

----- Original Message -----

Subject:RE: Revision of National Energy Policy ? Strategic Environmental Assessment

Date:Fri, 30 Aug 2013 13:50:42 +0200

From:SEA Focal Point at OPM <sea_focal_point@gov.mt>

To:George <george@dinlartelwa.org>

CC:Rodgers Mario at MECW <mario.rodgers@gov.mt>, Fiorini Karina at MSDEC-OPS <karina.fiorini@gov.mt>

Mr George Camilleri
Secretary General
Din I-Art Helwa
133 Melita Street
Valletta

Dear Mr Camilleri

Reference is made to your letter of the 27 June 2013 which was duly acknowledged as well as your reminder of the 22 August which we only received yesterday as our address has changed to Millenia, Level 3, Aldo Moro Road, Marsa.

At the outset it must be pointed out that the SEA Directive, and hence the SEA Regulations, apply to "Plans and programmes", including those co-financed by the European Community, as well as any modifications to them:

- (a) <!--[if !supportLists]--><!--[endif]-->which are subject to preparation and, or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and
- (b) <!--[if !supportLists]--><!--[endif]-->which are required by legislative, regulatory or administrative provisions.

For the SEA mechanism to come into play both conditions above need to characterise the plan/programme. Thus, for example, whilst the revised Spatial Plan, for example, satisfies the criteria to rank it as a plan/programme, a voluntary plan will not require an SEA.

Once defined as a plan/programme an SEA will be required if that plan/programme:

- (a) <!--[if !supportLists]--><!--[endif]-->are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC, or
- (b) <!--[if !supportLists]--><!--[endif]-->in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of Directive 92/43/EEC.

Malta's regulations place the onus of responsibility for undertaking an SEA on the responsible authority. A responsible authority means the authority by which, or on whose behalf, any plan or programme is prepared. This is because an SEA best practice requires the SEA process to be undertaken *pari passu* with the development of the plan/programme, the state of which is known to the responsible authority. Moreover, the obligations for undertaking an SEA are thrust upon responsible authorities so as to responsabilise them in undertaking an SEA as well as in the light of their knowledge on the nature of the plan/programme they are developing. A Screening Template is provided to all responsible authorities to enable them to arrive at such a decision. The SEA Focal Point provides guidance when this is requested of it. Moreover

when it becomes aware of an initiative that is being undertaken by Government and which may require an SEA, it contacts the responsible authority drawing their attention to their obligations under the SEA Regulations.

This background is important before attempting to address your concern.

As regards the proposed energy projects referred to in your letter, the SEA Focal Point has written to the Ministry responsible for Energy and Conservation of Water to elicit their views on whether the National Energy Policy needs to be revised in light of the Government's plans for the development of an LNG terminal and a new gas fired power station. The SEA Focal Point was informed that the Ministry (MECW) is well aware of the obligations which are imposed on the responsible authorities when adopting plans and programmes which have an effect on the environment. In this regards, the Ministry noted that as yet no updates or modifications have been made to the existing energy policy and accordingly no SEA has been carried out. Furthermore the Ministry (MECW) stated that when the policy is revised, an SEA including the required public participation and consultation will be undertaken in terms of the Strategic Environmental Assessment Regulations. Such regulations apply to plans and programmes which contemplate a number of projects within them and do not relate to single projects. Indeed single projects are subject to other regulations which assess their impact on the environment, such as those imposing an EIA.

Once a written reply is forthcoming from the Ministry, I will update you accordingly unless the Ministry opts to write to you directly which is an option which we have also suggested.

I trust that we have managed to provide a comprehensive reply to your query.

Regards

Kevin

-----Original Message-----

From: George [<mailto:george@dinlarthelwa.org>]

Sent: 26 July 2013 16:08

To: SEA Focal Point at OPM

Cc: Rodgers Mario at MECW; Fiorini Karina at MSDEC-OPS

Subject: Revision of National Energy Policy - Strategic Environmental Assessment

Dear Dr Gatt,

We would like to draw your attention to the fact that we have not yet received any feedback regarding our comments to the Strategic Environmental Assessment for the Revision of National Energy Policy, copy of which is attached for your reference.

Yours Sincerly,

George Camilleri
Secretary General - Din l-Art Helwa