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Environment & Resources Authority

EIA Team

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**Submissions relative to the EIA on the Magħtab Incinerator
(Waste to Energy facility) 2nd public consultation**

I am presenting the following submissions on behalf of various stakeholders.

Having read through the second Environment Impact Assessment made available on the 25 April 2021¹ relative to the Magħtab incinerator, a waste to energy facility, currently subject to public consultation, the following comments are being submitted for the consideration of the Environment and Resources Authority (ERA).

Conflict of Interest

It has been noted that ERA has instructed Wasteserv to resubmit the EIA under the direction of a different EIA coordinator. This is addressing the basic submission resulting from the first public consultation when it was emphasised by the undersigned that the then EIA coordinator had a conflict of interest which vitiated the whole process.

¹ Documentation downloaded on 27 April 2021 from: <https://era.org.mt/era-project/pa03012-20/>

It was also, in addition, then submitted that one of the contributors to the EIA studies, namely Professor Alan Deidun also had a conflict of interest resulting from his membership of the ERA Board, the decision taker relative to the EIA process. It has been observed that the contribution from Professor Alan Deidun still forms part of the new EIA.

Addressing issues of conflict of interest in the EIA process is crucial as failure to do so erodes the little confidence which still exists in authorities such as ERA. This is so fundamental that the Maltese EIA regulations² establish that the consultants carrying out the EIA report must be “professionals, independent and impartial”.³ In addition, it is further laid down in these same regulations that the consultants “shall be required to sign a declaration that they have no conflict of interests that may affect any aspect covered by these regulations.”⁴

I have once more observed that the declarations actually signed by those involved in the EIA under consideration do not follow what the EIA regulations carefully instruct. The regulations state that there must be “no conflict of interests” while the declarations signed limit the scope of the declarations submitted to an interest or interests in the development itself. In Appendix 1, I include an extract from the regulations and one of the declarations submitted. I have selected that of the EIA coordinator himself.⁵

The conflicts of interest of relevance are much wider and deeper than the development itself, as after all is envisaged by the wording of the EIA regulations. The former coordinator was comfortable with the declaration which he signed but his interests contrasted to the EIA Regulation requirements on conflicts of interests. When ERA requested Wasteserv to replace the original EIA coordinator it implicitly accepted this interpretation. It now needs to be consistent and apply its interpretation across the board.

ERA should ensure that the declarations submitted in this respect are amended accordingly and brought in line with the EIA Regulations. Any person who is not in a position to sign a written declaration as specified in the EIA Regulations cannot be considered as a legitimate contributor to the EIA process.

² Legal Notice 412 of 2017, Subsidiary Legislation 549.46: Environmental Impact Assessment Regulations

³ Ibid sub-regulation 17(2)

⁴ Ibid sub-regulation 17(3)

⁵ Vide Appendix 1

Without prejudice to the above the following additional comments and observations are also submitted:

Disclaimer

In the original EIA submitted by former EIA co-ordinator Mario Schembri, we were informed that the EIA documentation had been prepared for the exclusive use of Wasteserv Malta Ltd.

It is noted that this disclaimer has now been removed.

It is a duty of Wasteserv Malta Limited, as the developer, to examine the environmental impacts of its proposal within the framework of agreed terms of reference approved by ERA. The detailed reports together with the supporting technical information are then subject to public consultation.

The EIA in respect of the Magħtab incinerator is commissioned by Wasteserv Malta Ltd, however it serves to inform the whole decision-taking process. Contrary to what was stated in the disclaimer by the former EIA coordinator in the first few pages of the original EIA, the reports forming the EIA are not “for the exclusive use of Wasteserv Malta Limited”. They are specifically intended for the perusal of both the public as well as the regulatory authorities.

The removal of the disclaimer is thus a positive development.

Objective

The objective of this public consultation in considering and discussing the EIA relative to the Waste to Energy facility at Magħtab is to consider whether the studies examine the options in sufficient depth as well as whether such options are adequately analysed. Furthermore, it

has to be considered as to how and to what extent all this figures within the parameters of the Waste Management Strategy.

The issue is not just as to how to dispose of the waste generated. It should also consider whether we require more effort to implement a waste minimisation strategy in parallel with the Waste to Energy proposal. The incineration process should thus, in the way it is administered possibly also contribute to a minimisation of the waste generated. An adequately implemented Waste Management Strategy would reduce the need for incineration. Incineration should not be seen as the solution to a lack of implementation of the waste management strategy. It is not the magic rod which absolves the Maltese community from its environmental deficiencies.

Within this context it is respectfully submitted that the incineration implementation process needs to consider in more depth the potential of the regionalisation aspect of waste management. This, if properly carried out, would establish a more direct link between the resident (or commercial outlet) generating the waste, and the waste facility. Each region⁶ should shoulder the impacts of the waste which it generates. This introduces an element of fairness into the equation of waste management but it also creates an incentive for each region to reduce the waste which it generates.

This link between the waste generators and the waste facility is missing. If this is established, in the long term, the waste generated at all levels will be definitely reduced to the benefit of all through the creation of a healthy competition based on a clear rule: each region is to be responsible for the waste which it generates.

Site Selection

The two site selection reports which were missing in the original EIA have now been made available. The site selection exercise is of crucial importance in this and any other public consultation.

⁶ Regions are established in terms of the Local Government Act (Cap 363). The Eleventh Schedule establishes five regions, namely: The Gozo Region (14 localities), Northern Region (12 localities), Central Region (13 localities), South Eastern Region (15 localities) and the Southern Region (14 localities). In terms of sub-article (4) of article 37A of the Act the geographical distribution of the regions "shall be officially recognized by any entity whether governmental or not."

The SLR site selection report⁷ dated December 2015 identifies eight different sites⁸ namely:

1. Area near Magħtab Distribution Centre, Baħar iċ-Ċagħaq
2. Area within the Magħtab Enviromental Complex, Baħar iċ-Ċagħaq
3. Area next to Ta' Barkat Sewage Treatment Plant Xgħajra
4. Area next to Sant' Antnin Water Treatment Plant Marsaskala
5. Area near the Delimara Power Station Delimara
6. Area within the Industrial Estate of Ħal-Far
7. Area within the Luqa Industrial Estate Luqa
8. Area next to the current abattoir at Albert Town Marsa.

These were assessed on the basis of the basis of four criteria⁹, namely:

Criterion A : size of site

Criterion B: policy

Criterion C: proximity principle

Criterion D: technical requirements

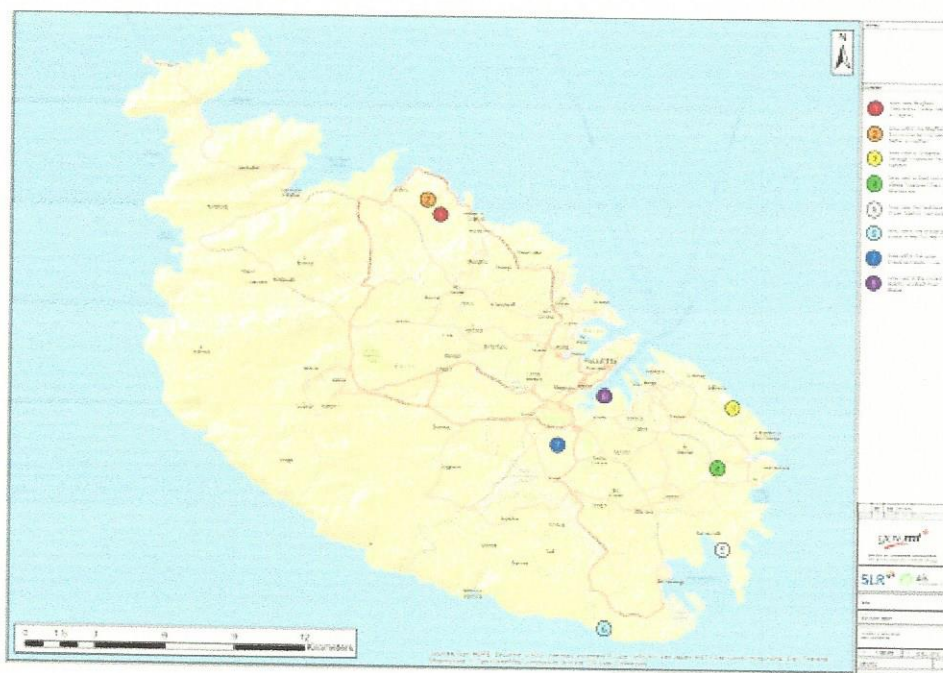


Figure 1: Map showing location of eight proposed sites¹⁰

⁷ Appendix XIV, Volume I of EIA

⁸ Ibid page 1

⁹ ditto

¹⁰ Ibid page 8

On this basis the report whittles the choice down to the two Magħtab sites as these “present the least constraints”.¹¹

The second site selection report, subsequently opted for the areas within or directly adjacent to the Magħtab Environmental Complex.¹² Four areas were shortlisted, namely:

Site 1 : to the north west of the landfill complex, within the 20-year search area for landfill expansion,

Site 2 : agricultural land parcel to the east of the landfill complex, where tree cover is negligible,

Site 3 : agricultural land with extensive tree cover to the east of the landfill complex, and

Site 4 : agricultural land in immediate proximity to third party property, to the west of the Żweġra landfill.¹³

If waste management regionalisation is considered the site selection exercise would necessarily have to be revisited.

Regionalisation

The applicant and his advisors considered very briefly whether to have a centralised facility or else whether decentralised facilities ought to be considered. Unfortunately, the Coordinated Assessment considers this very briefly and concluded in favour of a centralised option primarily on the basis of the financial outlay required.¹⁴

The coordinated assessment and linked studies do not analyse the matter in any depth. They consider it as an a priori decision.

In the Options Analysis report¹⁵, the only available report which refers to the issue, the emphasis is on an economy of scale, including the cost of maintenance. At no point is an in-depth analysis made as to the actual environmental impacts if decentralisation were to be taken in hand. The sweeping and

¹¹ Ibid page 43

¹² AIS : Site Selection Report for a Waste to Energy Facility in Malta. November 2019.

¹³ Ditto page 2

¹⁴ Coordinated Assessment page 96: “A centralised facility offers greater advantages than a decentralized one. It’s much more economical to operate from a centralized facility. Capital and maintenance costs should also be smaller when compared to a decentralized one.”

¹⁵ Report 1: Options Analysis Report: Appendix XIV Volume 1 (Preliminary Studies)

general statements¹⁶ made are insufficient and cannot be considered as in any way conclusive. In this respect the EIA is deficient.

At no point is the option of regionalising waste management considered in any detail. This would have a considerable bearing on the applicability of all the criteria applied, in particular those relative to size (criterion A), proximity (criterion C) and technical requirements (criterion D).

The consideration of regionalisation of waste management would also signify that the regions generating most waste would have to deal with it themselves within the regions instead having to depend on centralised facilities. This could also lead to local councils in the different regions having to shoulder the success or failure of waste minimisation policies in the different localities around the Maltese islands.

Successful outcomes would lead to low rates of waste going to incineration while unsuccessful outcomes would lead to high rates.

The regionalisation of waste management as a policy tool of significance is completely ignored in all the documentation submitted for public consultation. While such an option would undoubtedly signify a greater financial outlay, it could, over a reasonable time-frame, result in engaging the public significantly more than at present in the consideration of waste management options.

These considerations are not dealt with neither in the site selection reports nor in the reports¹⁷ forming part of the EIA. As a result, there is a lack of information on which to base an eventual decision as to which site or sites should be selected for the incineration process.

In addition, in order to carry out adequately such an analysis more up to date background studies are required. The waste characterisation study made available¹⁸ as part of this EIA was carried out in 2015, way before organic waste started being collected separately. In fact, the said study indicates that food

¹⁶ "The benefits of several decentralised facilities include lower profile buildings, lower stack height, less localised impact such as noise, traffic movements etc. though environmentally the overall impact could be considered to be higher for two facilities rather than a single facility." Ibid page 28

¹⁷ The Basic Design Report, The Technical Feasibility Study Report, The Technological Alternatives Report, all forming an integral part of the EIA documentation made available for public consultation ignore the issue of decentralisation/ regionalisation completely.

¹⁸ Study is entitled: Determination of Physical and Chemical Parameters – Waste Composition Analysis and Characterisation Report. April 2015 Appendix XIV Volume 1 of EIA documentation.

waste constituted 44.4%¹⁹ of the samples analysed. Since then matters have changed for the better, although there is still room for improvement.

In addition, the waste characterisation study was carried out during the low season and the selected samples were unrepresentative²⁰. Specifically, no Gozo or Northern locality features in the selected sample.

Conclusion

In view of the above, in conclusion, it is submitted that:

1. All conflict-of-interest declarations should be brought in line with the provisions of regulation 17(3) of the regulations²¹ as above quoted,
2. The decentralisation/regionalisation of waste management should be analysed in depth in a revised EIA and consequently a realistic alternative to the centralised incineration requested by applicant should be also considered.



**Carmel Cacopardo B.E.&A., M.Sc. (Staffs), P.I.E.M.A.
Architect & Civil Engineer**

¹⁹ Ibid p.16 Table 3-1

²⁰ Ibid pp12-13

²¹ Legal Notice 412 of 2017, Subsidiary Legislation 549.46: Environmental Impact Assessment Regulations

Appendix 1: Conflict of Interest

Extract from EIA Regulations as amended

(Legal Notice 412 of 2017, Subsidiary Legislation 549.46: Environmental Impact Assessment Regulations)

17.

(1) The developer shall be responsible for commissioning an EIA report in accordance with these regulations. Assessment consultants.

(2) The consultants carrying out the EIA report shall be professionals, independent and impartial, and shall be duly competent experts in the respective areas of the assessment. The consultants shall be registered in accordance with the provisions of the Act once such registration mechanism enters into force, and must also follow the regulations, procedures, rules and guidelines established by the Authority and by the Registration Board. The consultants shall be led and managed by a coordinator, who shall be responsible for the overall content and presentation of the EIA report.

(3) The consultants shall be required to sign a declaration that **they have no conflict of interests that may affect any aspect covered by these regulations**. Such declaration shall follow the terms and specifications established by the Authority.

Declaration by Coordinator

Signed Declaration: Conflict of interest

Signed declaration in accordance with sub-regulation 17(3):

This declaration is to be submitted with each environmental survey report forming part of the EIA.

Attn: Director of Environment and Resources (ERA).

I, Joe A Doublet, hereby declare that, I have no personal or financial interest in the proposed development. Moreover, I declare that I am not in any way associated with any individual, company, association or grouping that has any direct or indirect, personal, professional or financial interest in the proposed development.

5/4/2021

Date

Signature