



MALTA

**QORTI TA' L-APPELL**

**ONOR. IMHALLEF**

**MARK CHETCUTI**

Seduta tat-8 ta' Ottubru, 2014

Appell Civili Numru. 38/2013

**Francis Xavier Tabone ghan-nom**

**ta' Port Estates Limited**

**vs**

**L-Awtorita ta' Malta dwar l-Ambjent u l-Ippjanar**

**Il-Qorti,**

Rat ir-rikors tal-appell ta' Port Estates Limited tat-22 ta' Meju 2013 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tat-2 ta' Meju 2013 fejn it-Tribunal ikkonferma s-

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scheduling boundary tal-area maghrufa bhala Ghajn Barrani fil-limiti taz-Zebbug u x-Xaghra, Ghawdex skond GN 935/2006;

Rat ir-risposta tal-Awtorita li ssottomettiet li l-appell ghandu jigi michud u d-decizjoni tat-Tribunal konfermata;

Rat l-atti kollha;

Rat id-decizjoni tat-Tribunal li tghid hekk:

Ikkunsidra:-

Dan huwa appell minn decizjoni, wara reconsideration, li saret mill-Bord ta' l-Awtorita' fl-4 ta' Lulju, 2007, biex izzomm u tikkonferma ix-scheduling boundary ta' l-area maghrufa bhala Ghajn Barrani fil-limiti Taz-Zebbug u x-Xaghra, Ghawdex, kif publikat fil-GN 935 tas-sena 2006.

Fl-appell tieghu, il-Perit Micallef, ghan nom tal-appellant, jaghti s-segwenti ragunuijiet ghal dan l-appell:

"My client's site has been included within an area of Level 3 buffer zone and scheduled as an area of High Landscape Value.

On behalf of my client, I am filing an appeal against this decision for the following reasons.

1) Firstly it is being made clear that this is not an appeal against the scheduling of the area of Ghajn Barrani. It is an appeal against the boundary of this scheduling in so far as it affects a small area abutting the development zone on both sides and enclosed by existing developments.

2) My client's site (shown in red on attached site plan) in fact consists of a vacant plot of land having a frontage on the West on Triq is-Sajjieda. It is sandwiched by

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developments lying within the development zone on both sides. To the South it abuts a 4 storey high blank party wall of an apartment block development. To the North is another development lying within development zone.

The entire street on the opposite Western side of site lies within the development boundary and is built up.

The site is hence enclosed by developments lying outside the buffer on all 3 sides - North, South and West. ONLY THE SMALL STRECH OF LAND SHOWN IN BLUE ON ATTACHED SITE PLAN IS NOT YET BUILT. The development of this stretch of street would consolidate the street development and we see no planning justification as to why only this small stretch of the street is still needed as a scheduled buffer zone. Said decision is unreasonable, unjustified, unfair and objectionable.

3. Site qualified as an infill pocket under the cabinet memo criteria for inclusion GROUP 1 (Gozo), namely criteria 2 for sites at the end of a row of development which is currently within the TPS. This clause requires that the released frontage does not exceed 30 m. Therefore a 30 m frontage should have automatically been released from each side (North and South). The other requirement, namely that site lies directly opposite land which is within the TPS scheme is also satisfied.

Site also qualified under all of the criteria group 1 nos a-k as it has no agricultural, historical or ecological value and is not located on a ridge. To the contrary it consists of wasteland with scattered building material from the developments on adjacent plots.

Indeed a similar area to the South has been included within development zone in the rationalisation exercise whilst my client's site has been left out. Applicant is in fact contesting his rights under the cabinet memo in court. The inclusion of applicant's site with a scheduled area at this stage might now compromise my client's position.

4. Furthermore, part of site (10 m East of the Southern party wall) currently qualifies for a DZ edge development as confirmed in the cabinet memo for the rationalization of development boundaries which states that :

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“Not all end plots and proposed minor amendments to the Temporary Provisions Schemes indicated in the draft public consultation Local Plan documents are show. Unless otherwise specifically indicated, scheme boundaries ending in blank party walls are considered to generally qualify for an additional edge plot with a lateral side garden.

The scheduling is therefore contrary to such permitted development.”

5. Moreover the site is located in an area which is designated for tourism development in the structure plan, and hence qualifies for such a tourist development.

6. Based on the above applicant contends that his site should be excluded from the scheduling boundary as this will is not necessary to ensure the protection of the scheduled area located to the East. The exclusion of my client's site would still leave a buffer zone of circa 250 m from the level 2 scheduled area, which distance is still greater than that left to the North and South of site.”

Fir-rapport taghhom, tas-27 ta' Awwissu, 2007, Richard Lia u Michelle Borg ghall-Awtorita', jaghtu r-ragunijiet ghaliex fl-opinjoni ta' l-Awtorita dan l-appell ghandu jigi michud. Dan ir-rapport kien gie modifikat u estis biex jiehu kont ukoll tar-rapport li ghamlu l-EMPD u sottomess mill-gdid fl-20 ta' Awwissu, 2009.

Fit-tieni rapport tal-Awtorita', tal-20 ta' Awwissu, 2009, Richard Lia u Joseph Magro Conti jaghtu r-ragunijiet ghaliex fl-opinjoni ta' l-Awtorita dan l-appell ghandu jigi michud. Is-seguenti huma siltiet minn dan ir-rapport li t-Tribunal jhoss ghandhom jigu ssottolineati:

### “1. Introduction

1.1 The Scheduling of Ghajn Barrani area was approved by MEPA Board on the 7th September 2006 and published in the Government Gazette of the 7<sup>th</sup> November 2006 (GN 935/2006). A site was subsequently included within the development zone boundary by the Standing Committee on Development Planning, and had to be removed from the scheduling boundary to avoid conflicting designations. Part of a licensed quarry boundary was also removed from the scheduling boundary. Following Ministerial endorsement the revised scheduling boundary was published on the 6th May in GN 369/08, showing the relevant descheduling details.

1.2 The scheduling boundary encompasses a variety of geomorphological features and associated vegetation communities that are deemed to be of both geological and ecological significance. The scheduling affords the highest level of protection to the freshwater springs along the clay slopes and their associated vegetation communities (Level 1 AEI/SSI), whereas the contiguous coastal cliffs, boulder screes, escarpments and promontories are assigned a Level 2 degree of protection. The surrounding areas are scheduled as a Level 3 buffer zone. Whereas the entire area is scheduled as an Area of High Landscape Value.

1.3 In accordance with Section 46 (2) of the Development Planning Act (1992) all known property owners within the scheduled area were notified by correspondence dated 8th January 2007.

1.4 On the 11th December 2006 Dr. John Refalo LL.D obo Mr. Francis Xavier Tabone/Post Estates Ltd. Submitted a request for reconsideration of the scheduling boundary. Mr Tabone later submitted another request for reconsideration on the same site obo Port Estates Ltd. On the 12th February 2007.

1.5 The two objections refer to a pending application for development permission (submitted within this site by Mr. Tabone) to construct 36 flats and garages (PA 2674/06). The objector claims that "the land is capable of development according to current applicable planning policies and is heavily committed by encroaching development. Inclusion of site was not strictly require to achieve the required conservation level. It constitutes restriction on the property and constitutes expropriation.

1.6 The objector also remarked that "The site qualifies as a building site as it qualifies the criteria for an infill site set out in the rationalization Cabinet Memo, being located between blank party wall at the end of scheme with the opposite side of the street being developed. Site is already heavily disturbed as a result of the surrounding developments and has no ecological value.

1.7 The Environment Protection Directorate assessed the request for reconsideration and recommended the retention of the scheduling boundary as published in GN 935 of 2006 since:

(i) the scheduling on this site is aimed to act as a buffer to the more important sites and forms an intrinsic part of the wider Area of High Landscape Value and:

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(ii) the scheduling boundary does not overlap with the development scheme boundary. In fact, the scheduling boundary is aligned with the limits of development as approved.”

### “2. Justification of the Scheduling on Site

2.1 This site was not included within the scheme rationalization boundary. It is located outside development zone and within a Strategic Open Space Gap as defined by the approved Gozo and Comino Local Plan (Policy GCLP Policy GZ-SETL-2. Current policies may only allow residential development (as proposed by the applicant in PA 2674/06) within approved limits to development.

2.1 The appellant had already submitted a request to include this site for inclusion within the development zone through the scheme rationalization exercise (PSPR No. 385). This request was not accepted.”

2.2 The Explanatory Note attached with the set of maps approved by the Standing Committee on Development Planning States, vis-à-vis end plots, that:

“No all end plots and proposed minor amendments in the Temporary Provisions Schemes indicated in the draft public consultation local plan documents are shown. Unless otherwise specifically indicated, scheme boundaries ending in blank party wall are considered to generally qualify for an additional edge plot with a lateral side garden but these would need to be determined on a case-by-case basis.”

2.3 The site is located within the Level 3 Buffer Zone and within a wider Area of high Landscape Value. Although buffer zones may include features of ecological importance, their aim is to preserve the integrity of habitats/species/features in adjacent sites, hence may also include sites that are not of ecological value per se. the scheduling boundary is aligned either with defined physical boundaries and/or with the official and final development zone boundary of 2006.

2.4 The site remains outside development zone and hence is not deemed developable even if it had to be removed from the scheduling boundaries.

### “3. Specific comments on the ecology survey

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3.1 The ecology survey confirms the reasons why appellant's request was not incorporated within the development zone in that it would involve significant excavation of clay (criterion i) (Re No. 385. Source: <http://www.mepa.org.mt/PlanningAuthority/developmentboundaries/response.htm>). The presence of Esparto Grass (*Lygeum spartum*) within the site boundary further attests the presence of the clayey substratum. *Lygeum spartum* is a clay-binding species of grass that is typically found along clay outcrops. It should be noted that the plotted distribution of *L. spartum* as shown on in the ecology survey map is incorrect. In fact, *L. spartum* extends way beyond the rubble mound as confirmed during a follow up inspection on 24th September 2008. A voucher specimen has also been collected from the site boundary close to the adjacent steep flight of steps.

3.2 The incorporation of wetland species from the site into 'an engineered wetland or pond habitat in any development proposal, as suggested by EMDP (para 5.1) is tantamount to the obliteration of natural habitats, which cannot be created artificially – at least not the underlying processes that sustain natural communities. It is not a matter of translocation of vegetation, natural systems contain a whole suite of supporting mechanisms including microorganisms that form a crucial component to the overall integrity of a natural community.

### Approved applications

3.3 EMDP quoted six planning applications that were approved within the Strategic Open Space Gap, the scheduled property and ODZ. A review of these permit is provided in the following table.

Application No.	Proposal Description	Date of approval	ODZ	Strategic open Space Gap	Approved after was scheduled
PA0600/02	Construction of grages and flats	28/10/2012	√ Partially	X Approved before local plan	X
PA5256/03	Construction of garages and overlying flats	8/03/2004	√ Partially	X Approved before local plan	X

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PA2734/04	To demolish existing building and erect eight flats and garages	5/09/2006, but recommended for approval on 1/02/2006	√ Partially	Partially	√ But recommender for approval before area was scheduled
PA5358/04	Construction of basement garages	21/02/2006	√ Partially approval limited to a depth of 20m (ie entirely within scheme)	x	x
PA 6655/06	To demolish existing building and erect four-storey apartment block	26/02/2008	√ Only a narrow strip within scheme		Approved despite recommended refusal and EPD's emphasis that development should be contained within scheme
PA7079/07	To extend backyard and construct additions	19/02/2008	√		The justification was based on the basis of the adjacent permit PA 2734/04. HPU unequivocally recommendations and approvals as it undermines the objectives of having a development zone boundary in the first place.

### 4. Conclusion

4.1 The ecology survey does not provide valid reasons for the removal of this site from the scheduling boundary. Indeed since the site forms part of a Level 3 buffer zone and a wider Area of High Landscape Value the submission of an ecology survey was not necessary. The site was not scheduled for its ecological importance. It was included in the scheduling boundary since it forms part of a wider area of high landscape value (AHLV) and, since, there is an overriding need to prevent further encroachment of development beyond the approved limits to development – the reason why the Level 3 buffer zone and AHLV boundaries are aligned with the limits to development.

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4.2 If the site was developable and within scheme, then to avoid conflicting designation it would not have been included in the scheduling boundary (as in the case of the descheduled site that was included by the Standing Committee on Development Planning. This is not the case and hence its inclusion within the scheduling boundary is justified.

4.3 The provision in Paragraph 15.39 of the Explanatory Memorandum (for Level 3 sites) are also regulated by Structure plan policies that are applicable ODZ and therefore the scheduling does not create any conflicting designations. At this juncture a crucial question must be asked – would a permit ODZ and outside the scheme Rationalization boundary for a new unit of accommodation, let alone multiple dwellings, be issues if the site was not scheduled?

4.4 Appellant's request to include the site within the 2006 development zone boundary was refused and such refusal had nothing to do with the scheduling of the site.

4.5 in view of the above, the scheduling should be retained as published in Government Notice 369 of 2008.”

Fin-nota Tal-Avv. Dr. John Refalo għall-appellant tad-29 ta' Mejju, 2012, huwa jgħid is-segwenti:

“1. This is an appeal against a decision by MEPA to schedule a portion of land (the Site) owned by appellant;

2. The Site forms part of the Ghajn Barrani Area the scheduling of which was published in the Government Gazette of the 7th November 2006 (GN 935/2006); it is shown bordered in pink on the attached plan (dok M).

3. Appellant submits that the Scheduling of the Site was wrong both in fact and at law and should be revoked by this Tribunal. In particular appellant will show that the scheduling of the land in question is unreasonable, unnecessary and discriminatory.

4. The Board had an opportunity to view the Site during a site inspection held recently. It was noted that the Site lies within a built up area. It fronts a road, the

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other side of which is built up, and is laterally defined by existing developments. The Site is at the bottom of sloping ground and the rear of the Site faces the hillside.

5. The Site has been scheduled as part of the Scheduling of the lower hillside. The lower Hillside was scheduled at Level 3 as a buffer zone and all the Hillside was scheduled as an Area of High Landscape Value.

6. It is submitted that in deciding to schedule a particular site the Authority must be satisfied that there exist reasons of sufficient gravity to warrant the inclusion of the Site. This is evident because Scheduling imposes positive obligations upon the Owners and therefore affects their rights to enjoy their property. It is submitted that a property cannot be scheduled simply because the Authority considers it convenient so to do.

7. The Authority has to show that there is an impellent planning need that can only be met with the Scheduling of the Site in question. This test must be met on all the parcels that the Authority ends up scheduling. Consequently the appellant does not, in this sense, agree with the comments made by the Authority to the effect that that in this regard, buffer zones are not scheduled on their own merits and may not represent areas of ecological or scientific importance themselves." (Reply of the 4th July 2007 to the reconsideration request). In fact buffer zones have to be selected according to the Test that is suggested in this paragraph. That is, it has to be shown that the selection of a particular area as a buffer zone is necessary to protect the main scheduled area and not merely useful to the protection of that area.

8. In deciding whether a site needs to be designated as a buffer zone the Authority has to see whether the inclusion of that site is necessary to protect the main scheduled area. That the Authority has failed to do so is plain to see. In fact we are told that "The Scheduling Boundary is aligned with the limit to development." What this means is that the Authority merely marked the area which is within a development zone as the limits of the Buffer Zone. It means that the Authority did not specifically examine whether the inclusion of that site was necessary but went along with an artificial demarcation zone. It is submitted that by adopting this procedure the Authority has acted unreasonably. We must not forget that Scheduling imposes positive obligations upon land owners and that such positive obligations in a buffer zone must not be imposed unless strictly and necessarily required to meet the required objectives.

9. It is in this sense worthwhile to note that the Site lies presently outside a development zone. Therefore any development carried out must conform to the policies applicable to an ODZ site. As we all know there is very little development

that can be carried out whilst this designation stands. From a planning point of view the inclusion of the Site as a buffer zone adds nothing since the Authority would still need to approve any development application that is presented.

10. At this juncture one cannot not mention an incongruence in that the tennis courts of the Calypso Hotel (shown on the plan M) despite being ODZ have been excluded from Scheduling. The Authority counters by saying that they establish the boundary not only be the limit to development but by any applicable built up features in the area. This explanation merely serves to underline the unreasonableness and the fact that no proper consideration of the eligibility of the Site for scheduling has been made.

11. The map infact shows that the depth of the buffer zone goes from just 30 metres at the level of the Tennis courts or the deepest development zone boundaries and extends to 90 metres on the Site. The question is whether objectively it was necessary to extend the buffer zone at the Site.

12. One also notes that the Site itself is at the bottom of the hill that the Authority seeks to protect. We cannot speak about the effect of development because the site itself is ODZ so any comments concerning the development of the Site are strictly speaking irrelevant. It is also evident from the geological reports filed that the surface rock on Site is not clay and that there is no other reason inherent in the site for scheduling it.

13. Therefore not only is the Scheduling unreasonable, it is also unnecessary. This merely shows the decision to schedule to be even more unreasonable.

14. One must also discuss in brief the designation as an area of high landscape value. It is up to this Tribunal to find out how a site that is itself hidden from view by surrounding development can constitute an area of high landscape value. In fact the designation of high landscape value merely imposes an obligation upon the authority to consider applications in the surrounding areas in a manner that will not detract from the scenic value. Again the way that this line as been drawn around the site is incredible. Anybody who takes a look at the area from the sea or from the other side of Marsalforn Bay will immediately recognize that such a designation has become non-sensical. This apart from the fact that the Site is hidden from outside view by the surrounding developments. Again, why have the tennis courts been treated differently? Isnt there as much danger of their development as there is of the Site? The Authority has failed again to adopt and follow the objective test set out in this submission. In failing to do so it has acted unreasonably.

15. It is also submitted that the decision to schedule is discriminatory. This is borne out of the fact that another site in an identical situation to the Site was removed from the Buffer Zone. The designation of the site as within or outside of the development zone is irrelevant because a need to schedule a site will exist because of some intrinsic quality in the site that renders its scheduling necessary whether to protect the site itself or adjacent sites. This intrinsic quality has to exist independently of its location within or outside the development zone. For the avoidance of doubt appellant agrees with the decision by MEPA to remove the site (marked in yellow on plan M) from the buffer zone and demands that his site be treated in exactly the same manner.

16. Discrimination is also borne out by the fact that the tennis courts of the Hotel Calypso which are situated outside the development zone were not included within the buffer zone.

17. The explanation given by the Authority does not convince. There is either a need to schedule or there isn't and this need doesn't depend on the fact that there are structures built on the land in the same way as it doesn't depend on the location of the site within or outside of the development zone. Even if one looks at the High landscape value, how does one explain removing from this zone of scheduling land which lies further up the slope than appellant's Site and which is certainly more visible and prominent than the latter?

18. It is submitted that the Authority's decision to schedule was wrong because the Authority did not really consider whether the inclusion of the Site was necessary and instead went along scheduling property that is irrelevant for the protective purposes the Authority wishes to achieve. Moreover certain decisions in relation to adjacent properties are not easily explainable and show clearly that some errors were made in the determination of the Scheduling boundaries."

Fir-risposta taghhom, tas-16 ta' Lulju, 2012, Richard Lia , Joseph Magro Conti u Frans Mallia ghall-Awtorita', huma jghidu, inter alia, s-segwent:

#### "1. Introduction

1.1 During the 25 January 2012 sitting, Dr. John Refalo presented a geo-environmental report to the Environment and Planning Review Tribunal (Red 101 in GF 9/06). During the sitting, appellant was provided the opportunity to submit a nota

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ta' sottomissjoni within two months. This was submitted on 29 May 2012 (Red 103 in GF 9/06). The site plan referred to as "dok/plan M" was submitted to the Tribunal on 11 June 2012 (Red 104 in GF 9/06).

1.2 This report provides a reply to both the geo-environmental baseline study as well as Dr. Refalo's note of submission.

### 2. Conclusions of the geo-environmental baseline study

2.1 The study concludes that:

1. The rock present in Triq is-Sajjieda is Upper Globigerina Limestone

2. If left as it is today it would go on weathering and the rock fall will go on unchecked.

3. Moving the buffer 30m back would not have any significant impact on the Level 2 scheduled area as long as the cutting is stabilized by a robust retaining wall.

4. Moving the buffer 30m back would not have any impact on the flow of water upstream.

[...]

4. Planning Directorate's reply to appellant's additional grounds for appeal

A. The geo-technical baseline study

4.1 It should be pointed out that the consultant appointed to prepare the geo-environmental baseline study has not been identified. The report is unsigned and undated. Nevertheless, the report's conclusions are not relevant to this appeal against scheduling since the area in which appellant's site is located is not

scheduled for its geological/geomorphological significance. If so, it would have been scheduled as a Site of Scientific Importance (geology and/or geomorphology), in accordance with Structure Plan policy RCO 11, in addition to it being scheduled as a Level 3 Buffer Zone and Area of High Landscape Value (AHLV). The 30-metre recess, as recommended in the geo-technical baseline study, would necessitate excavation of the entire site subject to this appeal.

### B. Dr. Refalo's note of submission

4.2 The Planning Directorate's reply to Dr. Refalo's note of submission is subdivided according to his 18 grounds for appeal, for ease of reference.

1. The appeal against scheduling was assessed by the Planning Directorate and two reports have already been prepared in this regard, the first dated 21 August 2007 and the second dated 31 July 2009 (docs. 79 and 94 in GF 9/06 respectively).

2. The scheduling of Għajn Barrani area (GN 935/2006) was republished via Government Notice 369 of 2008, for the reasons explained in paragraph 1.1 of the Planning Directorate's report dated 31 July 2009 (doc. 94 in GF 9/06).

3. Appellant claims that the Scheduling of the Site was wrong both in fact and at law and that the scheduling of the land in question is unreasonable, unnecessary and discriminatory. The Planning Directorate, in its two reports mentioned above, has already justified the delineation of the scheduling boundary and of the site in question. The Directorate reiterates that the scheduling of appellant's Site conforms to Structure Plan policies RCO 1, RCO 12 (3) and to Clause 15.34 (5) of the Structure Plan Explanatory Memorandum (a full extract of the relevant Structure Plan policies is available in Appendix A).

4. The site inspection focused on the composition of the exposed geological formation abutting the road. This was followed by the submission of the geo-technical report discussed in Section 4A above. The adjacent/opposite development referred to in the note of submission lies within the development zone whereas the site in question is located outside scheme. Nevertheless, sites within scheme may still be scheduled if the criteria of Structure Plan policy RCO 15 are met. However, Structure Plan policy RCO 15 applies to sites/areas within scheme that have intrinsic value and are thus scheduled on their own merits (not as buffer zones). Buffer zones are thus aligned with the limits to development and/or existing buildings. A case example is the watercourse of Wied Għajn Żejtuna located within

the urban area of Santa Marija Estate—it was scheduled as a Level 2 Area of Ecological Importance (GN 872/09, dated 30 October 2009).

5. For clarification purposes, the entire area of Għajn Barrani and environs is scheduled as an Area of High Landscape Value, not just the hillside. 5

6. The Site was not scheduled because “the Authority consider[ed] it convenient to do so”. Scheduling of natural heritage does not follow such unacceptable paths. Ample justifications have already been brought forward in both reports of the Planning Directorate justifying why this Site forms part of ‘Għajn Barrani and environs’ scheduling boundary. This report provides further justifications.

7. The scheduling boundary along this stretch is aligned with the official limit to development, as amended by the 2006 scheme rationalisation exercise, and partly with defined physical boundaries (viz., the tennis courts and back yards). As has already been pointed out, the scheduling does not lead to conflicting designations not only because it does not encroach within scheme but also because it encompasses an area located outside development zone (ODZ) as well as within the Local Plan’s Strategic Open Space Gap (see Figs. 3–5 in the 21 August 2007 report by the Planning Directorate).

During the site inspection referred to in part ‘4’ above, the Heritage Planning Unit representative informed the Tribunal of the presence of a small population of the rare endemic Maltese Stocks (*Matthiola incana* subsp. *melitensis*) [RDB1:16 Endemic, Rare2] growing along part of appellant’s site

facing the road. The presence of wetland species abutting appellant’s site was also confirmed by the appellant’s consultant in his ecology report (Red 93A in GF 9/06). In fact, the Planning Directorate had disagreed with the consultant’s recommendation that this habitat could be reengineered elsewhere (see Section 3 of the Planning Directorate’s report dated 31 July 2009).

Although acting as a buffer zone (to the higher levels of protection as well as to the Special Area of Conservation of International Importance), the area of Il-Mielħa in which this site is located (and forms an integral part of) does contain natural heritage features that would merit scheduling on their own merits, contrary to what is stated in Appellant’s note of submission. Nevertheless, it is respectfully submitted that the presence of surrounding development does not preclude the Authority from scheduling an area or site.

8. Contrary to Appellant's claim, MEPA has not acted unreasonably when this scheduling exercise was carried out. Figure 1 shows the contours map superimposed on the site in question, the 2008 aerial photograph, the scheduling boundary and the SAC boundary. The contours clearly show that the appellant's site forms an integral part of Għajn Barrani area and environs. It is the presence of development nearby that disrupts the integrity of the hillside, which development the Appellant seeks to use as a leverage to discredit the extent of the scheduling boundary.

9. In principle as well as in practice, scheduling of natural heritage avoids conflicting designations between what is developable and what is not (unless there is an overriding need for protection, in which case Policy RCO 15 would apply). However, it should be stressed that notwithstanding the direct association between the Structure Plan policies on scheduling (RCO 10, RCO 11 and RCO 12) and the scheduling clauses 15.34 to 15.40 of Structure Plan Explanatory Memorandum, scheduling of the natural heritage (and its associated buffer zones) is not carried out in order to 'add value' to MEPA's development control function, as claimed in Dr. Refalo's note of submission.

Apart from lying ODZ, the site also lies within the Local Plan's Strategic Open Space Gap. One cannot seek the descheduling (or downgrading) of a site because it is already protected by ODZ policies. If such rationale had to be adopted, it would be tantamount to expecting the Authority not to schedule anywhere ODZ.

10. The delineation of the scheduling boundary has already been explained. It covers the natural lie of the land and ecology, where it still exists, or where it is necessary for its protection even if within or close to a development zone. Along this stretch, the scheduling boundary is aligned with the limit to development as modified through the 2006 scheme rationalisation boundary. The only exception is where development already exists. Along such sites, the boundary is aligned with the physical structures themselves. This approach has been adopted consistently not only for Il-Mielħa but elsewhere. Nevertheless, the Planning Directorate would find no objection for the Level 3 boundary to be aligned entirely with the limit to development, should the Tribunal consider this appropriate.

11. Appellant's site cannot be considered in isolation from the rest of the Il-Mielħa Level 3 scheduled area, irrespective of distances from the SAC boundary and the higher level of protection. The contours map (Fig. 1 above) attests the continuity of the sloping terrain to which this site, and other sites along the development zone boundary, forms an inextricable part of. Scheduling boundaries, including buffer zones, are not constrained by distance per se since these depend on the topography of the area, albeit other factors such as limits to development (as cut-off

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points) have to be taken into account, as explained earlier. Such approach is adopted consistently not only for this scheduling but for all natural heritage scheduling proposals.

12. Although the site lies at the bottom of the hill it still forms an integral part of it, irrespective of the exposed geological formation (i.e., Blue Clay as opposed to Globigerina Limestone). Notwithstanding that the area of Il-Mielħa is characterised by Blue Clay/clayey soil which overlies the Globigerina 7 Limestone formation, Il-Mielħa (and appellant's site to which it forms an inextricable part of) is not scheduled for its geological and/or geological importance. Also, as pointed out earlier, scheduling of appellant's site (and other sites elsewhere at the bottom of this hill) as part of the Level 3 buffer zone was carried out independently of development pressures. The fact that appellant's site/Il-Mielħa area is located ODZ and within a strategic open space gap does not infer that such sites/areas cannot be scheduled.

13. Appellant's consultant is levelling criticism at the scheduling boundary because he is considering the site independently of the wider area of Il Mielħa. The site forms part of the Level 3 buffer zone because it is an integral part of Il-Mielħa hillside. It should continue to be afforded the same protection as part of a larger whole rather than deemed an "unreasonable" and "unnecessary" 'outlier', as is wrongly being considered by the appellant's consultant.

14. It is correct to state that scheduled Areas of High Landscape Value are linked with scenic value. However, what the appellant's consultant did not specify is that Areas of High Landscape Value are scheduled for their scenic importance on their own merits, independently of any development application that may be subsequently submitted therein. Nevertheless, the criteria of Structure Plan policy RCO 4 for visual integrity apply throughout all Rural Conservation Areas and not solely to Areas of High Landscape Value.

The appellant's consultant is questioning whether a site hidden from view can constitute an AHLV. The Planning Directorate maintains that the decisive factor for scheduling this area as an AHLV was not, and should not be, constrained by whether it is visible from the coast, but also from other viewpoints, such as the protected hilltop itself. The site forms part of the AHLV boundary to protect the view to and from the hillside (as elsewhere within the AHLV boundary) and since the site is part of the hillside itself. Figure 2 provides a clear illustration of how the site subject to this appeal forms an integral part of the AHLV.

Fig. 2: Aerial view of Marsalforn Bay and Il-Mielħa hillside. Appellant's site (block arrow) forms an integral part of the Area of High Landscape Value. 8

15. The site referred to by the appellant's consultant was included in the 2006 scheme rationalisation boundary by the Standing Committee on Development Planning. Appellant's site cannot be treated in the same manner, as requested, since the Standing Committee on Development Planning did not include it within scheme. Both sites were scheduled simultaneously as part of one scheduling exercise (GN 935/06, dated 7 November 2006) and hence it cannot be argued that "the decision to schedule is discriminatory".

16. As already pointed out, the Planning Directorate would find no objection for the Level 3 boundary to be aligned entirely with the limit to development (thus incorporating the tennis courts), should the Tribunal consider this appropriate.

17. The justification for scheduling this site is clear: the site forms part of Il-Mielħa hillside (as illustrated). The delineation of the Level 3 buffer zone as well as that of the AHLV is aligned with the limit to development and with existing development. This approach was adopted consistently throughout the interface between the settlement boundary of Marsalforn and Il-Mielħa hillside.

18. The test of need to schedule the site/area is summarised in Table 1 below:

Table 1: Site-specific scheduling rationale

Qualifier	Justification
Does the site form an integral part of Il-Mielħa hillside?	Yes
Does the site form an integral part of the landscape setting of Il-Mielħa?	Yes
Is there a need to schedule the entire hillside of Il-Mielħa, including appellant's site?	Yes, the scheduling boundary incorporates the absolute majority of the hillside of Il-Mielħa as an Area of High Landscape Value and as a buffer zone to protect both the Special Area of Conservation and the higher level of protection, in line with Structure Plan policies RCO 1, RCO 12 (3) and Clause

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	15.34 (5) of the Structure Plan Explanatory Memorandum. Specific elements of Il-Mielħa area also qualify for protection on their own merits as an Area of Ecological Importance (such as the wetland habitat immediately next to appellant's site, for which this site and surrounding area would then act as an immediate buffer; not to mention the endemic species located on the front part of appellant's site abutting the road).
Is there an overriding need or justification to recess the scheduling boundary to exclude appellant's site?	No.
Inclusion of this site within the scheduling boundary would create conflicting designations	No. Small scale physical development may still be permit Within a schedule level 3 sitearea (subject to the criteria specified in Clause 15.39 of the Explanotry Memorandum and other ODZ policies)."

Ikkunsidra:

Il-mertu ta' dan l-appell jirrigwarda talba biex jigi mressaq ix-scheduling boundary biex hekk is-sit ta' l-appellant jigi barra mill-area li qed tigi skedata.

Is-sit mhux mibni pero huwa imdawwar fuq tliet nahat minn bini li jinsab gewwa z-zona tal-izvilupp. Skond l-Awtorita', is-sit in ezami, li huwa ODZ, jinsab gewwa Area of High Landscape Value u huwa scheduled Level 3 AEI/SSI, jiforma parti integrali mill-coastal cliffs ta' l-area u jinsab f'Special Area of Conservation of International Importance.

L-appellant jirrileva, inter alia, li:

- Is-sit in ezami huwa imdawwar fuq tliet nahat minn bini li jinsab gewwa z-zona tal-izvilupp;
- Is-sit kien jikkwalifika bhala in-fill pocket u ghalhekk kellu jigi imdahhal fiz-zona tal-izvilupp;
- Parti mis-sit tikkwalifika bhala DZ edge development;

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- Is-sit jinsab gewwa area li hija indikata ghal tourism development; u
- Ix-scheduling boundary gie imnehhi minn sit li huwa vicin hafna s-sit in ezami.

L-appellant jikkonkludi li ghal dawn ir-ragunijiet is-sit ma' kellux jigi imdahhal gewwa ix-scheduling boundary u fi kwalunkwe kas dan ma' kienx necessarju in vista tal-fatt li hemm distanza ta' 250 metru mill-parti li hija scheduled fl-Level 2.

Fir-risposta taghha l-Awtorita' tibda biex tippreciza li ma' kienx hemm il-htiega li jsir ecology report mill-appellant u dan peress li s-sit huwa skedat bhala buffer zone u jsegwi l-linja tal-izvilupp u dan skond il-prassi li normalment taddotta l-Awtorita' f'kazi bhal dawn. Ghalhekk anke zoni li m' ghandhomx valur ekologiku per se jistghu jigu imdahhla gewwa buffer zone

L-Awtorita' tkompli billi tirrileva inter alia s-segwent:

- Is-sit in ezami jinsab gewwa Area of High Landscape Value u huwa scheduled Level 3 AEI/SSI, jiffirma parti integrali mill-coastal cliffs ta' l-area u jinsab f'Special Area of Conservation of International Importance;
- Is-sit jinsab ODZ u gewwa Strategic Open Space Gap u ghalhekk anke jekk tigi imnehhija mix-scheduling xorta ma' jistax isir zvilupp residenzjali fuq dan is-sit;
- L-appellant kien applika biex is-sit in ezami jigi imdahhal gewwa z-zona tal-izvilupp permezz tal-ischeme rationalization exercise imma din it-talba kienet giet michuda (PSPR No. 385);
- Ir-raguni li ghalija kien gie imnehhi mill-iskedar sit iehor partikolari li jissemma mill-appellant kienet biex ma' jkunx hemm conflicting designations wara li dan is-sit kien gie mdahhal gewwa z-zona tal-izvilupp mill-iStanding Committee on Development Planning;
- Il-fatt li s-sit huwa mitluq u mimli bi skart tal-kostruzzjoni ma' jiggustifikax it-talba tal-appellant;
- Ma' kienx hemm il-htiega li jsir ecology report mill-appellant u dan peress li s-sit huwa skedat bhala buffer zone u ghalhekk ma' giez skedat minhabba l-kwalitajiet ekologici tieghu imma bhala parti integrali ta' AHLV. Ghalhekk anke zoni li m' ghandhomx valur ekologiku per se jistghu jigu imdahhla gewwa buffer zone;
- L-iskedar jsegwi l-linja tal-izvilupp u dan skond il-prassi li normalment taddotta l-Awtorita' f' kazi bhal dawn;
- Kieku s-sit kien gewwa z-zona tal-izvilupp ma' kienx jigi imdahhal fix-scheduling boundary;

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- Ix-scheduling sar mill-Awtorita' ai termini tal-policies RCO 1 u RCO 12(3) tal-Pjan ta' Struttura u Clause 15.34 (5) tal-iStructure Plan Explanatory Memorandum;
- Is-siti li huma adjacenti is-sit in ezami u li jaqghu gewwa z-zona tal-izvilupp setghu gew skedati wkoll kieku dawn kellhom valur intrinsiku f' termini ta' ekoloġia u kwalitajiet relevanti ohra skond il-kriterji ta' RCO 15 imma peress li dawn is-siti huma ikkunsidrati buffer zone tintuza l-prassi li x-scheduling boundary issegwi l-linja tal-izvilupp;
- Minn studji tal-contours u features geografici u geologici ohra tas-sit in ezami u li johorgu, fost ohrajn minn studju ta' aerial photos tas-sit johrog bic-car li s-sit in ezami jiffirma parti integrali minn Ghajn Barrani. Il-fatt hu li huwa l-izvilupp adjacenti is-sit in ezami li jidhul gewwa il-konfini ta' Ghajn Barrani u mhux vici versa;
- Scheduling ta' dan it-tip ma' jsirx biex jizjed l-kontrolli tal-izvilupp fuq siti bhal dawn u ghalhekk mhux ragonevoli li wiehed jitlob descheduling ta' sit ghax dan ikun ODZ jew gewwa SOG. Kieku kien hekk kieku ma' jkunx jaghmel sens li jsir scheduling f' zoni li huma ODZ.

Il-punti li jqajjem l-appellant f'sottomissjonijiet sussegwenti in-sostenn tal-argument tieghu huma li:

- Il-mod kif giet mghoddija l-linja li tiddelimita minn fejn ghandha tghaddi il-buffer zone fil-vicinanze tas-sit in ezami huwa arbitrarju. Tant hu hekk li jidher li l-Awtorita' semplicement imxiet mal-linja li tiddelimita z-zona tal-izvilupp. In fatti l-linja tal-izvilupp tmiss ma' tlieta mill-erbgha nahat tas-sit in ezami li huwa effettivament imdawwar bil-bini li huwa kollu bill-permess;
- L-intenzjoni originali tal-iskedar kien il-protezzjoni tal area ta' Ghajn Barrani li tinsab relattivamnet il-boghod mis-sit u l-fatt li s-sit in ezami gie skedat bhala buffer zone ma' jaghmel ebda differenza ghall-protezzjoni ta' Ghajn Barrani;
- Peress li scheduling ta' art huwa pass drastiku, l-Awtorita' trid turi li l-bzonn ta' skedar huwa assolutament necessarju biex tiprotegi l-area principali li ghalija jkun qed issir l-iskedar u mhux semplicement konvenjenti;
- F' dan il-kas huwa car li l-Awtorita' konvenjentement imxiet mal-linja tal-izvilupp meta taf li s-sit in ezami m' ghandu ebda valur ekoloġiku, xjentifiku, ecc.;
- Fi kwalunkwe kas peress li s-sit in ezami huwa ODZ, xorta ma' jistax isir zvilupp fih u ghalhekk l-iskedar tas-sit sar ghal xejn;
- Dan qed jippenalizza lill-appellant peress li l-iskedar ta' art timponi obbligi fuq is-sid u ghalhekk dan m'ghandhux isir b' mod arbitrarju; u
- Tant hu hekk li adjacenti s-sit in ezami fuq in-naha tal-vant, it-tennis courts tal-Hotel Calypso li ukoll jaqghu ODZ gew ezentati minn din id-desinjazzjoni waqt li sit fuq in-naha l-ohra addirittura gie mahrug mill-iskedar u ddahhal fiz-zona tal-izvilupp.

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Ikkunsidra ulterjorment:

Wara li kkonsidra il-premess u minn ezami tal-pjanti, ritratti u dokumenti li hemm fil-file PAB 193/07 u fil-kuntest tal-provedimenti ta' l-iStructure Plan, tal-Gozo and Comino Local Plan, legal notices u policies ohra relatati ma' dan il-kas, it-Tribunal jikkumenta kif gej.

Iz-zewg nahat qed jargumentaw minn aspetti differenti. Ghall-appellant huwa ovvju li l-uniku sit li mhux imdahhal gewwa iz-zona tal-izvilupp fiz-zona in ezami huwa tieghu . F' ghajnejh il-fatt li apparti mill-fatt li l-linja tal-izvilupp diga qieghda kontrih, hemm ukoll ix-scheduling li skond kif jara hu qed izzid il-kontroll li ghad jista jkun hemm fuq is-sit biex b' hekk isir izjed difficili biex is-sit xi darba jigi jaqa gewwa z-zona tal-izvilupp. Jidher li l-appellant qed jattribwixxi l-fatt li is-sit tieghu baqa barra ghall-fatt li ix-scheduling baqa diehel gewwa is-sit.

L-Awtorita' qed targumenta mill-lat oppost billi tghid li huwa l-izvilupp ezistenti li qed jidhol iz-zejjed gewwa l-formazzjoni naturali li tikkonsisti f' Ghajn Barrani. Hija qed targumenta li sakhemm il-linja tal-izvilupp ma' gietx imresqa kif jixtieq l-appellent, il-linja tal-l-iskedar ghandha tkopri l-formazzjoni naturali kollha basta li jkunx hemm conflicting designations. L-Awtorita' tispjega li l-linja tax-scheduling mhix strument iehor biex ikompli jixdied il-kontroll fuq l-izvilupp li jista jsir fuq is-sit in ezami. In fatti hija tghid li kieku kellha ssir decizjoni biex il-linja tal-izvilupp titmexxa, l-Awtorita' kienet tressaq il-linja tax-scheduling biex din tigi tmiss mal-linja l-gdida tal-izvilupp u dan peress li z-zona hija indikata biss bhala buffer zone u ghalhekk m' ghandhiex kwalitajiet intrinsici li hemm bzonn jigu protetti. Imma galadarba il-linja tal-izvilupp ma' gietx imressqa allura almenu il-linja tax-scheduling ghandha tkopri kemm jista jkun mill-formazzjoni naturali u dan skond kif indikat fl-istruktura plan.

Minn dan jirrizulta car li l-vinkoli li jezistu llum fuq is-sit in ezami huma determinate biss mill-fatt li s-sit jinsab ODZ u gewwa Strategic Open Gap. Tant hu hekk li meta f'sit fil-vicin li jsemmi l-appellant, il-linja tal-izvilupp kienet giet imresqa mill-kumitat, l-Awtorita' kienet mexxiet il-linja tax-scheduling ukoll biex ma' jkunx hemm conflicting designations. Kieku l-appellant irnexxielu jikkonvinci lill-Awtorita' biex idahhal is-sit tieghu gewwa z-zona tal-izvilupp meta kien applika biex isir dan fl-2006 kieku bl-istess argument ix-scheduling boundary ukoll kien jigi imressaq.

In konkluzjoni, kif jidher mill-fatti li hargu fil-kors tas-smieh ta' dan l-appell, billi jirrizulta li il-proposta in ezami tmur kontra numru ta' policies ta' l-iStructure Plan u tal-Gozo and Comino Local Plan dan l-appell ma jstax jigi milqugh.

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It-Tribunal, ghalhekk, qiegħed jichad dan l-appell u jikkonferma decizjoni li saret mill-Bord ta' l-Awtorita' fit-28 ta' Gunju, 2007, biex izzomm u tikkonferma ix-scheduling boundary ta' l-area maghrufa bhala Ghajn Barrani fil-limiti Taz-Zebbug u x-Xaghra, Ghawdex, kif publikat fil-GN 935 tas-sena 2006.

### Ikkunsidrat

L-aggravji tal-appellant huma s-segwenti:

1. It-Tribunal naqas li jikkonsidra l-aggravji kollha tal-appellant kontra l-iskedar u b'enfasi partikoli għall-aggravju li skedar ma għandux isir jekk ma jkunx hemm ragunijiet serji u impellenti in rigward l-art skedata peress li skedar jimponi oneri gravuzi fuq sid l-art oltre s-semplici divjet ta' zvilupp;
2. It-Tribunal injora li art fil-vicinanze uzata bhala tennis court u li qegħda f'ODZ ma ddahlitx fl-iskedar, u ohra ddahhlet fiz-zona ta' zvilupp billi tressqet il-konfini tal-iskedar. L-art mertu ta' dan l-appell qegħda bejn dawn iz-zewg artijiet. Dan jikkostitwixxi diskriminazzjoni li t-Tribunal ma kkunsidrax peress li l-mod kif gew trattati z-zewg artijiet l-ohra juru illi l-iskedar tal-art tal-appellant hi għalhekk abbusiva u illegali;
3. It-Tribunal jikkonkludi li l-proposta tmur kontra numru ta' policies, pero fl-ewwel lok ma kien hemm ebda proposta u in ogni kaz li kellu jara t-Tribunal hu l-invers cioe jekk l-iskedar kienx konformi mal-policies.

Dawn l-aggravji ser jigu trattati flimkien u b'mod semplici hafna in vista tad-decizjoni tat-Tribunal li f'zewg paragrafi wara riassunt tal-argumenti kellha tal-partijiet konsistenti fi tmintax-il pagna bi tmintax-il argument pro u kontra l-iskedar, iddecieda hekk:

Minn dan jirrizulta car li l-vinkoli li jezistu llum fuq is-sit in ezami huma determinati biss mill-fatt li s-sit jinsab ODZ u gewwa Strategic Open Gap. Tant hu hekk li meta f'sit fil-vicin li jsemmi l-appellant, il-linja tal-izvilupp kienet giet imresqa mill-kumitat, l-Awtorita' kienet mexxiet il-linja tax-scheduling ukoll biex ma' jkunx hemm conflicting designations. Kieku l-appellant irnexxielu jikkonvinci lill-Awtorita' biex idahhal is-sit tieghu gewwa z-zona tal-izvilupp meta kien applika biex isir dan fl-2006 kieku bl-istess argument ix-scheduling boundary ukoll kien jigi imressaq.

## Kopja Informali ta' Sentenza

In konkluzjoni, kif jidher mill-fatti li hargu fil-kors tas-smieh ta' dan l-appell, billi jirrizulta li il-proposta in ezami tmur kontra numru ta' policies ta' l-iStructure Plan u tal-Gozo and Comino Local Plan dan l-appell ma jistax jigi milqugh.

Din il-Qorti lanqas tibda tifhem is-sens ta' dan il-gudikat ma' dak li kien qed jigi diskuss mill-partijiet. Filwaqt li t-Tribunal ghamel riassunit b'mod akkurat tal-fatti u argumenti kollha tal-partijiet naqas serjament li jinvestiga jekk l-iskedar f'dan il-kaz kienx wiehed necessarju u mhux biss opportun. Kif qal l-appellant skedar ta' art jew proprjeta hi rabta oneruza fuq sidha u trid issir biss ghal ragunijiet serji u importanti biex jigi preservat sit jew zona jew binja minhabba kwalitajiet specjali u rari jekk mhux unici li ghandu l-izvilupp in kwistjoni. Il-kontenzjoni tal-partijiet, kif relevat fil-bidu mit-Tribunal minghajr ma gie segwit b'kunsiderazzjonijiet teknici u legali approfonditi u studjat, hu l-lenti li bih kien qed jigi vizwalizzat l-iskedar. Il-Qorti mhix ser toqghod tirrepeti l-argumenti kollha li ngiebu mill-partijiet. Dawn huma riportati fid-decizjoni. Pero johrog car illi kien hemm fatturi bhal fatt li s-sit hu cirkondat minn zvilupp iehor, u li parti minnu qieghed f'ODZ u lanqas gie skedat, u li jekk, tenut kont tal-parti taz-zona li verament jehtieg skedar, kienx necessarju li anki s-sit tal-appellant imdawwar bi zvilupp kellux jaqa' fl-iskedar jew jithalliex barra. Dawn kienu konsiderazzjonijiet li ma kellhomx jithalltu mal-fatt illi s-sit hu desinjat bhala ODZ u gewwa strategic open gap.

Invece d-decizjoni tat-Tribunal la tidhol fil-mertu u qalba tal-kwistjoni, la tikkunsidra l-aggravji fil-fattispecie taghhom u anqas fil-fehma tal-Qorti ma taghti raguni ghaliex dan is-sit ghandu jibqa' skedat. Tghid biss li kieku l-applikant irnexxilu fl-2006 idahhal is-sit fiz-zona ta' zvilupp, is-scheduling boundary kien jigi mressaq. Pero din mhix kwistjoni dwar x'jirnexxilu u ma jirnexxilux jaghmel l-applikant izda jekk nonostante li sit hu ODZ ghandux ukoll il-mertu necessarju li jigi skedat. Din mhix kwistjoni ta' linji fuq mappa biex wiehed iqabbel linja ta' zvilupp ma' dik skedat. L-iskedar isir ghar-ragunijiet proprji u esklussivi li jolqtu s-sit in kwistjoni u xejn aktar. Dan hu dak li kellu jikkonsidra t-Tribunal u naqas li jaghmlu b'mod lampanti.

Il-Qorti ma tqis b'daqshekk illi t-Tribunal ghandu jidhol fi kwistjonijiet ta' agir abusiv da part ital-Awtorita fid-desinjazzjoni ta' siti fil-vicin jew kwistjonijiet ta' diskriminazzjoni. Dan mhux il-kompitu tat-Tribunal. Pero hu l-kompitu u obbligu tat-Tribunal li fl-evalwazzjoni tieghu jqis ir-ragunijiet ghaliex f'siti vicini hafna tas-sit in kwistjoni l-Awtorita ma hassitx il-bzonn ta' skedar

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jew addiritura nehhiet l-iskedar. Dawn il-konkluzjonijiet ghandhom jaghtu indikazzjoni lit-Tribunal dwar il-htiega u necessita li s-sit tal-appellant xorta jigi skedat.

It-Tribunal naqas li jikkonsidra l-kwistjoni, punto e basta, u dan jirrendi l-gudikat monk ghax il-vertenza ma gietx deciza b'mod finali. Dan in-nuqqas iwassal ghan-nullita tad-decizjoni ghax mhix bazata fuq raguni fondata a bazi tal-aggravji mressqa.

### **Decide**

Ghalhekk il-Qorti taqta' u tiddeciedi billi tilqa' l-appell ta' Port Estates Limited, tirrevoka d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-ippjanar tat-2 ta' Mejju 2013, u tirrinviija l-atti lura lit-Tribunal biex jerga' jisma' u jiddeciedi mill-gdid l-appell a bazi tal-aggravji cari mressqa. Spejjez ghall-Awtorita.

## **< Sentenza Finali >**

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