

L.N. 71 of 2007

**DEVELOPMENT PLANNING ACT
(CAP. 356)**

**Development Planning (Procedure for Minor Modifications to
Subsidiary Plans) Regulations, 2007**

IN virtue of the powers conferred by subarticle (8) of article 28 of the Development Planning Act, the Minister for Rural Affairs and the Environment, after consultation with the Malta Environment and Planning Authority, has made the following regulations:

1. (1) The title of these regulations is the Development Planning Title.
(Procedure for Minor Modifications to Subsidiary Plans) Regulations,
2007.

2. (1) In these regulations, unless the context otherwise Definitions.
requires:—

“the Act” means the Development Planning Act;

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

“owner” means –

(a) a bare owner or the usufructuary or an emphyteuta;

(b) any one of the owners where the land to which the
application relates is undividedly co-owned.

(2) In these regulations any expression defined by the Act
has the same meaning as it has in the Act.

(3) No application for permission to carry out development
on any site included within the development boundaries in accordance
with the Partial Structure Plan Review published in the Gazette on 27th
February 2007, shall be validated or approved by the Authority before
an application in accordance with the provisions of these regulations
has been submitted and approved by the Authority:

Provided that for the purposes of this regulation, development
shall not include such development which does not increase the volume
or density of any permitted structures on the site in question:

Provided further that the Authority may validate and approve an application or permission to carry out development on a site included within the development boundaries in accordance with the Partial Structure Plan Review published in the Gazette on 27th February 2007, if the zoning, buildings heights and alignment of roads and buildings is provided for in a plan or policy approved by the Authority.

Changes to alignment or zoning in the official alignments or Subsidiary Plans or establishment of planning parameters in areas included by Structure Plan review.

3. Applications for changes to the official alignments or Subsidiary Plans which involve:–

(a) changes to the alignment of roads and buildings as provided in paragraph (a) of subarticle (4) of article 28 of the Act; or

(b) changes to the zoning as provided in paragraph (b) of article 28 (4) of the Act; or

(c) establishment of zoning, building heights and alignment of roads and buildings, to sites included within the Development Boundaries in accordance with the Partial Structure Plan Review published in the Gazette on the 27th February, 2007, shall be subject to the provisions set out in these regulations.

Requirements for all applications.

4. (1) An application submitted in terms of regulation 3 of these regulations shall be made to the Authority on a form provided by the Authority and shall be accompanied by the following and such other information as the Authority may require:

(a) three copies of an A4 extract from the latest survey sheet at 1:2500 scale outlining the scheme or Subsidiary Plan and the site boundaries;

(b) three copies of an enlarged survey sheet of a scale not smaller than 1:1000 outlining the proposed change;

(c) at least three colour photographs showing the site and its surroundings;

(d) legal proof of ownership of the land to which the application relates, including a title deed and the plan to which such deed refers.

Notification.

(2) Where the applicant is not the owner of the land or is not the sole owner, he shall certify to the Authority that:

(a) in the case applications submitted in terms of regulation 3 (a) of these regulations, he has notified the owner of each other property within the same street of his intention by registered letter and a copy of such letter shall accompany his application. This letter shall also have attached a map, signed by the applicant's architect and cross referred to the location of each ownership. The extent of the area of notification shall lie along the whole stretch affected by the change in alignment;

(b) in the case of applications submitted in terms of regulations 3 (b) and 3(c) of these regulations, he has notified all the owners of the site of the requested amendment or proposal, of his intention to apply. This shall be done through a registered letter and a copy of such letter shall accompany his application. This letter shall also have attached a map, signed by the applicant's professional agent and cross referred to the location of each ownership.

(3) Where the land to which the application relates includes land not owned or not solely owned by the applicant or if the proposed change is likely to affect third parties, the Authority shall also require the applicant to provide the following after the validation of the application:

Request of consent by other owners or third parties affected by the modification.

(a) in an application which involves a change to an existing alignment of roads or buildings, a written declaration signed by the third parties identified in regulation 4 (2) (a), that they have no objection to the proposed change. This declaration shall also be signed by the applicant's professional agent;

No objection in the case of an alignment.

(b) in cases where comprehensive planning is indicated in a subsidiary plan, a written declaration, submitted on a form specifically provided by the Authority, and signed by the owners of at least seventy five per centum (75%) of the current potential floor area on the site of the requested amendment and indicating that they have no objection to the proposed change. The 75% requirement shall be applicable to the whole parcel of land indicated in the aforesaid subsidiary plan and not to part thereof, except for land where the owners currently avail themselves of conditions which are similar or better than those indicated in the application. In cases where there are built units on a comprehensive planning site, the gross floor area of each built unit should be computed instead on the land area as indicated above;

No objection in the case of a comprehensive planning area.

No objection in the case of a site included within the development zone as a result of the Partial Structure Plan.

(c) in applications which are addressed to establish the zoning, building height and, or alignment of a site included within the development boundaries in accordance with the Partial Structure Plan Review published in the Gazette on the 27th February 2007, the requirements indicated in paragraph (b) hereof shall be followed;

(d) in an application for a change to the official alignment or for a change to a Subsidiary Plan except for cases indicated in paragraphs (a), (b) and (c) hereof and a written declaration signed by 75% of the third parties adjacent to the parcel of land on which the change is proposed that they have no objection to the proposal. To this effect, properties on the opposite side of a road are deemed to be adjacent properties. The Authority should guide in writing the extent of the properties from which third party consent would be required and the written declaration should be indicated on a form specifically provided by the Authority:

Provided that where the Authority considers it expedient it may request the submission of the legal proof of ownership of land owned by parties directly affected by the minor modification.

(4) The Authority shall also require the applicant to provide the following after the submission of the application:

(a) one copy of an official surveyed plan prepared by the Authority at the expense of the applicant showing the current alignment and the zoning according to the official alignment or Subsidiary Plans; and

(b) one copy, showing the proposed changes on the official surveyed plan mentioned in paragraph (a) hereof, signed by the applicant's professional agent, showing the proposed changes. The property boundaries of all affected parties are to be shown on the plan with reference to whom each land parcel pertains.

L.N. 112 of 1996.

(5) The said application shall also be accompanied by the fee as prescribed in the Building Levy Rates Regulations, 1996 or their subsequent revision.

Applications for changes to the alignment of roads and buildings in the official alignment or Subsidiary Plans.

5. (1) When an application involves a change to the alignment of roads and buildings as provided in paragraph (a) of subarticle (4) of article 28 of the Act, the Authority shall follow the procedure set out in this regulation.

(2) The Authority shall publish details of the application, including the name of the applicant, by a notice on site and in one local newspaper, giving the opportunity to interested parties to make representations, in writing to the Authority, within fifteen days of the date of the publication of the notice:

Provided that the Authority may, when it considers it expedient to do so, extend the aforesaid period up to thirty days and in such case it shall give notice of such extension in the said publication.

(3) The Authority shall serve a copy of the application and of the site plan on the local council in whose locality the site lies.

(4) The Authority shall determine the application not later than sixteen weeks from the date of receipt of all documentation and submissions in accordance with these regulations, provided that the period of time required for the preparation of the plans mentioned in sub-regulation (4) of regulation 4 of these regulations shall not be considered as forming part of this period.

(5) In determining the application, the Authority shall have regard to the official alignment or Subsidiary Plans, to representations made in response to the publication of the application and to any other material consideration.

(6) The Authority shall have the power to grant or refuse an application, and in granting such application, it may approve the proposal with or without modifications as it deems fit, but the Authority shall give reasons for its refusal or for any modifications imposed by it:

Provided that where the Authority decides to modify the proposal, any person who has made written objections to the proposal shall be informed by the Authority and shall be invited to be present at the Authority's sitting when such application shall be discussed.

(7) In the cases mentioned in subregulations (2) and (3) of regulation 4 of these regulations, the Authority shall have power to decide the application notwithstanding that it is not accompanied by the declaration signed by the third parties in terms of the said regulation 4, if, in the opinion of the Authority, it is in the public interest to have these changes made as requested or by amendments.

(8) The Authority shall communicate its decision to the applicant, and to any third parties who made representations on the application in accordance with subregulation (2) of this regulation, not later than two weeks from the date on which the decision was made:

Provided that the decision shall not be communicated in accordance with the provisions of this regulation until the applicant has paid the relative fees established from time to time by the Authority to cover the share of the expenses set out by the Authority related to the infrastructural contributions.

Changes proposed by the Authority to the alignment of roads and buildings in the official alignment or Subsidiary Plans.

6. (1) The Authority may, where it considers it expedient to do so in the interests of proper planning of the area and having regard to the official alignment or Subsidiary Plans, the Structure Plan and other material considerations, make changes to the alignment of roads and buildings of the official alignment or Subsidiary Plans.

(2) In the case mentioned in subregulation (1) of this regulation, the Authority shall follow the procedure set out in subregulations (2), (3) and (5) to (8) of regulation 5 of these regulations.

Applications for changes to the zoning in the official alignment or Subsidiary Plans.

7. When an application involves a change and, or establishment of zoning as provided in paragraph (b) of subarticle (4) of article 28 of the Act, the Authority shall follow the procedure set out in paragraph (b) of subarticle (6) of article 28 of the Act.

Repeals L.N. 27 of 2002.

8. The Deveopment Planning (Procedure for Minor Modifications to Subsidiary Plans) Regulations, 2002 are hereby repealed.