private land where a public space is available. Moreover this reasoning is at a considerable variance with what we have been repeatedly told in the past (indeed even ahead of our August 2015 briefings); we had previously always been confronted by rulings that had been issued in 1966 (ie 50 years back, not just 11).

Although in seeking to protect our legal rights in the context of the protections available to us at law we may have no option but to question the propriety of casually setting aside conditions affecting the public interest as originally stipulated in a Call for Offers for a sale by tender of public property, it is not for us to take it further, as it should, and address the issues that arise due to the loss to public funds that such nonchalant withdrawal of those conditions can very well cause. This point is explained better in the following paragraphs for public consumption as we are sure that we do not need to do so for the Parliamentary Secretary or indeed Parliament itself.

In going on to explain why it would seem that public funds are being, or have been, placed at serious risk it firstly bears stressing that the Call for Offers issued by the previous administration specifically stated, in respect of the aforesaid 2005 MEPA "Approved Development Brief" that *"This Development Brief seeks to highlight site constraints, provide relevant background information, specify policy guidance for the development, and give requirements (detailed where necessary) for the development of these sites."*

One of the detailed requirements amongst many others which have not been implemented was in fact the creation of a piazza as already indicated above. The exact text is:

"Detailed Objectives.

2.8. To create a major public piazza in the area surrounding Mercury House, so as to create a high quality public space for the whole of Paceville."

Every Maltese citizen will understand that this very specific requirement in the 2005 MEPA "Approved Development Brief" (as imposed by the previous administration in the public interest of creating the said open-air piazza) diminished the potential value of the Mercury House site when Government was selling it, and that, accordingly, the proposed gratuitous relaxation of this

obligation will provide a financial bonanza to the said Mercury House site to the detriment of the Maltese Government's funds. In this regard it is the Deputy Leader Emeritus of the party currently in Government who, in March 2007, was reported to have remarked as follows in respect of Mercury House's sister site, Pender Place *"The tender conditions imposed a limit on the height of the projects but Dr Brincat said the developers had, by agreement with the Malta Environment and Planning Authority, undertaken to construct a development that was higher than the limitations included in the tender."*

"If the authorities failed to take action to rectify this situation, this would mean they were consenting to a violation of the law for they would be allowing a disposal of government land under terms and conditions that were not in accordance with the tender."

It therefore bears emphasising that:

- a) it had been clearly the Government's intention since 2005 to reserve the Mercury site primarily for public purposes and it was also clear that this designation was intended to apply indefinitely. Indeed, the Development Brief provided, in terms, that it was not to be changed in the future, and
- b) even so, despite being exonerated from providing *"the major public piazza in the area surrounding Mercury House, so as to create a high quality public space for the whole of Paceville"* as had been mandated in the MEPA March 2005 Pender Place / Mercury House Approved Development Brief, the pivotal highest height (as indicated by the maximum number of floors allowed in the Masterplan) has been reserved to the Mercury House site.

The reason – for which read the excuse - given for transferring public purpose space from public land to private land would appear to be just to achieve the benefit of a distant view of Dragonara Gate from the northernmost part of the piazza.

It is self-evident that, even were it true, this so-called reason would not justify enriching the owners of the Mercury site at our expense and that of the public. Moreover, in yet another example of not being properly knowledgeable about the realities on-the-ground, the consultants have failed to note that the topography of the SGP site for the public open piazza (previously located on the Mercury site) rests on an inclined terrain which will not in fact allow to be produced the view of Dragonara Gate that the Consultants believe to be possible and that is being so widely and regularly publicised by the PA for obvious 'spin' purposes.

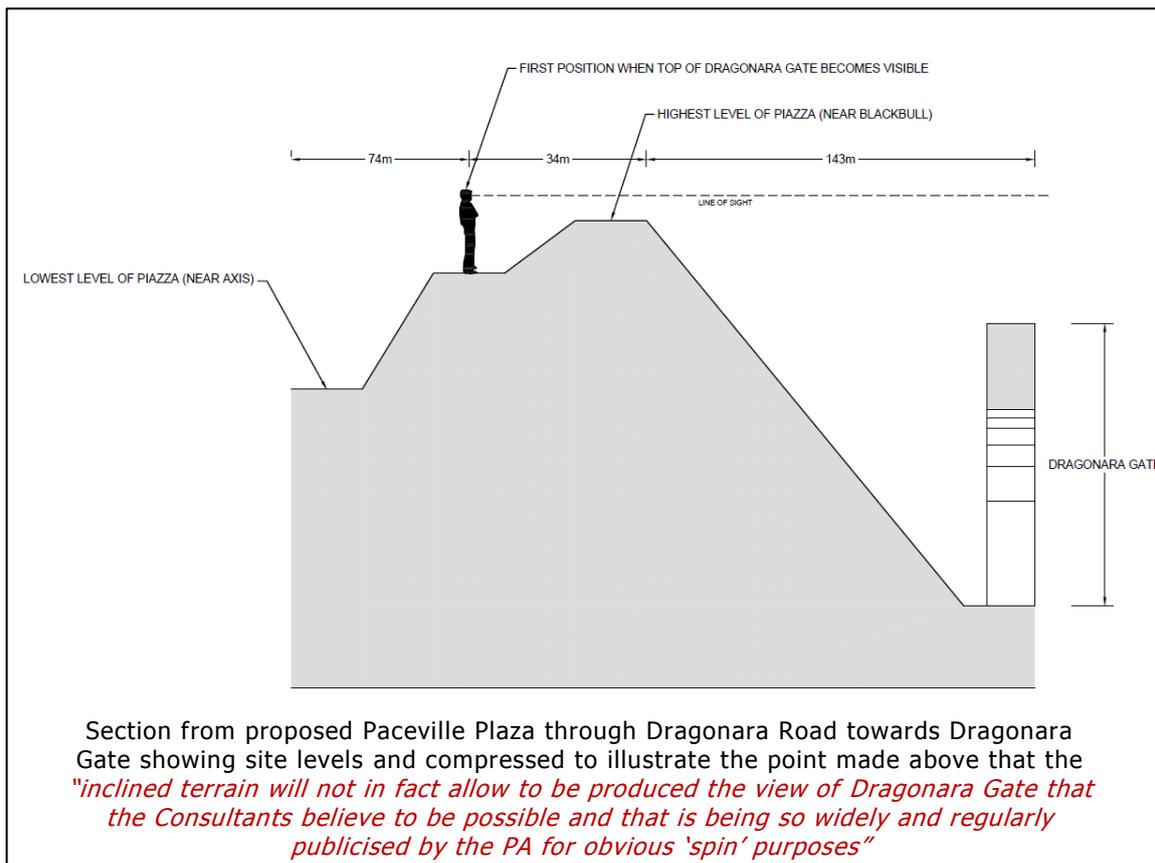
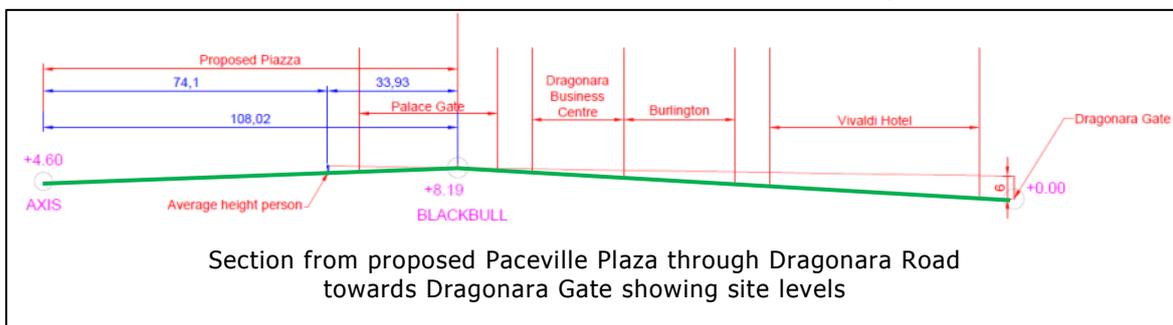
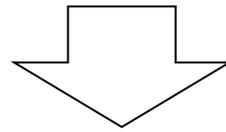
This will be very self-evident from the pictures that follow.

This is the advert that the PA is so widely distributing with a view to gaining public support for the Masterplan.

However the truth is that this is just PR spin.



The cross sections below plot the different levels of the terrain, and these clearly show that the truth is that the view claimed by the Consultants is just not there despite that the artist's impression suggests that it is unless of course it is being envisaged to undertake some massive expropriations / demolitions / excavations affecting all the other properties across from the St George's Park site to eliminate the slope as evident in the below (ie the green line).



Surely this travesty of the truth cannot be allowed to progress, especially in the face of the serious detriment to existing thriving commercial operations long exercised on the land proposed to be rezoned to become an open-air public piazza'.

This is quite apart from the no less serious issue of Mott MacDonald not properly respecting private property rights and, because the switching benefits their client. Such obvious disrespect cannot but give rise to doubt as to whether they have abused the responsibility entrusted to them by the PA in this regard, a doubt reinforced by their inconsistent corridor layouts as already illustrated.

Coming back to the proposed transfer of public purpose space from public land to private land, it would, in normal circumstances, be clear that a cost-benefit analysis of imposing such a gratuitous value-shifting switch would argue against contemplating such a switch.

This is because in normal circumstances the cost of expropriating private land for such a purpose from citizen X, in this case SGP, (as against just requiring that a commitment by citizen Y, in this case Mercury House, be honoured) would be significant (and in any event face strenuous opposition from citizen X as permitted and indeed protected at law).

So these particular circumstances must be due to either, some or all, of the following factors:

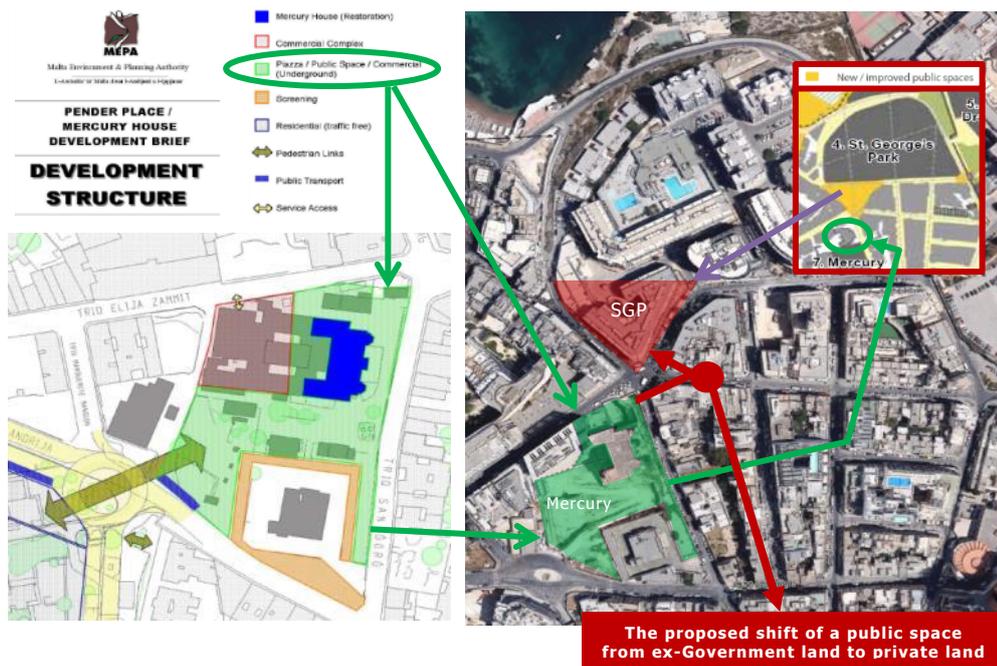
- (i) the planners having ignored constitutionally protected property rights
- (ii) the planners having been persuaded by the Planning Authority that no monetary compensation on expropriation would be involved (so in practice the Masterplan is implying that Government would get for free from SGP what it is in effect proposing to gift to Mercury House)
- (iii) the mistaken notion (in support of the foregoing) that comprehensive redevelopment criteria which may be valid in some instances could also apply to the SGP site (which as already commented is clearly not the case).

This incomprehensible premise, implying that the provisions of the Land Acquisition (Public Purposes) Ordinance can be set aside, and that the protections of the Constitution and the Convention can be ignored, with impunity, is dealt with ad hoc later on under Property rights.

Meanwhile SGP cannot but stress that it considers this gratuitous switch of the Mercury House public piazza to be not just unfair but patently unjust.

In summary, what the Masterplan is proposing amounts to the Government first issuing on public tender public property to private businesses on condition that part of that public property has to be used as a public space only to subsequently release those private businesses from that condition and then, so as to compensate the public for having in effect given away that public space for free, seek to grab private property to replace it.

The picture on the next page explains this clearly.



We have already commented that the proposed switch (whether in whole or in part and in any event declared in the Masterplan to be beneficial to the adjacent Mercury site ^{Page 91}) is strongly felt to be unjust and certainly the wrong way in which to seek to achieve a mutually satisfactory solution.

The justification for our strong objections in this regard can perhaps be better understood when one reproduces the Masterplan's own words that demonstrate quite clearly, if nothing else will, that the Paceville Plaza albeit now gouged out of the SGP site is acknowledged to be for the manifest benefit of the Mercury House project.

Page 222' - the Mercury site

OPEN SPACE - Paceville Plaza is proposed to be widened to provide a larger area of open space to cater for new and existing residents and visitors. Mercury House will continue to provide a key landmark to this enhanced space. Paceville Plaza will provide a high quality landscape setting to this important local heritage asset.

Note the clearly stated particular benefit for the Mercury site

Page 216 - the St. George's Park site

OPEN SPACE - A high quality large open space at Paceville Plaza is located in the south-western corner of the site. This well landscaped public space will cater for the needs of the additional and existing residents and workers as well as visitors and create a new focal meeting point for Paceville.

Note that no particular benefit is stated for the SGP site, no doubt because the Consultants do in fact realise that on balance the expropriation of SGP land is a negative that far outweighs any positives that derive from the rest of SGP land being adjacent.

- (2) the second point on the 'Level playing field front' is to do with the gross developable floor space (GDF) allocations as per the Masterplan which are summarised hereunder.

Although the Masterplan as summarised below gives the impression that the SGP site has the highest building coverage of 61% (and therefore implies that SGP has been awarded the 'Best Deal') this impression is totally incorrect.

	Gross Site Area	Total Building Footprint	Building Coverage	GDF	Average number of floors	Applying Mercury's average number of floors results in a SGP GDF of					
	Sq.Mt	Sq.Mt		Sq.Mt			Residential	Hotel	Office	Other	
Corinthia	105,762	29,175	28%	215,000	2.03	311,767	38%	45%	11%	6%	100%
ITS	22,027	10,434	47%	142,000	6.45		30%	45%	16%	9%	100%
Villa Rosa	53,374	11,280	21%	111,000	2.08		47%	39%	4%	10%	100%
SGP	37,344	22,831	61%	233,000	6.24		30%	5%	55%	11%	101%
Westin	76,466	32,047	42%	124,000	1.62		5%	86%	0%	8%	99%
Portomaso	124,182	38,750	31%	234,000	1.88		50%	44%	5%	1%	100%
Mercury	10,421	6,112	59%	87,000	8.35		28%	5%	52%	15%	100%
Business Centre	6,874	3,816	56%	29,719	4.32		19%	27%	39%	14%	99%

The correct measurement of a site's development potential is to do with the amount of Gross Developable Floorspace (GDF) related to the relevant site's developable area (ie excluding, and not including as the Masterplan does, all green zones and the area occupied by heritage buildings). One divides the GDF by the Gross Site Area (GSA) and that provides the number of floors (namely the Average Number of Floors) that would result if the whole site was built (ie the building's footprint would be equal to the total GSA thus giving a Building Coverage of 100%).

The data supplied in the Masterplan does not provide the green zone and heritage building measurements so to use the figures of the Masterplan (as reproduced in the table above) produces a result that underestimates the true Average Number of Floors allocated to, for example, the Villa Rosa (green area), Cresta Quay (public domain area) and Mercury House (heritage building and public space).

With regard to Mercury House it will be noted that the Average Number of Floors allowed on that site total 8.35 (ie 87,000 divided by 10,421).

This compares to 6.24 Average Number of Floors allowed on the SGP site (ie 233,000 divided by 37,344)

When applying the Mercury House Average Number of Floors figure of 8.35 to the SGP site the resulting GDF figure rises from 233,000 to 311,767 sq.mt, as further shown below.

	SGP	Mercury
Gross site area (GSA)	37,344	10,421
Gross developable floorspace (GDF)	233,000	87,000
GDF divided by Gross site area = average number of floors	6.24	8.35
Average number of floors in Mercury House applied to SGP ie	8.35	
SGP's Gross site area	37,344	
GDF that results from multiplying average number of floors as in Mercury House to SGP Gross site area results in a comparatively equal GDF of	311,767	

The rise from 233,000 to 311,767 sq.mt therefore represents an increase of 34%. This figure is actually higher when one takes into account the above-stated green zone etc aspects and the fact that the SGP site is actually larger than shown in the Masterplan ie 41,530 not 37,344. Using the 41,530 as the true Gross Site Area the GDF increases further to 346,776 and the denied increase percentage to 49%.

The said denied increase percentage of 49% when relating SGP's allocated GDF to that allocated to the Mercury House site increases exponentially to between 263% and 304% as shown below when one excludes the public piazza area in the Mercury House site of 5,800 sq.mt and the heritage building of 780 sq.mt thus reducing the developable Gross Site Area to 3841 sq.mt.

These percentages are offered purely to illustrate the bias that is evident from the GDF allocated to the various sites in the Masterplan so the actual calculations as related to the Mercury House site are reproduced hereunder only to validate the foregoing figures.

Applying the same equation used in the Masterplan and above to calculate the Average Number of Floors, the Average Number of Floors for Mercury House increases to 22.65 (ie 87,000 divided by 3,841).

Applying the 22.65 Average Number of Floors figure to an SGP site area of 37,344 produces a GDF of 845,855 sq.mt which represents an increase of 263% over the allocated GDF of 233,000 sq.mt.

Applying the 22.65 Average Number of Floors figure to an SGP site area of 41,530 produces a GDF of 940,669 sq.mt which represents an increase of 304% over the allocated GDF of 233,000 sq.mt.

The SGP site has therefore been accorded anything but the best deal on GDF basis alone, quite apart from the other measures proposed in the Masterplan that are extremely and unnecessarily damaging to the SGP site.

It could of course be that this very substantial developable floorspace has been denied to the SGP site for reasons that derive from the need to tailor each site's GDF in the context of the overall infrastructural constraints.

We understand that need (and indeed have already said so in our Covering Note) but this is of course where it is extremely important that the tailoring can be readily seen to have been done on an independent and impartial basis ie on a level playing field basis.

This is where concerns about manifest unethical professional conduct by the 'tailor' cannot but start to acquire further substance.

The PA in Standing Committee have maintained that the Masterplan is the work of independent and impartial consultants thus seeking to distance themselves from any suggestions that the process has been tainted by a lack of due and proper impartiality.

However the Consultants state somewhat differently that they relied on the facts and figures which had been provided to them by the PA.

In such circumstances the question arises as to whether conflicts of interest arise beyond just the Consultants which is the only instance that has thus far been openly debated and may yet be subject to censure.

The issue of whether the PA did or did not allow the Consultants full latitude as the PA claim has also been publicly questioned and the following important aspects have also yet to be clarified, namely:

- (A) whether the correct procedures were in fact followed in the award of the contract to MottMacdonald, as it appeared from the proceedings in Standing Committee that they may well have not
- (B) what the contract with Mott Macdonald really catered for having regard to the following points to do with the document tabled in Standing Committee (Dok 51 Mott MacDonald International Consultancy Agreement May 2013 – Laqgha Nru. 29):
 - (1) either there was an inadvertent omission or the date has been tampered with;
 - (a) at page 2 it is stated (at the bottom) that “the parties have caused this Consultancy Agreement to be executed under hand the day and year first before written”.
 - (b) yet at the top it says 11th day of May ie without mentioning the year
 - (c) however the footer shows May 2013
 - (d) this is relevant to timing overlaps raised in Standing Committee
 - (2) the document tabled is not complete because even though all the schedules are duly attached, neither the Appendix 1 mentioned on the front sheet nor any of the other appendices referred to in the Schedules are attached
 - (a) Thus, for example, the scope of services which is meant to be covered at Schedule 2 is not revealed because all that Schedule 2 does is to refer to an Appendix ‘attached to this contract’ which has not been attached
 - (b) the terms of reference documents that had been previously tabled as Dok 22 and Dok 23 are not signed nor are they dated; in this regard Appendix 1 “Paceville Area, Malta – Response to Terms of Reference” mentioned in the May 2013 agreement tabled may be relevant
 - (3) in the absence of being provided with the info of when and how Broadway Malyan became involved pursuant to 1.12.2 one cannot really say more than just that the PA have been economical with the truth and speculate that the whole truth may be quite more damning from a conflict of interest perspective
 - (4) on the conflict of interest front, as first raised in Standing Committee by the Hon. Dr. Marthese Portelli, it is surprising that this tabled document has been produced in evidence of that aspect having been duly safeguarded, because one cannot but be hard pressed to find anything in it that is as relevant to that crucial issue as it should be. The PA Executive Chairperson referred to clause 1.12.11 but that clause is a standard anti-bribery clause and thus irrelevant to the conflict of interest issue being addressed.

Much has been made of how large an organisation Mott MacDonald is and how rigorously one section is protected from others by impermeable Chinese walls. But the remarkable similarities between the Mercury House project details which Mott MacDonald worked on (as evident from their Consultant's Reports that have had wide circulation) and the provisions in the Masterplan that apply to the Mercury House project cannot but give cause for speculation whether the saying is in fact all too true that the problem with Chinese walls is that they have Chinks in them.

Such speculation cannot but be reinforced, and indeed widens the potential conflict of interest net if, as is quite likely, the investors in the Mercury House project were among the 'number of interested investors' who the PA had "*been in continuous discussion with*" when writing to our architects that they had "*been in continuous discussion with a number of interested investors to assess their interest and their commitment to the area. We are now in a point where the Authority is preparing the Local Plan Review together with the necessary infrastructural Master Plan.*"

Be this as it all may, it would in any event seem that the PA did not inform the Consultants that the site coverage that we had proposed for the SGP Project was actually below 50%, as shown later.

It also bears reiterating at this point that at the time when we had proposed a Project envisaging a GDF at around the high figure above quoted it could hardly be envisaged that public land designated as open spaces as well as ex Government land sold for specific contracted purposes would themselves also come on stream as now being proposed.

The removal of tender restrictions as to how land sold by Government could be developed raises issues which are properly debatable in a democratic society.

Consultants Reports

MEP

BUILDING SERVICES

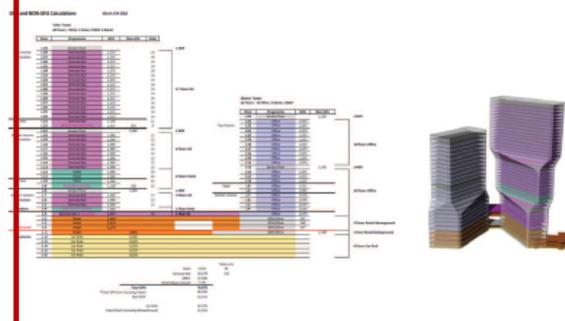
INTRODUCTION

This section of the report gives a high level overview of the services proposals for the Mercury Tower development.

This report is based on preliminary information received from Zaha Hadid Architects at an early point in the design process, specific servicing strategies are not yet fixed, and will develop with the design and the layout of the building.

The proposals presented in this report offer a potential strategy that could be adopted for the development.

The current status of the architectural design is shown in the diagram below.

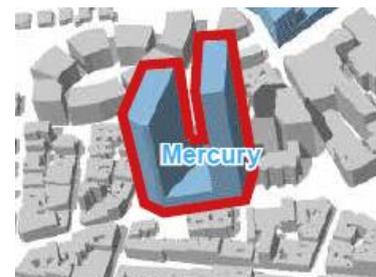


Limitations

The sole purpose of this report and the associated services performed by Mott MacDonald is to inform and advise Zaha Hadid Architects in their development of feasibility options for the Mercury Tower project in Malta.

Extract from
Mott MacDonald's report to Zaha Hadid re
Mercury House

Masterplan
Page 222



However this Commentary, as premised, restricts its observations primarily to those elements that are perceived at the present time to more directly impact on the SGP site.

This aspect is therefore commented on further, albeit still somewhat selectively, later on, under Property Rights.

Meanwhile, however indirect impacts themselves cannot be dismissed as being insignificant.

This is because, in the context of a fixed infrastructural constraint, the removal of clearly stated stipulated operational and other restrictions for free (ie with no compensation to the Government who had sold the land for less money owing to those operational and other restrictions that have significant commercial value) has the effect of penalising other sites commercially acquired for good value, at arm's length market prices:

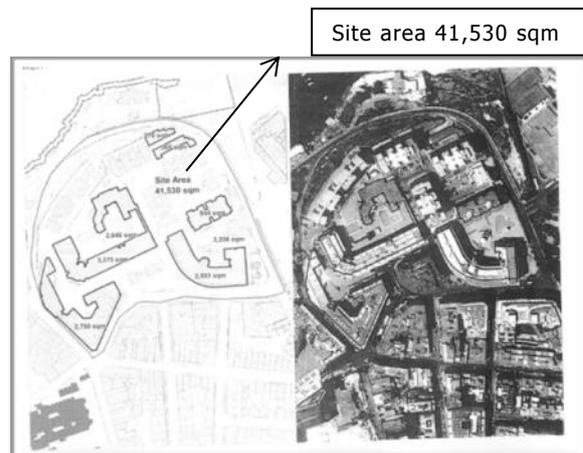
1. not just because they are then allocated lesser GDF in the planning process of determining how the increased floor area volumes enabled by infrastructural investments are to be allocated,
2. but also because the beneficiaries who in effect would not have paid anything for their land would benefit from a lower cost base and provide them with a competitive advantage that may well be open to legal scrutiny.

Ignoring these aspects, even though to do so places the SGP site at a disadvantage, one can nevertheless readily see that just comparing the GDF accorded by the Masterplan to Mercury House and SGP proves irrefutably that SGP has not been treated on an equal basis.

Had a level playing field applied, the GDF accorded to the SGP site would have been close to the GDF contemplated by SGP in August 2015 which had been on the discussed basis of excluding Hotels, areas developed below the existing highest road level, the service floors even if located above road level, as well as the floor area of any additional floors SGP was prepared to construct above the 40 floor level.

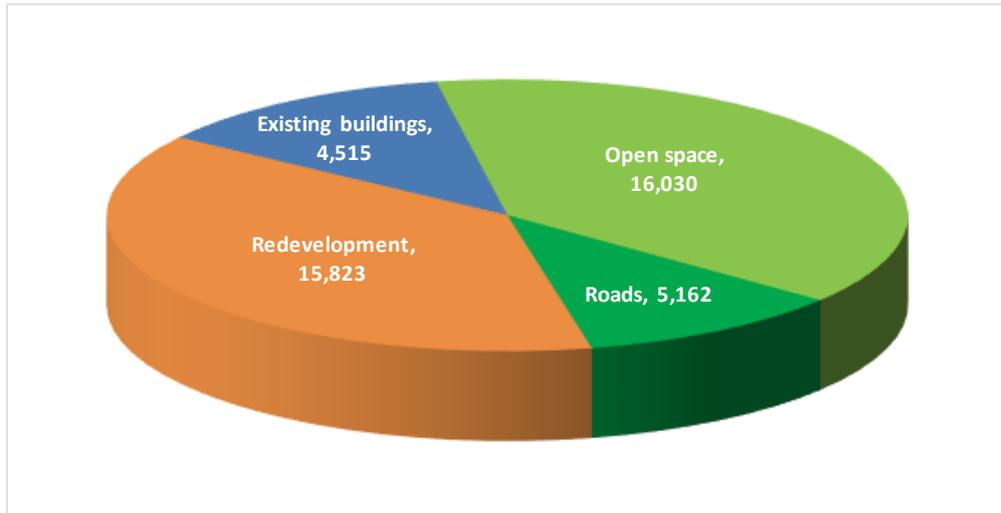
In this regard we would stress that in discussing these floor space criteria when outlining the SGP Project it had been made clear that these criteria were intended as being equally applicable to any eligible development in the area aspiring to reach such heights.

As already commented, had a level playing field basis applied, quite an appreciable increase in the GDF allocated to the SGP site is justified when applying the SGP site areas quoted in the Masterplan. But, as already pointed out, the PA statement of the Gross Site Area is less than that which had been shown in a previous MEPA document reproduced here.



In reiterating that the 41,530 sq.mt shown in the above sketch contrasts significantly with the 37,344 shown in the Masterplan perhaps it should be added that this discrepancy is possibly due in part to the parcel of land attributed as Government property in error (Dok 20 in the Standing Committee's Related Documents, and the comments raised in Standing Committee thereon, refer).

It also bears repeating the point made above that the SGP Project had not proposed anything like the 61% land coverage which the Masterplan seeks to put forward as being 'the best deal'. In fact the percentages outlined in the SGP Project were as shown below.



Roads	5,162	12.4%	51%
Open space	16,030	38.6%	
Existing buildings	4,515	10.9%	49%
Redevelopment	15,823	38.1%	
Total developable site area	41,530	100.0%	100%

As already stressed, the site area discrepancies which have been highlighted (and their impact on the GDF calculations) cannot but be of great concern especially also having regard to the lower heights proposed for the SGP site which further depress its GDF potential below its rightful levels.

With regard to the concern already expressed that page 217 of the Masterplan misrepresents the property owned by the promoters of the SGP Project. It is small comfort that this misrepresentation could be caused by a plan showing certain areas as being Government property whereas they are in fact an integral part of the SGP site. The picture alongside shows the extent to which the boundaries drawn in the Masterplan are incorrect, taking also into account the portions abusively earmarked for expropriation and the (darker shaded) fronting property that is also owned.



Obviously these additional GDF boosting points for the SGP site serve to:

1. further emphasise the absence of a level playing field in so far as SGP is concerned in regard to, particularly, the Mercury House site
2. resonate with the comment made by the Chamber of Architects that the infrastructural enhancements should be driven on the basis of what results from true consultation with the overall community and the overall Paceville area that is ripe for regeneration. It is only this that can differentiate true community needs from the designs of quick profit speculators.

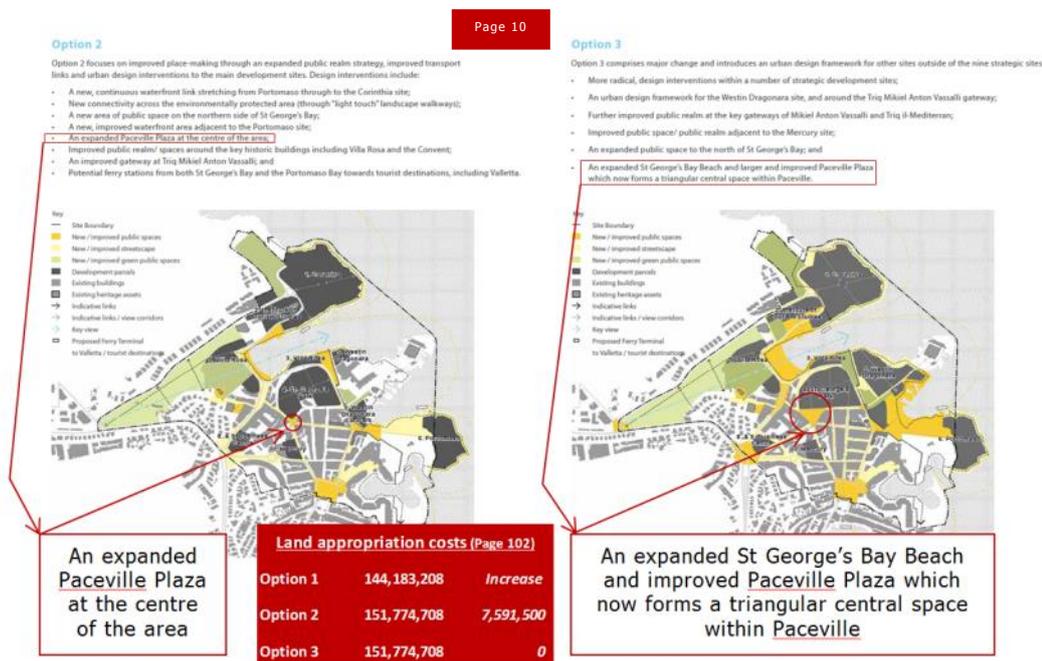
1} C - Property rights

With regard to **Property rights** we have noted that at the session of the Standing Committee on Environment and Development Planning held on 12 October 2016 representatives of the Government Property Division (GPD) duly explained the process which should in normal circumstances regulate any intended expropriation.

This was in stark contrast to how the PA approached the matter as evidenced by their assertion at the session of the Standing Committee held on 5 October 2016 that expropriated land could be compensated by the allocation of what they seem to deem ex gratia Gross Developable Floorspace (GDF). This is legal heresy.

Yet the PA clearly mean what they say; this is clearly shown to be so by the figures given on page 102 in the Masterplan, where it details what it calls land 'appropriation' costs. The figures in respect of Option 2 and Option 3 are reproduced hereunder.

The said figures below explain quite clearly that the PA do not propose to pay anything for the enlargement of the Paceville Plaza which is to be procured from the SGP site in Option 3 as pictorially better demonstrated elsewhere in this Commentary. There is no increase in value to cater for the additional appropriation of 2,500 sq mt. for the "improved Paceville Plaza" not to mention the sizeable areas to cater for the various "view corridors" being proposed by the Consultants on the SGP privately owned site.



In the Standing Committee meeting of the 12th October 2016 it was confirmed that the said compensation figures extracted from page 102 of the Masterplan were not computed by Government Property Division. It would therefore be appropriate at this stage that a breakdown of the recommended compensation be tabled by the PA.

The Appendices tabled in Standing Committee Dok 24 do have a figure for 'appropriation' relative to the Paceville Plaza as reproduced below:

1.14.03	Paceville Plaza land appropriation - prime land prices based on 3500 euros /m2	2,220	m2	3,500.00	7,770,000.00	Prime land prices based on 3500 euros /m2
1.14.03	Paceville Plaza land appropriation - prime land prices based on 3500 euros /m2	2,220	m2	3,500.00	7,770,000.00	Prime land prices based on 3500 euros /m2 based on conversion factor of 0.838781

The top figures relate to Option 1 (which has a total of €144,183,207.50)

The bottom figures relate to Options 2 and 3 (both having the same total of €151,774,707.50). The degree of preciseness of these figures calculated by the Consultants is notable. Is this intended to insinuate equivalent preciseness of all their other assessments? If so, it should be clear from this Commentary that such a claim would be completely baseless.

In any case, once the proposed amputation of the SGP site features only in Option 3 it is clear that the listed appropriation does not refer to land on the SGP site.

Three points nevertheless arise as follows:

1. It is being proposed to pay €7.7m for 2,220 sq.mt of "Paceville Plaza land" which, as already remarked, clearly does not refer to SGP land. Who does the expropriated land belong to? If any of it appertains to the Mercury Site it needs to be pointed out that any payment made to the current Mercury House owners would be tantamount to their receiving public funds for land which they had bought for nothing because when the Government sold it that land was designated as a public space (indeed less than nothing because subject to the liability deriving from their obligation to upgrade it into a vibrant public space)
2. The rate for the acquisition of the St George's Parade is being proposed at €8,500 per sq.mt; the majority of this area is not a thriving ongoing commercial enterprise. Yet the rate proposed for the Paceville Plaza, which is a fulcrum site hosting numerous thriving businesses, is only €3,500 per sq.mt.
3. Out of the total of €144,183,208 ^{Option 1} and €151,774,708 ^{Options 2 and 3} as much as €128,000,000 (89% and 84% respectively) is allocated solely for expropriation related to St George's Parade. Is any of this in regard to the ITS site which is believed to still belong to Government?

Be this as it may, another inappropriate notion was offered, later on in the same Standing Committee meeting by a Government Property Division official, to the effect that a public space could be catered for as part of an obligation imposed by a development permit and thus no expropriation formalities would need to be observed.

The un-tenability of such a notion could not be better contradicted than by the examples that the said official then gave in support of that rather fearsome prospect of expropriation being possible by whatever means whether legally valid or not. We are reasonably confident that this is not what was intended by that official and that it is just that at that time the occasion did not arise to highlight the clear difference between

privately owned land which does not have use restrictions and land which had been put out to tender by Government as subject to certain restrictions and conditions.

In fact the examples given were Tigne Point and Smart City. Both those properties belonged to Government and it could hardly expropriate its own property. It was enough that, as the owner, the Government bound the counterparty to devote part of the land being transferred as a public space as it had originally done in the 2005 Call for Offers relating to Mercury House.

Such constraints of course affect the price, as indeed already remarked in regard to the said Mercury House site constraints that the consultants who prepared the Masterplan are now sweeping aside.

However, the PA officials have repeatedly assured all in Standing Committee that the Masterplan is only a first draft and is not cast in stone, so there is yet time for the authorities to ensure that they will act correctly and modify appropriately in the fair interest of all.

In considering the matter further they will also no doubt keep in view the additional amounts that, legally, will need to be provided for so as to appropriately account for *"the damage sustained by an owner by reason of the severance of the land from other land belonging to such owner or other injurious effect upon such other land by reason of the exercise of the powers conferred by this Ordinance"* as also to account for the yet further going concern issues that were raised in Standing Committee.

Rather than seek to impose a desk-drawn dictator style solution it could well be that, in normal circumstances, it would be quite quickly realised that it would be far more fruitful to adopt an approach designed to reach an accommodation with the owners utilising the talents of renowned architects in an effort to reconcile the planner's visions to the on-the-ground realities similarly as other successful city boroughs like London City Centre and Manhattan have adopted.

As already mentioned the owners of SGP had expressed "a formal interest in undertaking a phased redevelopment of the site with a view to contributing significantly to the transformation of Paceville by creating a high quality destination".

They still aspire to that objective but only on a basis that makes business sense, namely a basis that SGP initially adopted at the outset of the project 50 years ago and which Authorities failed to ensure to be maintained in the vicinity of the SGP site.

The SGP project from inception adopted criteria that assured that the project's benefits for the developers, the community and the overall economy endured over time. It is so that they could be able to continue to do so for longer into the future that the SGP redevelopment plans took into due consideration the continuous change in demands which it is essential to satisfy so as to ensure that a project can be viably sustained over time as explained further on when dealing with ongoing operational flexibility issues.

It bears yet again re-stressing in this regard that in putting forward their proposals at the time that they had presented the SGP Project outline they did so on the basis that the relevant criteria should be equally applicable to all similar developments.

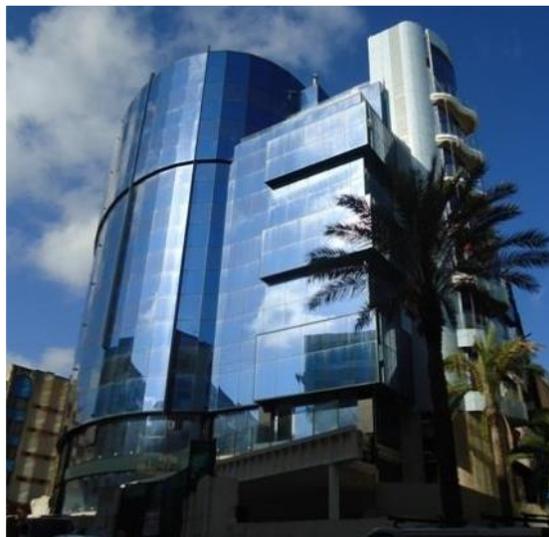
This also applies to the foregoing points that have been made which assure ongoing sustainability, as indeed all the other points variously put forward.

However before moving on to other practical aspects we feel it is important to again stress our serious concerns in regard to the planned expropriation-by-stealth proposed in the Masterplan particularly, but not exclusively, in respect of what it terms as the enlarged Paceville Plaza.

As already stated, further detailed consideration of the issues and principles involved has reinforced our conviction that the facts of the matter are such that the proposed expropriations (howsoever disguised and claimed to be in the public interest) can be resisted on the basis of being in violation of the rights protected in the Constitution and the European Convention Act ^{Cap 319}

It is possibly premature and therefore not appropriate here, and we can but trust that it will not become inevitable that we become obliged, to quote chapter and verse from the Constitution, the Convention and local and European jurisprudence in support of the resistance we shall be forced to mount in the strongest possible terms, by all available means and in all the available fora, including in need the highest Courts should the draconian proposals in the Masterplan for the SGP site be progressed in subsequent versions.

In this regard we can but trust that the assurances being provided that the Masterplan is only a first draft and is not cast in stone, will in fact be duly delivered on and a revised Masterplan be duly fashioned which can remedy the injustices and discrimination that it currently contains (even if only inadvertent) and thus earn the requisite overall community support that should be a sine qua non prerequisite of any plan aiming to benefit that same community and thus enable it to contribute effectively to the national well-being.



ARAGON HOUSE

Completed in 2012

The Masterplan proposes to slice a view corridor through this newly constructed building

2} - The Development Perspectives

There are three main aspects that are considered under this heading, namely:

- A. [Aesthetic issues](#)
- B. [Site efficiency issues](#)
- C. [Initial and ongoing operational flexibility issues](#)

2} A -Aesthetic Issues

With regard to [Aesthetic Issues](#) SGP felt that it could hardly do much better than invite world renowned international architects / designers to accompany them when making the presentation of their outline plans and project parameters at the highest levels in 2015 that have already been mentioned in the introduction.

These renowned architects have a number of developed iconic sites in their worldwide portfolio.

As already indicated in the introduction, despite the encouragement received at the said initial high level meetings, the enthusiasm for the project was stifled by the PA's adamant refusal to provide any workable guidelines whereby the architects and designers could fashion their recommendations to fulfil the high quality brief mandated in the project parameters.

Suffice it to say that, as already remarked, the last request from the architects to PA remarking that more than a year had elapsed since the meetings when the SGP redevelopment was discussed and asking for an update on the status of the project, the PA just replied, on 15 June 2016, that *"The authority has been in continuous discussion with a number of interested investors to assess their interest and their commitment to the area. We are now in a point where the Authority is preparing the Local Plan Review together with the necessary infrastructural Master Plan. In the coming weeks we will start publishing our vision and strategy followed by the local draft plan. All documents will be available for public consultation. I invite you at the time to make your contribution to have a better plan."*

As already remarked, and complained of, in the introduction, SGP was not included in such "*continuous discussions*" that were held "*with a number of interested investors*" and SGP accordingly feels that it has been gravely disadvantaged because in these circumstances it could not but decide to act with the appropriate caution in progressing its plans once the promised notifications did not materialise despite requests made for any relevant updates.

This unhelpful treatment by MEPA had been experienced even at the time that the outlines for the SGP Project were being formulated and it was only pursuant to high level representations which we made that a preliminary meeting with the PA's Executive Chairperson to clarify, with a view to taking forward, was organised and then held. Nevertheless, even then, appropriate follow-up meetings were not forthcoming.

Hopefully further consultations will this time round clarify matters opportunely to restore confidence.

When SGP was summoned by the PA to a meeting a few days after the publication of the Masterplan (the Post Publication Meeting) this was only to be confronted with, basically, a recital of the Masterplan's provisions and a flat refusal that we have any contact with the Consultants who, even now in Standing Committee, are being held out to be as though solely responsible for the Masterplan recommendations.

In these circumstances it could only be taken that any further direct contact with the PA could not be helpful and that we would have to just rely on whatever opportunities presented themselves to us to register our concerns as a part of the consultation process.

With the benefit of hindsight, it would, for that matter, hardly have been helpful to have any contact with Consultants who have failed in their obligation to disclose that they had consulted on another project which the Masterplan seeks to significantly benefit to the tune of many millions and this at our expense by having that site's legally designated public land use abusively switched to our site as already well explained above. The Consultants can therefore hardly be relied on to engage in unbiased dialogue with us and that may indeed be why the PA has vetoed it.

Quite apart that as already stressed, it remains highly unethical that Mott MacDonald had not duly declared their being consultants to the Mercury House project it is also absolutely inexcusable that the PA admit, as they have admitted in Standing Committee, that they had been made aware of the obvious conflict of interest, albeit strangely only verbally, and, as also admitted, did nothing about it claiming that no conflict could arise if only because of a clause in the contract with the consultants which was quoted in Standing Committee but, on being studied, will be found to be completely irrelevant as it deals solely with bribery issues.

It is therefore to add insult to injury for the PA to seek to justify the Masterplan as being the work of independent experts.

In this context and in the face of the serious expropriation provisions contemplated in the Masterplan's recommended Option 3 regarding which SGP have very serious reservations, as already indicated above under Property rights, as well as, and not least, the height limitations, we had to reconcile ourselves to the fact that it was not of any practical use to engage further with the architects and other stakeholders. Instead SGP has been forced to consult with its lawyers to ascertain how best to ensure that its constitutionally protected rights are not violated.

SGP nevertheless remain amenable to consider consulting further with its architects and other stakeholders should there be a clear and unequivocal commitment that the Masterplan is to be amended appropriately.

2} B - Site efficiency issues

With regard to Site efficiency issues the Masterplan complains at page 77 that *"although the central areas of Paceville (in particular the terraced tourism area directly west of Portomaso) are permeable and legible and based around an easy to navigate grid of streets, the other parts of Paceville are less so. One of the key areas where this grid breaks down is St George's Park, to the south of St George's Bay. Here, views of, and links to, the coast are lost and it is important that any future development of this site seeks to establish these links and view corridors. This will not only create new views and a more permeable layout, but also encourage pedestrian and cycle movements through this area."*

Now planners will of course have their visionary perspectives and one must respect that. They will not need to be told that what applies well in a flat terrain may not apply equally well when, as in the case of the SGP site, which (as stated at page 216 *"occupies one of the highest terrains in the Paceville area"*) the land slopes upwards from the *"area directly west of Portomaso"* so, while a grid layout may lead to view permeability it will certainly not result in a view of the coast.

Furthermore, in the context of seeking to promote a high end destination is it really sensible to insist that one should *"also encourage pedestrian and cycle movements through this area"* thus exposing a high end luxury residential complex / office / hotel / amenities environment catering also to an international clientele to invasions by raucous lager louts and other perpetrators of, to quote the Masterplan *"anti-social behaviour"*?

As a related point, which is expanded on later, it is difficult to understand how the planners can really expect their creating the inconvenience of banning cars to be applauded by such a high end clientele. In discussion with the highest authorities the intention of creating adequate parking on site but having a direct underground tunnel link under Triq Elia Zammit had in fact been explained so as to best meet the expectations of such a high end clientele without disturbing the ambiance and indeed also facilitating pedestrianisation. In stark contrast the planners suggest at page 217 that the *"Development at St. George's Park does, therefore, create a great opportunity to encourage patronage of public transport for its new residents, hotel guests and employees."*

Also, is it not justified to expect that the planners themselves respect the down to earth practical drivers that underpin successful projects that can stand the test of time?

In this regard, when considering site efficiency, surely planners of such high calibre do not need to be told that:

- (a) Sensible developers will in the normal course always seek, as far as possible, to enhance development potential by consolidating adjoining sites to form one larger area for development
- (b) Of course, the larger a site is the greater the potential of the site to optimise sustainable redevelopment.
- (c) It is also the case that the PA should only permit high rise building on sites which have a particular large area.
- (d) On a large redevelopment site which benefits from varied permitted uses persons would need to travel less because they can reside, work, shop and entertain themselves without the need to travel to other parts of the island.
- (e) The carving up of one large committed redevelopment prime site surrounded by a public road into a number of smaller sites devalues the value of the site.

It bears emphasising that such a serious devaluation of privately held property cannot even be justified on the basis of achieving a greater public good.

This devaluation is quite clearly gratuitous and unjust considering that, as has been remarked elsewhere in this commentary, the consultants have failed to realise that the opening of roads within the SGP site so as to permit the general public standing on the West and the South of the SGP site to benefit from better views can never be possible because the SGP site is located on a higher terrain.

So the view justification for the corridors is rendered baseless by the same disregard for the topography of the site that has already been pointed out in regard to the other view which the Consultants imagined could readily be procured from the enlarged Paceville Plaza that they have proposed.

Possibly this is another oversight.

It is surprising to note furthermore how Mott MacDonald have failed to include appropriate proposals:

- a) that relate to the historic and valued Grade 1 historic war rooms
- b) for 'view corridors' on the Mercury site connecting Triq San Gorg to view the Grade 2 listed Mercury House building, as highlighted in yellow below
- c) to widen the problematic road of Triq Sant Andrea and Triq San Gorg adjacent to the Mercury House site to enable a better exit from Paceville
- d) in regard to c), to widen Triq Sant Andrija close to the GO exchange so as to be at least as wide as it is at the "Stylish Bathrooms" end and eliminate the existing bottleneck and thus ease traffic flow in this main access Paceville / Sliema route, as shown below:



Nevertheless, and in any case, we feel that at this point it is relevant to reiterate other points of concern that have already been remarked on elsewhere in this Commentary namely:

- (i) The PA's Executive Chairperson stated contention to the SGP site owners personally that the SGP site has been accorded the best deal such that the press had initially been influenced to give the impression to the general public that the SGP site have obtained the best treatment under the Masterplan. The PA's Executive Chairperson's contention is rebutted elsewhere in this Commentary and is further rebutted here, while again also stressing that all the SGP site owners expect is a fair deal on a level playing field basis.
- (ii) The proposed appropriation of parts of the SGP site is unjust and capricious.
- (iii) The proposed plaza as conditioned in the call for offers issued when the Government agency owning them had decided to sell the Pender Gardens and Mercury House properties. A consortium in which the SGP owners together with others were involved tendered for these properties on the basis that the tender conditions impacted negatively on the potential value of the property.
- (iv) Accordingly, the Masterplan's intention to remove the said condition *"To create major public piazza in the area surrounding Mercury House so as to create a high quality public space for the whole of Paceville"* is unjust and also abusive considering that this relates to a property sold by the Government.

- (v) To then propose, as the Masterplan does, that St. George's Park, a private piece of land, should have this same condition transposed to it is capricious and unjust.
- (vi) The seriousness of such abuse cannot but be viewed to increase exponentially when one considers that Mott MacDonald, the consultants who have proposed this capricious and unjust transposition, are also consultants to the Mercury House Developers.

Moving away from the SGP site, it has been reported in the press that "*Paceville developers might have to go back to the drawing board after master plan unveiling*". The owner of Cresta Quay also said as much at the Standing Committee meeting of 12 October 2016.

Clearly therefore the development perspectives of those developers and the site efficiencies they were aiming for are at variance with what the planners have prescribed for them.

Conversely though, the Zaha Hadid Concept designs that Mott MacDonald consulted on for Mercury House envisaged a GDF of 74,875 sq.mt whereas the Masterplan grants them 87,000 sq.mt ie 16.2% more than what the investors had been projecting.

One can only speculate as to what influenced this increase (which may result in even a higher figure as the Masterplan (conveniently ?) inserts the word "around" ahead of the tallest building accorded to Mercury House (ie "around 35 storeys").

No doubt all the Mercury House investors will be happy about that but in the case of the investors in the other sites who are not so happy, it can therefore but be augured, not just for the SGP site, that the PA will be receptive to the representations that will no doubt be made to them.

Otherwise the PA may well find that one of the key opportunities as stated under Opportunities at Page 6 of the Masterplan significant developer and/or market interest could well materialise at a significantly lower level than is apparently anticipated such as to jeopardise any realistic prospect of the Paceville regeneration as augured by all occurring any time soon.

2} C - Initial and ongoing operational flexibility issues

With regard to [Initial and ongoing operational flexibility issues](#) one can compress all the issues into one overriding issue and that is to do with the flexibility of permitted land use.

The owners of the SGP site cannot derive any comfort from the overall land use parameters which the PA have mandated for the whole area, following the well regarded principle of not putting all of one's eggs in one basket.

Each activity / use has its own risk profile and no developer can rightfully be expected to abdicate exercising his own judgement and assessment of the various risks involved and accordingly deciding on the use parameters of his project to start with.

Furthermore, as the owners of the SGP site are investors for the long term, the Masterplan is not seen as an opportunity to make a quick buck by indulging in speculative development geared to making sales in the immediate to near term and then move to other ventures as quick-return developers typically do.

Accordingly, reassurance about ongoing flexibility of use is a show stopper-issue and it bears suggesting that this will be the case for every serious investor for the long term who will prudently and responsibly look to futureproof the investment in every possible way.

In this regard one can but mention that the project outlines presented in 2015 had quoted the following extracts from the Tall Buildings Design Guidelines – Toronto 2013 it being the case that the project as then presented was believed to be in complete accord with the desiderata / pre-requisites expressed therein

Current tall building debates often centre around the capacity of places and infrastructure to serve tall buildings and their occupants, the liveability of the vertical communities being created, the cumulative effect of clusters of tall buildings, particularly on quality of life and the public realm, as well as the longevity of what is being built, including the durability and lifespan of materials, construction practices, energy performance, and the ability of buildings to adapt and accommodate change over time.

The pre-requisite as underlined above echoes the comment made when presenting the outline project that ongoing flexibility of use is crucial to assure commercial sustainability over time, which is of course of paramount and compelling importance because it is only ongoing commercial / financial sustainability that assures the sustainability over time of all the benefits that the outline project was designed to procure, quite apart from an adequate return for the investors, namely:

- job creation with improved working conditions
- attractive environment also for high end foreign earners
- viability of the self-contained community
- increased fiscal revenues for the Government

It is well recognised that due and proper thinking up front which applies tried and tested sensitivity analysis techniques will eventually facilitate efficiencies down the line and indeed could well make the difference between:

- being able to make further progress, because enabled by such futureproofing to respond effectively and in due time to evolving market needs, or
- being blocked and doomed to eventual failure by a lack of appropriate futureproofing.

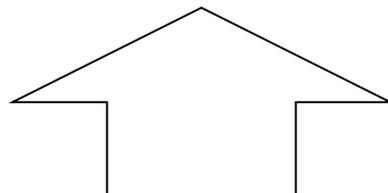
This wide ranging aspect is dealt with further later on.

Meanwhile it is relevant to stress that the project outlines which had been submitted aimed very specifically to *"provide a safe living environment supported by the provision of adequate social and community facilities"* to meet the need of that self-contained community *"together with a thriving business community"* not because this happened to be, as quoted, what the Strategic Plan for Environment and Development July 2015 (SPED 15) urges but because a wide permissible flexibility of use is essential so as to ensure sustainability over the years; this has to be clear from the outset if investor interest is to be maintained.

It has to be mentioned in this regard that overzealous controls can lead to bureaucratic misinterpretation, mismanagement and delays that could well sabotage effective management of evolving market conditions and SGP's experience in this regard hardens its resolve not to accept anything less than what is internationally recognised to be recommendable, as quoted above, namely *"the ability to adapt and accommodate change over time"*.

It is relevant to quote a few examples of the bureaucratic planning obstacles SGP has encountered over the years that underpin the aforesaid resolve:

- a property currently being developed across the road from a parcel of land owned by SGP has built across the entire site and has also cantilevered over the road, while applications made by SGP for its said parcel of land in the past years have all been summarily dismissed.
- Revocation of valid permits during the SGP development for no reason.
- Reduced height limitations imposed on developments at SGP such as Perellos Block despite appropriate permits being duly in hand.



The property proposed to be expropriated from SGP to switch (part of) the piazza from the Mercury site for the benefit of Mercury House

3} - Parking and traffic issues

The Masterplan deals with parking in the overall context of transport planning that encompasses a wider remit than is addressed in these comments which relate primarily to parking and certain traffic related issues derived from long standing practical experience of the on-the-ground traffic problems that have long plagued this area.

Accordingly three main aspects have been selected for consideration under this heading, namely:

- A. [The Overall Picture](#), albeit in a limited context as aforesaid
- B. [Resident Related Issues](#)
- C. [The SGP Perspective](#)

3} A - The Overall Picture

In regard to [The Overall Picture](#) the Masterplan is of course quite correct to state (at Page 97) that *"Until parking is properly managed there is limited scope to improve Paceville's public realm"*.

Indeed the project outlines submitted in 2015 had specifically addressed this issue as an integral element of the redevelopment project.

It is however difficult to accept that the Masterplan is justified to assert that its preferred option can produce the desired outcomes when, as it states, *"Under Option 3, parking demand is managed and road space is then freed up to enable the improvement of the look and feel of the neighbourhood"*.

What Option 3 does is to deny parking not manage it.

In this regard the Masterplan seems to be seriously flawed in that it does not appear to make a clear distinction between residents (in the wider sense so as to include not just people who live there but also workers in offices and commercial establishments, as indeed also hotel residents) and the people who visit the area for recreational purposes.

There is no one-size-fits-all solution which can address such a diverse travelling public and the park and ride solution really satisfies only a limited number of persons and just alleviates the peak demand on the system generated by visitor traffic. It is obviously quite inappropriate in the context of an up-market destination for residences, offices, tourist accommodation as well as all other uses. It will certainly prove to be a serious disincentive for the end users across all the wide range of uses as targeted in the high-end SGP Project. (Details in Appendix A)

Public submissions in this vein previously made in this regard, and strongly so, by residents cannot but prompt the observation that the Masterplan appears to be seeking to bend the public will to a planners idealistic vision of what is best for the public, completely ignoring what the public has to say on the matter and thereby causing great inconvenience to residents (in the widest sense).

The Masterplan attempts to put it more nicely when saying at Page 156 that *"It is important to emphasise that the balanced transport strategy will help facilitate mode shift to sustainable options, and so reduced demand for parking."*

This '*balanced transport strategy*' includes a provision as stated at Page 164 that "*the Paceville Plaza and the roads leading off it are to be pedestrianised, meaning that no parking will be provided. Access will be removed for all vehicles apart from a few exceptions*".

The '*mode shift*' cannot therefore but be seen for what it is, namely an imposition on the mode of living of residents (in the widest sense) which appears to contradict the aims of SPED 15, apart from causing the lesser but nonetheless discomfiting evil of being inconvenient for visitors and a disincentive for investors.

While in the practical world it is inevitable that one has to submit to the lesser evil, such that the park and ride therefore appears to be a mechanism that has to be retained (with improvements) so as to cope with peak visitor traffic, there should be no valid reason to forestall measures aimed at alleviating the pressures on that mechanism by providing a direct tunnel link to all the eligible developments as well as on-site parking for those who expect to have this facility.

In the Budget of the 17th October 2016 it was announced that during 2017 the Planning Authority is expected to issue proposals in order to incentivise the development of public parking including open spaces. *Fis-sena li ġejja l-Awtorità tal-Ippjanar mistennija toħroġ proposti dwar kif tista' tinċentiva l-iżvilupp ta' parkeġġi pubbliċi ġodda li jinkludu spazji miftuħa*

This is in line with the SGP Project proposal and indeed also Option 2 in the Masterplan; yet the Masterplan recommendation drops this clearly sensible suggestion and in doing so the Masterplan deviates also from what was said in the Budget Speech. This apparent contradiction in policies cannot in normal circumstances be readily understood.

It must be said however that the SPED 15 lament that "*The need for sufficient provision of parking space has had a negative effect on streetscapes*" can hardly be better addressed and remedied than by having the aforementioned tunnel(s) and maximising underground car parking facilities as proposed in the SGP project outlines.

The Swieqi mayor has already voiced preoccupations in Standing Committee that the proposed improvements may not be sufficient to tackle the problem appropriately and no doubt the matter will be addressed more competently when his council makes its formal submissions in this regard.

Suffice it to say that, clearly, in its approach to transport and parking, the planners should be careful not to diabolically persist in errors that have been well known to a long suffering public for many years in the Paceville area and its environs.

The notion of restricting car park capacities is not the right way to achieve a reputed aim of the Urban Realms Model (similarly echoed in SPED 15) whereby people can live their daily lives comfortably in a way that, in effect, reduces their dependence on the automobile other than to get from one destination to another but then benefit from full servicing in a self-contained-community environment be they a resident, a worker or a visitor.

This of course applies most obviously to the residents but it is also quite importantly relevant to people who have to travel to work in the area. Indeed in that regard the notion that a business centre (especially an up-market one targeting an international clientele) can be competitive on the international scene on the basis of easy access to public transport (as against in house access) is quite clearly untenable and cannot be taken seriously.

In upmarket developments clients expect to be able to drive to the entrance. It is quite remarkable that, instead, at Page 93 the Masterplan states that *It envisions the majority of Paceville becoming designated as an area of parking restraint and the introduction of residential parking zones in neighbouring areas.*

The Masterplan elsewhere (at page 21) refers to the neighbouring areas as the *surrounding areas such as Swieqi, Pembroke and Spinola which has formed a key element of this study.* Actually it is these same areas as stated in the Masterplan that will be the ones who will be most negatively impacted beyond just peak periods if no proper parking facilities are provided within Paceville for the core developments.

Later on the Masterplan then seeks, yet again, to make a virtue out of a vice when it goes on to assert that this *vision will encourage walking and cycling for shorter trips.* It is more appropriately said that this *vision* will discourage trips to start with.

It remains of course that the transport aspect is one that must be satisfactorily addressed and our project outline had duly taken this into account as is further explained in the next section.

It could of course be that the solution proposed by us is not amenable to other development sites who may be constrained from being able to provide sufficient underground parking facilities be this because of a small gross site area to start with, or historical features or indeed whatever other reason. However, in such a case the planners should seek to remedy that particular problem for that individual site and not penalise the rest of the area and other development sites by a blanket restriction.

3} B – Resident Related Issues

With regard to [Resident Related Issues](#), one can but reiterate, stress and strongly support certain submissions by residents as already featured in the PA web site.

To quote:

Tara Ellul 30/12/15

I have been living in Paceville for most of my life. May I ask you to consider the following points: There is a need for more exits out of Paceville. The current exit through Church Street and Ross Street is the cause of traffic congestion that effects not only the whole of St George's Road but also neighboring streets.

Simon Bailey 7/01/16

I am a resident of St George's Park and have been for over 10 years.

Given this is 'Phase 1' of this Public Consultation I have restricted my comments to general high level ones as I assume and expect there to be further opportunities to comment on any proposals.

Whilst I am unaware of the total number of Residents living in the Paceville Area, their views MUST be considered in the 'vision' for the area after all they live there, pay taxes, use infrastructure services and vote. They have a right to heard.

Within the Residents category, the views of the business people who come into the area currently and in the future should be included. This includes people in the Portomaso Tower, Aragon House, the language schools, the FIM Bank and others. They are income generators, employers, tax payers and users of the infrastructure services. They should be included in discussions.

... which continues (echoing SPED 15)

In considering the 'Vision' for the area, it might helpful to consider groupings of people by going through a 'day in the life' or the daily experiences of each of the different communities. For example, how will the Residents go about their daily life in this new area, getting to and from work, shopping, parking, and generally existing in a pleasant environment? Or how will a 5 star tourist, staying in one of the major hotels, pass their day in a pleasant quiet smart area, from moving around, shopping, going out to lunch or dinner and being entertained. This should also be used as a risk mitigation exercise for any major civil disaster that might occur. Visualise the end result of all the plans being considered

... and also states in regard to resident expectations

they want to be safe – that means that emergency services should be able to get to EVERYWHERE at ALL THE TIMES

they want free and unrestricted access to their property at ALL TIMES

This view cannot but be widely shared by all who live in or frequent Paceville. And yet, the Masterplan goes completely the opposite way and even suggests that the Aragon Car Park (servicing inter alia a prestigious business centre catering to an international clientele) will have an imposed restricted use and access because of the proposed pedestrianised zones.

It is anticipated that the St George's Park Residents Association will also register their views in this regard.

3} C - The SGP Perspective

With regard to [The SGP Perspective](#) regarding parking and traffic management we can but reiterate the proposals that were part and parcel of the project outlines that had been presented in August 2015 and which had been initially warmly received.

Notably these proposals included the tunnel that is included in Option 2 but is then dropped in the Consultants' preferred Option 3 for reasons that we cannot but call into question on the basis that the reasoning applied seems to be on the basis of the tail wagging the dog.

In this case the 'dog' is what the market demands. Instead of satisfying those needs the Masterplan involves measures that frustrate them. The market demands easy and convenient access; the Masterplan denies them.

It goes even further in seeking to mandate that *developers will be required to demonstrate their commitment to changing travel behaviour* (Page 165).

Seeking to bend the market to one's perceptions instead of offering the market what it requires is a marketing heresy.

Furthermore, the SGP Project's proposals, apart from recommending the said tunnel, had also suggested a coast road widening plan, intelligent traffic management systems (featuring adaptive traffic control in real-time) and a review of the set up in St George's Road and Ross Street (near Spinola Gardens), notably introduce pedestrian lights in Ross Street and re-site the bus-stops in St George's Road to ease the present congestion and traffic jams.

SGP remains committed to its belief that the solution is to seamlessly and invisibly absorb traffic not seek to divert it at the great inconvenience of residents and visitors alike but, of course, especially the residents.

By in effect rendering the car unobtrusive, the tunnel and the appropriate underground car park spaces accessed thereby will in fact greatly facilitate the pedestrianisation visions of the Masterplan which, in this proper and positive context, SGP supports.

This is of course apart from the fact that one can hardly aspire, as the Masterplan does, to a high class specification and then go on to expect that the international clientele for superior office space or for luxury residences will gladly accept to 'park and ride'.

As already commented, markets may well evolve in the future such that capacities planned on the basis of a certain land use configuration may well not be sufficient if up-front consideration is not also duly given as to the changes that could become necessary and thus cause a potential increase or decrease in capacity requirements.

Such considerations may not be of concern to speculative developers who already have made, or who intend to make, quick sales in the immediate to near term and then moving to other ventures. Indeed, such considerations are of paramount concern only to long-term investors in the Paceville area such as the owners of SGP and the residents.

For such long term investors, the highlighted prerequisite in the above extract from the Tall Buildings Design Guidelines – Toronto 2013 regarding the ability of buildings *"to adapt and accommodate change over time"*, and thus better assure ongoing sustainability, cannot, in fact, be overstressed.

It would obviously be regrettable if the PA perversely do not, on the other hand, accept and account for this and instead continue to insist on the serious disincentive of rigid land use constraints.

On the other hand, the reasonable relaxation of any such straight-jacket disincentives would serve to restore investor confidence.



4} - Overview

As already stated, the Masterplan's negative impact on the SGP site was so fundamental that we could not usefully engage with our architects in the requisite depth.

However given the often offered assurance during the Standing Committee meetings thus far that the Masterplan is only a first draft we have been encouraged to at least contribute some observations at this stage regarding the formulation of the Masterplan (the Overarching Framework Objectives) and also on some other aspects of the Masterplan that we feel can be properly commented on even if only ad interim, trusting that it will thereafter become possible to seek to progress the SGP redevelopment project as had been prospected and presented in 2015.

Accordingly these representations conclude with a commentary on the following aspects:

- A. [The Masterplan's Overarching Framework Objectives](#)
- B. [The Deriving Masterplan Recommendations and their negative impact on the SGP site](#)
- C. [Gas storage](#)
- D. [Fire hydrants](#)

4} A - The Masterplan's Overarching Framework Objectives

The Masterplan's Overarching Framework Objectives are stated (at Page 5) as being *to act as a catalyst for regeneration and meet the requirements of the Planning Authority as well as existing and future residents and visitors.*

Although not declared, the requirements of the Consultant's clients also seem to have been kept well in view and well accommodated.

Returning to what was declared, further down under the same heading it is stated that the Masterplan *document represents the overarching strategic development framework through which the Planning Authority will be able to realise Paceville's vision of becoming Malta's Prime coastal location*

Given the above stated premise that the Masterplan had to, primarily, *meet the requirements of the Planning Authority* it would appear obvious that what is referred to as *Paceville's vision* is in fact the Planning Authority's vision for Paceville.

This is not a casual observation because two critical caveats could well be derived from such a premised objective, namely:

- (a) to what extent have the Consultant's recommendations been conditioned by the requirements of the Planning Authority?
- (b) to what extent can it be reasonably expected that the Planning Authority will adjust the requirements they have conditioned to the Consultants so as to be able to accommodate, for example, such requirements as may be put forward by existing residents (which term extends beyond households to businesses that are resident in the area) and other end users?

Furthermore, if well derived, these caveats would have to be viewed with the seriousness they deserve given the context prescribed for, and the emerging background to, the representations invited at the Post Publication Meeting, namely:

- (a) that no contact can be made with the Consultants to seek clarifications or for other legitimate reasons
- (c) that, nevertheless, Mott MacDonald, one of the Consultants for the Masterplan have been reported in the media and since admitted to have also consulted the developers of one of the sites addressed in the Masterplan, albeit denying any conflict of interest
- (d) the sting of expropriation (albeit by another name) which the Masterplan also clearly contemplates.

As already commented the PA have insisted that the Masterplan is the work of the Consultants thus implying that they had exercised due care to ensure that the Consultants could come independently to their views and be better placed to offer disinterested and dispassionate recommendations.

In that case, of course, the issue of the Consultants being capable of being able to be seen not to have any conflicts of interest should have also been ensured, which, as already commented, it has not.

Adding the ingredient of "*parachute planning*" as commented succinctly by the Hon George Pullicino in Standing Committee renders the Masterplan to be a rather toxic mix.

Be all of this as it may, in the light of the comments offered in Standing Committee that the Masterplan as presented is just a first consultation draft, we have considered the matter also in the light of what is further stated at Page 5 of the Masterplan (still under *Overarching Framework Objectives*), namely *that the Masterplan is structured to generate insight on Paceville's current situation and its future growth - by building on the three pillars of neighbourhood development - urban realm, transport, and infrastructure*

As this Commentary has already clearly concurred, the issue of transport (as including appropriate parking) is of paramount importance because no regeneration can be successful unless that aspect is appropriately catered for. The same clearly also applies in regard to other infrastructural aspects.

This leaves for consideration the remaining pillar of urban realm and it is here that issues of interpretation and intent arise which are of paramount importance to the SGP site.

4} B – The Deriving Masterplan Recommendations and their negative impact on the SGP site

With regard to Deriving Masterplan Recommendations and their negative impact on the SGP site the preceding pages already highlight the main concerns and these are again briefly referred to in the following pages which also offer some further considerations not yet touched on in previous pages. The resulting overall comments have been organised under the following heads:

- (a) Dramatic Carve-Up of the SGP site
- (b) Discrimination against the SGP site in regard to Building heights
- (c) Location of Storm Reservoirs
- (d) Location of DC Power site
- (e) Pedestrianisation areas, the tunnel and parking restrictions
- (f) Land use restrictions

4} B (a) - Dramatic Carve-Up of the SGP site

With regard to the captioned **Dramatic Carve-Up of the SGP site** the term carve-up has been aptly chosen as it is defined to be *'a ruthless division of something into separate areas or parts'* and the way the Masterplan has slashed this division on the SGP site is nothing short of dramatic in its abuse of constitutionally protected property rights.

The injustice and commercially nonsensical aspects of this matter have already been alluded to above.

It would however be as well at this stage to show pictorially how dramatically the Masterplan proposes to sabotage the vision that had been proposed in SGP's project outlines.

That vision had been expressed in terms that are clearly consonant with the SPED 15 objectives for urban areas, namely, as already quoted above, objectives that aim to comprehensively organise and manage all the SPED 15 identified factors so as to provide a well-supported safe living environment and a thriving business community.

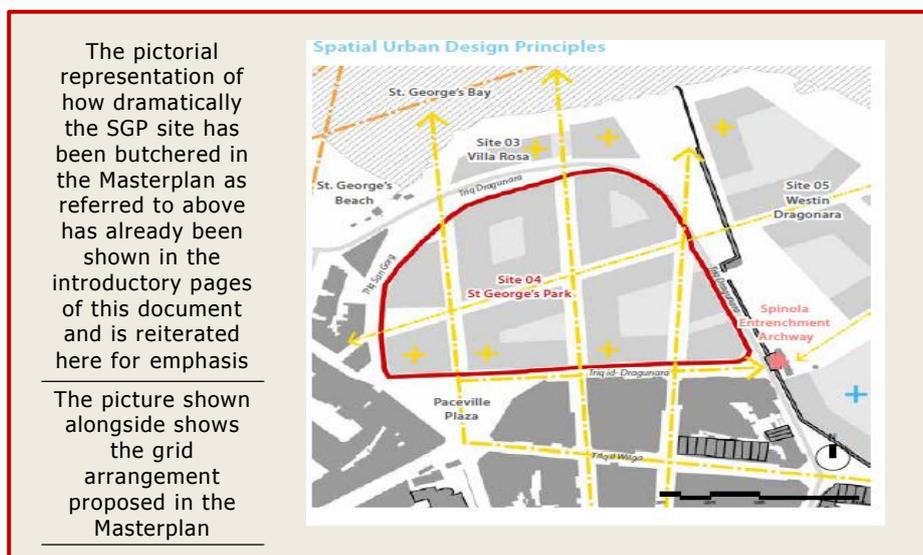
Pragmatically, that vision also takes due account of current market conditions but without omitting to duly safeguard the project's ongoing viability should market conditions change. This is essential to ensure that the project's resulting contributions to the overall economy will endure over time, via appropriate futureproofing measures. Such measures are a sine qua non to enable the requisite flexibility in addressing competently and in due time any market driven changes in the operating environment.

It would be clearly impossible to implement this dynamic self-contained community vision should the over-emphasis on office use proposed in the Masterplan be mandated.

Certainly, should the proposed carve-up suggestions also continue to be insisted upon it would not only be that laudable vision but indeed the whole vibrant dynamics of the entire site that would be destroyed.

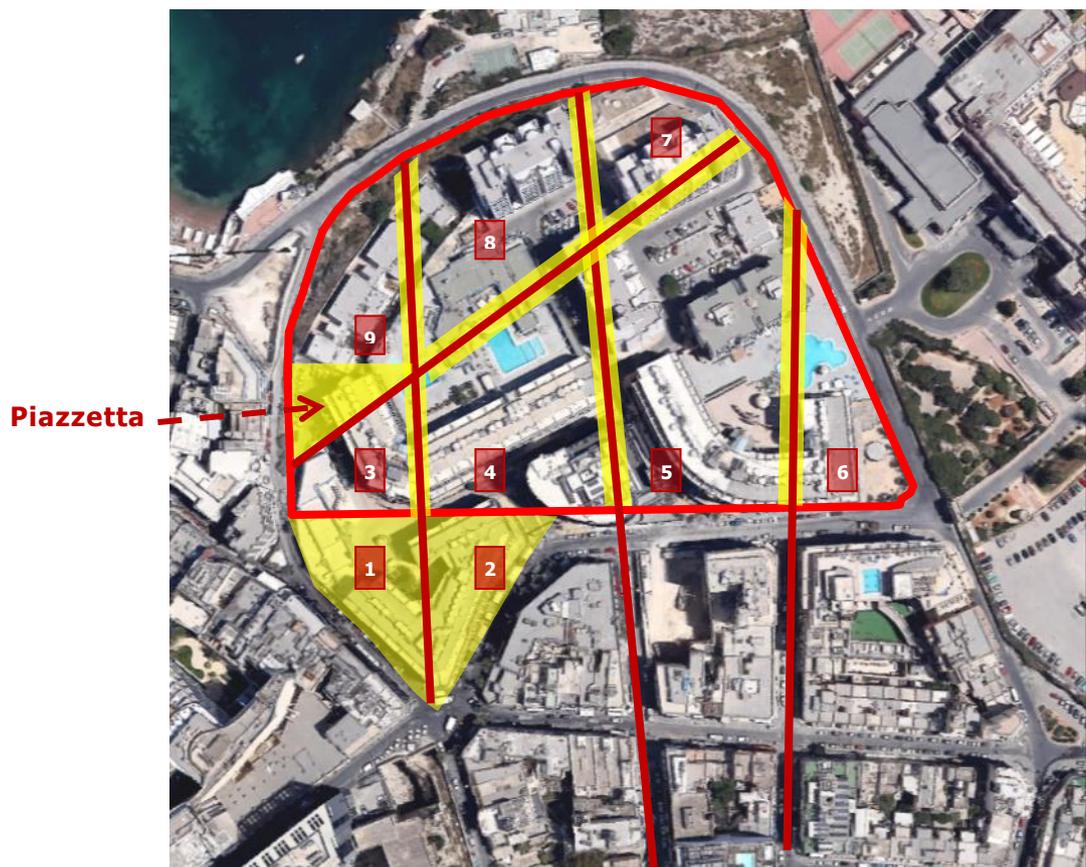
Surely this could not be the intention, and if it were, even more surely should it not be rightfully resisted by all available means?

The following pictures illustrate why such resistance is mandatory.



The next picture shows:

- how the grid lines contemplated in the Masterplan (as per the picture above) slash through existing residential (affecting 300+ residential property owners), hotel buildings, as well as the newly constructed Aragon House.
- how the enlarged Paceville Plaza as shown in the Masterplan seeks to amputate the SGP site which in the triangular area shaded in yellow, as shown in the picture below, contains a sizable hotel together with its amenities and ancillaries as well as various underlying and clearly thriving commercial establishments.
- how a further (albeit smaller) piazzetta has been provided at fragment 9 generously (but abusively so) for the benefit of newly constructed fronting property belonging to third parties



It would be absolutely inconceivable, in normal circumstances that a Masterplan could so casually stress the wellbeing of so many residents as well as threaten the ongoing livelihood of so many thriving going concerns. Yet pending a review on consultation that is precisely what the Masterplan proposes.

Meanwhile, as is often remarked 'a picture speaks a thousand words' and this saying is believed to be particularly true in regard to the above pictures.

So nothing more is being said on this at least at this stage.

However it needs to be added that it would in normal circumstances be equally inconceivable that, having perpetrated the cut and dice butchery as shown above, a planner should then propose that the tallest tower be located on an inadequate parcel of land produced by the planner's own carve-up.

As it is difficult to comment politely on such an affront, again, nothing more is being said on this at least at this stage.

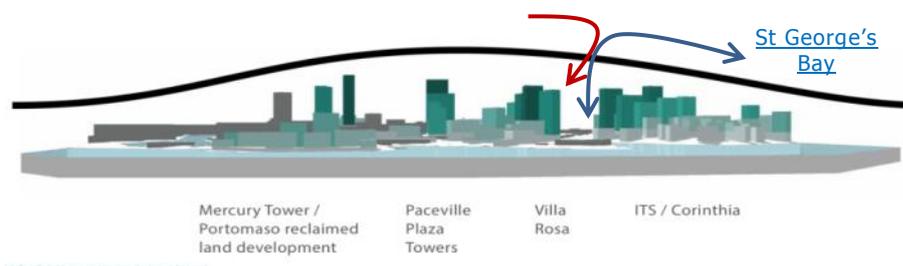
4} B (b) - Discrimination against the SGP site in regard to Building heights

The Masterplan's discriminatory slant in regard to building heights falls to be considered under three basic heads, namely {i} the views from afar (looking in i.e. the [Skyline](#)), {ii} the effect that the relevant heights have in regard to any particular location (looking out – the impact on the outlook from each site i.e. the [Site Prospects](#), and {iii} the location, prominence, history and topography of each site (i.e. the basic eligibility factors which should be taken into account when addressing [Building Heights](#) allocations).

[Skyline](#)

The skyline featured in the Masterplan (as is reproduced below) purports to suggest that a curve (*'dome'*) provides the optimal effect.

There are strong reasons that argue against this, notably when the *'dome'* mandates a tall building on the foreshore.



It is felt that the Masterplan (albeit obviously not abandoning the effort to optimise the visual impacts from afar) should be oriented to encouraging developers to aim for higher sustainable statement buildings which go beyond the maximum 35 floors being imposed on certain buildings.

SGP had been assured by architects of international repute that the SGP site is large enough to permit of a development that, in their words to the PA, encouraged them to be *"committed and excited about making a memorable and sustainable contribution to the skyline of Malta"*.

However, as already remarked, the butchery perpetrated on the SGP site as described above under the [Dramatic Carve-Up of the SGP site](#) has rendered it completely impractical to engage further with the architects towards that exciting end. Instead, as already stated "SGP is being forced to consult with its lawyers to ascertain how best to ensure that its constitutionally protected rights are not violated" and at least be able to preserve, once being abusively prevented to enhance, its property.

[Site's Prospects](#)

Returning to the issue of the *'dome'* prescribing tall buildings on the coastline, the St George's Park Resident's Association has already complained, as already commented above, about how dramatically and severely the open prospects and bay views will be eliminated by a Masterplan proposed coastline development that contradicts the Masterplan's own stated skyline objective of not allowing tall buildings on the coast line such as to block the view of the bay.

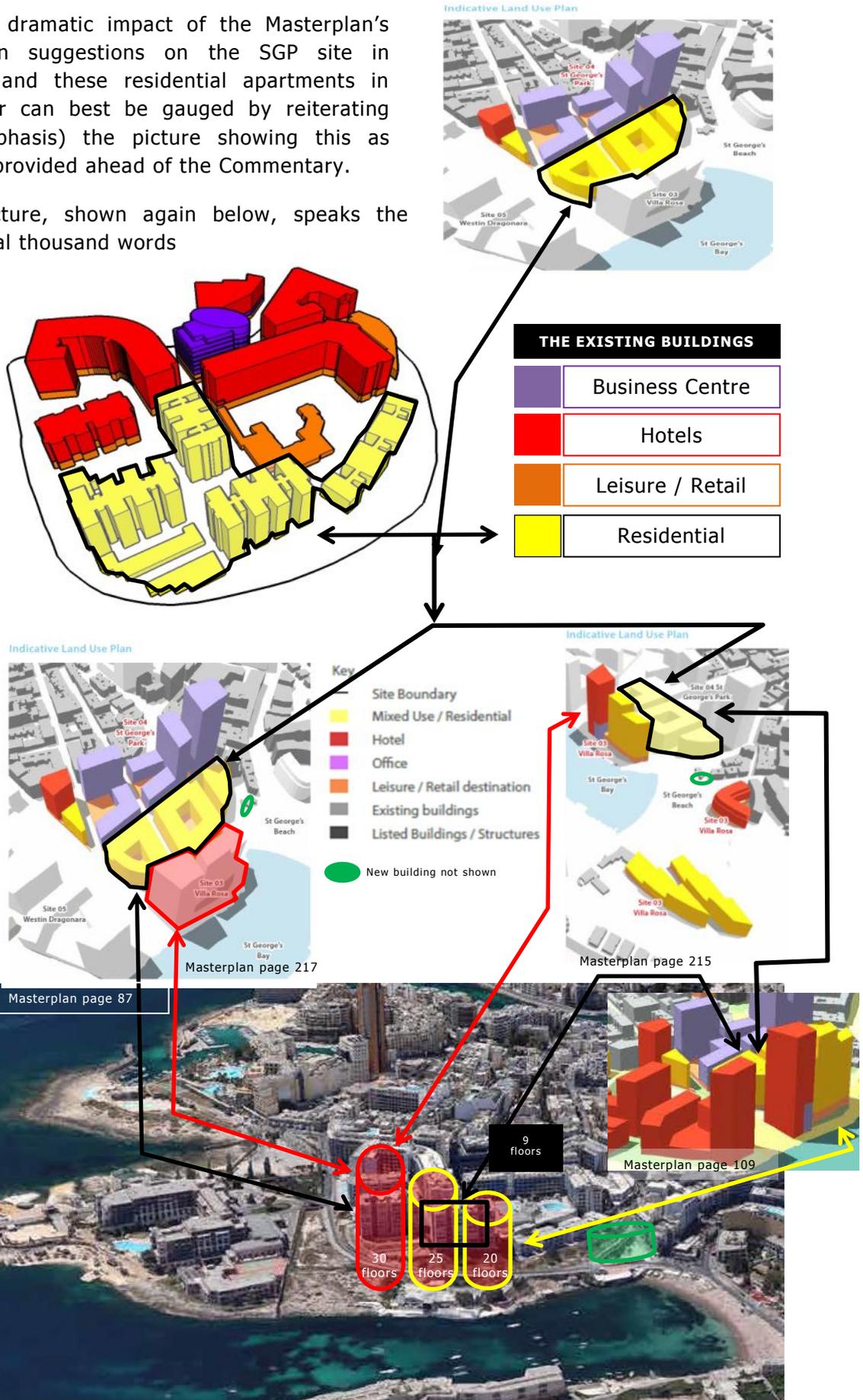
Yet at Page 217 the Masterplan has the cheek to state that *The three blocks to the north are residential with a number of apartments affording great views to the bay and beyond*.

This would be gratifying were it to be true but the graphic on the same Page 217 indicates quite the opposite if the Masterplan goes through as currently planned. See next page.

In fact the yellow blocks to which this comment refers are obviously completely blocked towards the bay by the Villa Rosa Site 03 proposed buildings as also albeit less dramatically by the Westin Dragonara Site 05 towards the sea looking east.

The full dramatic impact of the Masterplan's draconian suggestions on the SGP site in general and these residential apartments in particular can best be gauged by reiterating (for emphasis) the picture showing this as already provided ahead of the Commentary.

That picture, shown again below, speaks the proverbial thousand words



No doubt the residents will wish to add to what they have already said in this regard in their previous submissions to the PA, namely

"This Map does not seem to have any height designation for the Cresta Quay area. This is worrying and the situation needs to be established and an equitable agreement reached. The area directly in front of the St George's Park flats that overlook the Bay and the road is designated 'leisure uses at St George's Bay NHPV07". On the next map PV2, the height of this area is restricted to ONE FLOOR. IF this area is developed it should be to widen the road in and out of Paceville rather than anything else"

What the SGP residents will also no doubt find to be particularly unacceptable in this regard (and this is definitely so on the part of the remaining SGP site owners) is the fact that at the Standing Committee meeting of 12 October 2016 the owner of Cresta Quay stated that the tall buildings were not something that he had proposed in his submissions to the PA but was the result of the expert consultants' findings.

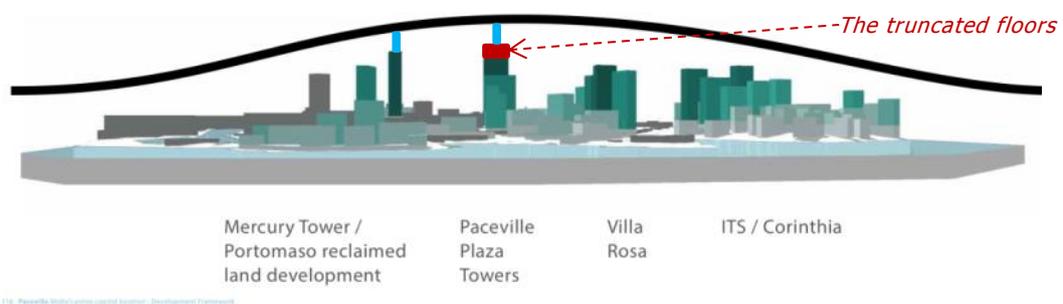
In the meantime, pending rectification, it can be readily seen that the Masterplan's proposals will effectively ensure that the following assertion in the Masterplan itself will no longer remain true *The three blocks to the north are residential with a number of apartments affording great views to the bay and beyond*

This type of misrepresentation goes beyond being just vexatious but it is again appropriate to make reference here to the assurances given in Standing Committee that the proposed framework is not cast in stone and that it is amenable to change. It is therefore just left to augur that this clear injustice will be remedied ahead of the Masterplan being finalised.

Building Heights

With regard to **Building Heights**, there are two aspects that bear commenting on, namely the distribution of the various heights so as to produce the most sensible, and not just iconic, skyline and the utilisation of height to signify and mark the most important areas.

The height distribution proposed in the Masterplan is exemplified by the aforesaid 'dome' featured at page 116 of the Masterplan. This, possibly unwittingly, does itself show that the focal emphasis properly accrues to the SGP site, not Mercury House. Yet the Masterplan truncates the SGP height.



It must be said in this regard that the SGP site does not need a 'dome', to establish it as being at the centre of Paceville, thus meriting to have the highest buildings, and be truly the landmark site of Paceville, underlining its historical prominence and in recognition of its leadership in the introduction of high rise buildings and the recent launch of an iconic business centre (featured on the next page).

It also bears stating that the dome is not necessarily the best way to regulate the tall buildings distribution if only because it could well be counter-productive to the efforts of international architects to fashion for each project iconic buildings rivalling those in London and Manhattan

In any case, the SGP site is well recognised to have a long running history of successfully developing sustainable buildings which may be summarised as shown here.

Indeed, SGP's historic pedigree in relation to prominence and eligibility for tall buildings was for decades unrivalled and has not remained so only because of the height restrictions imposed by the PA when constructing Aragon House, albeit that it was not projected to go as high as the Portomaso Tower.

The location, prominence, history and topography of each site (ie the basic eligibility factors) should have been taken into account when addressing Building Heights allocations, and the SGP site accorded its just due.



Accordingly, some further comment appears to be justifiably necessary with regard to the height allocation envisaged for the St George's Park Site, namely:

- (a) It constrains the allocation of a sufficient GDF for the overall area.
- (b) On the basis of the Masterplan's own recommended 'dome' effect, the restriction of the building height to below that of Mercury House is technically flawed because the SGP site is located under the highest point of the 'dome' as well as being in the centre of the area reviewed in the Masterplan and SGP should therefore have its prominence acknowledged rather than devalued.
- (c) It bears adding that the height of buildings should be related to the size of the actual footprint of the building, therefore affording greater heights to buildings having larger footprints. The proposed fragmentation of the SGP site certainly does not permit this to happen.
- (d) It is inopportune because it could effectively sabotage any chance of a meaningful negotiation whereby sufficient space could be generated at ground levels to facilitate a projected internal open space effect, on lines similar to the Piano building effect at City Gate, with the difference that the area underneath the building remains privately-managed property with pre-agreed uses to ensure sustainability over time and having a mix of open and glass-enclosed areas.

4} B (c) - Location of Storm Reservoirs

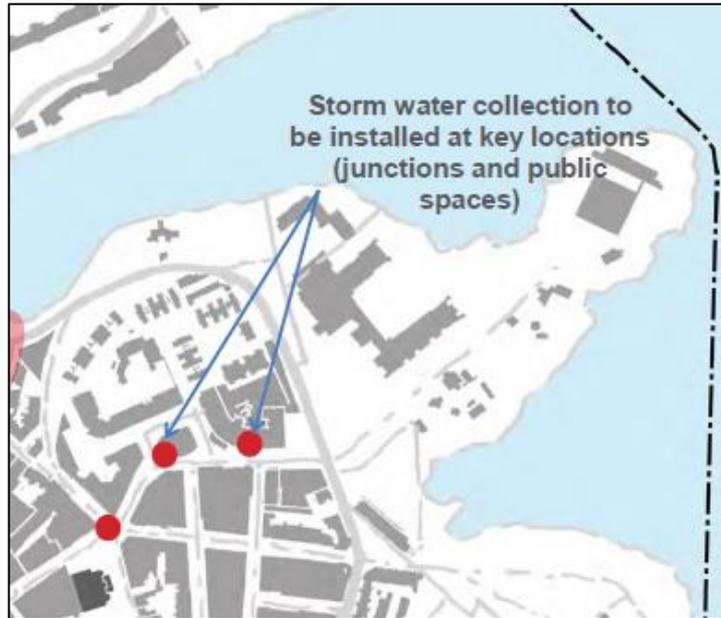
Although not included in the actual Framework document it appears from a separate Presentation document that 3 storm water collection reservoirs are proposed alongside the SGP site as shown below and in this regard it bears mentioning that the three collection points shown are the only ones in the entire area.

One hesitates to speculate on the reasons why the SGP site has been selected for this special purpose.

However flooding cannot be one of them as the areas shown have never been prone to flooding.

The need for these reservoirs seems yet again to derive from some theoretical notion of a planner who has no knowledge of what the true situation is on-the-ground.

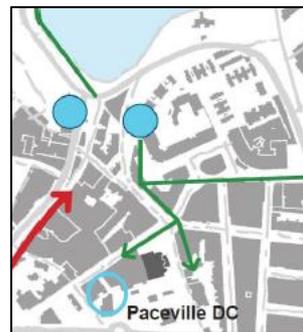
In any case SGP cannot but strongly object that even in such a matter its private property is casually treated as though it were public land.



4} B (d) - Location of DC Power site

Yet again, even here, the planners have selected the SGP site for special consideration.

Even here, therefore, SGP has to register its justified protest at what cannot but continue to appear to be a deliberately engineered butchery of the SGP site



4} B (e) - Pedestrianisation areas, the tunnel and parking restrictions

SGP supports the concept of pedestrianisation and in fact its proposals had sought to assure that this would be facilitated by the construction of a tunnel from the Regional Road to its site so as to absorb, seamlessly and unobtrusively, all road traffic accessing its proposed development.

As already remarked, the Masterplan's Option 2 contemplated a network of such tunnels and we cannot but reiterate that the reasons given for abandoning that sensible route do not in our opinion stand up to marketing scrutiny and, if due to developer objections because of cost, such objections were certainly not ours as we were not consulted, no doubt because we had suggested it ourselves.

If such a sensible solution remains discarded, and we would urge that this should not be so, it would be quite silly, as the Masterplan proposes to hamper in any way free and easy access to existing car parks, on site as for the residential apartments, and in the car park underlying the Aragon House Business Centre.

4} B (f) - Land use restrictions

One of the key requirements to assure the operational viability of any project is that of being able to react quickly and efficiently to satisfy evolving market needs.

Otherwise a rundown, abandoned and dilapidated environment will inevitably result to the detriment not just of an individual project but also it's surrounding areas.

Accordingly, planners who are sensibly alert to such a futureproofing requirement will opt for open plan structures even though this type of construction entails higher up-front costs.

However, such higher costs are a necessary investment so as to ensure that the buildings will have *the ability to adapt and accommodate change over time* – this being the prudent pre-requisite quoted above from the City of Toronto's Tall Buildings Design Guidelines – Toronto 2013.

It clearly would be nonsensical to incur such heavy costs to assure ongoing viability and then have it all squandered by unduly restrictive land use constraints.

Admittedly different land uses create varying infrastructural pressures but this is just to say that appropriate infrastructural futureproofing should also be done and not that land uses be restricted to a planner's short-sighted vision, thus jeopardising ongoing financial viability (even to the detriment of tax revenues).

With a view to obviating lame duck projects that end up by damaging their neighbouring projects, each project must be capable of ensuring its own ongoing viability and this is why a flexible multi-use regime should be strenuously advocated by the PA rather than seek to perpetuate its own power base by retaining absolute and total control over land use.

This is a crucial show-stopper issue for any sensible investor.

A good plan is a market driven plan not a litany of utopian aspirations.

4} C - Gas storage

With regard to **Gas storage**, the Masterplan does not provide for the future possibility of utilising a piece of government currently owned property as a gas storage area and installing an underground gas distribution network. One possibility is to use the area currently used by the Armed Forces of Malta for target practice training over one of Malta's most important local sea channels.

This could service the existing and future catering establishments

Currently, a few of these establishments located within particular areas are serviced by private gas storage facilities while the majority of the smaller establishments are serviced by multiple portable gas cylinders.

Power

[Masterplan Page 25](#)

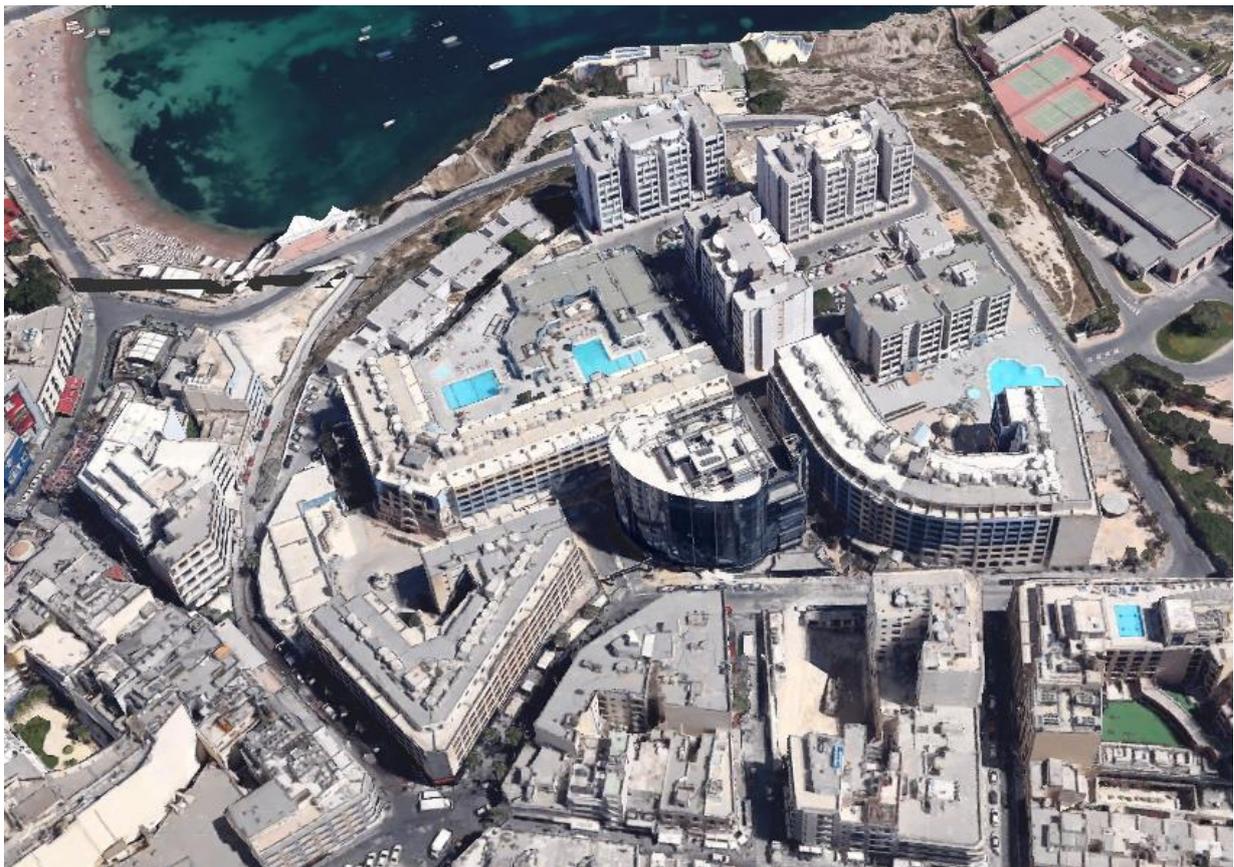
The proposed electrical energy strategy for Paceville describes a sustainable infrastructure approach that will meet energy demand from the forecast future developments and the neighbourhood's expected additional residents, visitors, and business.

The Maltese power system is owned and managed by Enemalta, a fully vertical organisation active on all utility, transmission, distribution, and retail levels. Energy demand is predominantly satisfied through grid provided electricity in the region. Cooking, heating and air-conditioning are mainly based on electrical energy as there is no gas infrastructure supplying the area.

4} D - Fire Hydrants

The Masterplan also does not contemplate **Fire Hydrants**, and, accordingly does not provide for:

- (a) strategic multiple back-up filling points located at the far ends of the area where emergency water bowsers can easily feed the system if Water Services Corporation cannot guarantee the water supply whenever this service is required. This system could regularly be utilised to wash down pavements and the pedestrian paving.
- (b) an appropriate kerb side drain system enabling the foul water from the regular washing of pavements and pedestrian areas to be drained into settling tanks before draining into the sea. This is particularly required in every area where catering establishments are to be located.



5} Moving forward

In summary, it will be clear that this Commentary suggests that in respect of quite a few important aspects the Masterplan is ill-considered, misguided, unfair and grossly unjust, apart from being clearly not fit-for-purpose.

In fact it is difficult not to conclude that all the Masterplan set out to do was rubber stamp certain projects 'ready-for-sale' while other developers/residents and businesses have had to waste time, money and energy in trying to protect their rights.

Indeed while posing as a vision for Paceville the Masterplan is nothing but an expensive attempt to whitewash the delivery, for free, of the Mercury site to Mr Portelli and company and to secure for the public what it is already entitled to by taking land from us.

It is of course not just us who have expressed concerns on the bias that is self-evident in the Masterplan and in this regard we can but quote:

Mr Philip Fenech, president of the GRTU's leisure section

Our members suggest that this is being done to accommodate the Mercury House development, because for some reason the majority of expropriations will be within its parameter," Fenech said. "It will effectively accommodate Mercury House from both sides – widening the roads to improve access to it.

I agree that Paceville requires a masterplan and we are not against increased competition, but any new buildings should be designed to fit into what space is available and not the other way round. If there isn't enough space in Paceville for the Mercury House project, then it should be downscaled in size.

Mr Sandro Chetcuti, the head of the Malta Developers Association

The layout of where buildings will be constructed, the mix of uses on the relevant sites and the building heights determined by the master plan do not necessarily conform to what the developers were thinking of doing according to existing policies."

Another issue he raised was the fact that the master plan seemed to ignore any future developments in areas of Paceville other than the earmarked nine sites.But can people be blamed for believing this is a fait accompli when at least two developers of prospective high-rise projects are already taking bookings on apartments despite not yet owning the land and having no permits in hand?

Even so, and this in the spirit of seeking to move forward so as to progress the wish to regenerate, enhance and take forward the Paceville area that the Masterplan shares with the SGP redevelopment project outlines presented as often aforesaid in 2015 one must engage with the assurances given by the PA officials in Standing Committee that the Framework is "just a first draft" and is amenable to change in the course of the public consultation process.

This is even more so in the light of the reassuring statement by the Prime Minister in Parliament on 28 October 2016 that what needed to be changed would be changed.

In this regard we are confident that such change will be addressed by the PM in a way that will not permit devious methods to be devised whereby certain basic failings in the Masterplan may be allowed to be papered over and development permissions then issued which for example seek to dilute the power of the 2005 provisions regarding the piazza at Site 07 (Mercury House).

This is not an idle caveat because it has been commented to us in the course of our various consultations that Approved Development Briefs have been "downgraded" in recent legislation and this is one aspect that we have not had sufficient time to investigate so as to be able to continue defending by all available legal means the point made earlier in this document with regard to the 2005 Approved Development Brief when we stressed that:

"The need for a piazza was there in 2005 and it is still there, perhaps more so, today. The logic that a piazza should be created using what is, in effect, a public space was powerful in 2005 and remains equally powerful today, as does the logic, applicable today as in 2005, that one does not expropriate private land where a public space is available."

This is one of our core complaints that are submitted in this document and which, as we have already premised, we are confident will be duly understood to be an eminently valid objection that will be duly heeded.

It therefore becomes incumbent to end these interim submissions on a positive note, namely that of auguring that the far-reaching merits of the SGP project will be duly recognised such as to justify that the Masterplan be adjusted appropriately and thus enable that the phased redevelopment project on the SGP Site can be put back on track as when presented in August 2015.

In this regard, it will be necessary to be recognised that because they are investors for the long term the SGP site owners will, prudently, not be able to compromise on the elements that assure the project's sustainability over time. But this should not cause any problems for planners who share this overriding concern, as they too will no doubt aim to assure viability over the long term in the interests of all and not just the investors.

On their part the SGP owners will need to be sensitive to the Government's overarching objectives and these interim submissions already indicate a certain amenability in that regard. Indeed, they cannot but wish that they can realistically look forward to a situation where they can feel confident enough to engage further with their architects to deliver mutually desired and timely outcomes.

In this regard it is being assumed that the eventual Strategic Environmental Assessment will be addressed in such a way as to cater for all individual Environment Impact Analyses on a firm committed basis as, otherwise, the projects phased to occur later may find that they are bureaucratically held up or prejudiced, if not caused to be abandoned, and alternative sustainable investment opportunities sought overseas.

To progress further the positive note, we are confident that with goodwill a solution should be possible as from our experience it is possible to liaise effectively with Government Ministries who are amenable to listen and provide guidance driven by what a responsible administration cannot but prioritise, namely the common good, which it is always helpful to have outlined in an 'Approved Document' such as the Strategic Plan for Environment and Development - July 2015 (SPED 15).

In this regard, one cannot but take this occasion to welcome the efforts to promote an incentivising investment environment undertaken by the Minister of Finance and his team who in the latest Budget have in fact sought to promote the objectives of SPED 15 in regard to nationwide problem of parking, for those who wish to make such an investment to ease that problem, and which the Masterplan seems to have abandoned, strangely so as indeed pointed out by the Chamber of Architects in their Public Consultation Submissions (November 2016).



Appendix A

Range of uses

The SGP Project had envisaged that the project would, right from the design stage, need to keep in view the ability to cater over time with the following range of uses.

- Commercial retail with ancillary stores, loading and unloading, offices, staff quarters, etc.
- Multipurpose areas.
- Medical / Health Centre / Day Care Facilities / Pharmacy.
- Retirement Home.
- Chapel
- Car park.
- Public service garage with all the ancillary services.
- Tourist related services including but not limited to; travel agency, car hire, etc.
- Food hall/s, restaurants, bars, night clubs, discotheques.
- Leisure centre / spa / gym
- Casino, Gambling halls, slot machine parlours, etc.
- Hotels with all the ancillary services having star ratings of: three star, four star, five star and above.
- Fully furnished self-catering accommodation with all the ancillary services having star ratings of: three star, four star, five star and above.
- Residential accommodation with all the ancillary services.
- Fractional ownership.
- Business Centre consisting of various independent and shared office areas with all the ancillary services.
- Cultural / educational

Accordingly, open plan structures would need to be used even though this type of construction entailed higher up-front costs.

However, such higher costs are a necessary investment so as to ensure that the buildings will have *the ability to adapt and accommodate change over time* – this being the prudent pre-requisite quoted above from the City of Toronto's Tall Buildings Design Guidelines – Toronto 2013

Clearly such prudent upfront measures to futureproof the sustainability of the project would be rendered meaningless should use restrictions be imposed either at the start or during the project's life cycle.

One can but reiterate what is already said in the above Commentary, namely: *It is well recognised that due and proper thinking up front which applies tried and tested sensitivity analysis techniques will eventually facilitate efficiencies down the line and indeed could well make the difference between being able to make further progress, because enabled to respond effectively and in due time to evolving market needs, or be blocked and be doomed to eventual failure by a lack of appropriate futureproofing.*

The assurance that a project will not be shackled by vexatious bureaucratic delays is however but one of the parameters required to reassure potential investors.

Project parameters

Each project will have its own specific parameters driven by the size of the site being addressed, the funding available and the risk appetite of the potential investors.

However, each and every project will share implementation process concerns.

Site specific aspects

In the case of the SGP site the area was assessed to be large enough to accommodate a multi-use self-contained community concept. Indeed it was suggested that to fail to do so would be to miss an excellent opportunity to realise the full potential of the site and the benefits that could thereby accrue, beyond the interests of the investors and through to the overall economy.

Preliminary findings for such a forward looking vibrant project have indicated the following requirements:

- Minimum 330,000 sq.mt excl. retained buildings, hotel and floor area above the 40th floor
- Minimum 2,500 car park spaces
- Ongoing flexibility of a sufficiently wide range of permitted uses
- Project enhancement via utilisation of the foreshore in the location of the existing St George's Bay drainage pumping station
- Implement proposed solutions to the traffic problems with complementary infrastructural support

Note: as indicated in the Commentary the SGP Project had proposed the tunnel contemplated in Option 2 and SGP cannot understand the logic of this tunnel being dismissed by the Consultants in excluding it from their preferred Option 3

Implementation process aspects relevant to all sites

- Ad hoc compliance certificates (per floor and block)
- Cap of fees and direct control of relevant expenditure effected pro rata to the areas developed
- Construction works permitted 24/7 all year ensuring good neighbourly conduct
- Project integrity (permit validity etc) assured till completion of all phases
- An investment encouraging environment:
- Fiscal incentives, financial and other facilitators as outlined
- MSE Listing
- Listing as a Special Designated Area
- Foreign experts as needed
- An authoritative reference point, other than PA, to coordinate due and efficient processing of all the permits, utilities and services required to bring the approved project to fruition