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2 The EIA Process

2.1 *Environmental Impact Assessment*

Environmental Impact Assessment (EIA) is a process that must be followed for certain types of development. The requirement for EIA comes from the Gibraltar Town Planning (Environmental Impact Assessment) Regulations 2000 (the EIA Regulations) which transpose the European Community Directive ‘The Assessment of the Effects of Certain Public and Private Projects on the Environment (85/337/EEC) into the law of Gibraltar for development considered under the Town Planning Ordinance 1999 and amendments.

As is the case for Eastside, the procedure requires the Applicant to compile an Environmental Statement (ES) providing environmental information including descriptions of the likely significant effects of the proposals on the environment and proposed mitigation measures.

This document, the Eastside ES, is to be submitted as part of the planning application that is to be made to the Development and Planning Commission (the Commission).

2.2 *Screening*

Screening is considered to be the first stage in the EIA process. Its procedure is established under European and Gibraltar law, and is for deciding whether an EIA is required for a particular project. In Gibraltar, screening is undertaken by the Town Planner, particularly for the purposes of determining whether a Schedule 2 development (under the EIA Regulations) is EIA development taking into account the relevant selection criteria. This procedure leads to the Town Planner determining a screening opinion which is accompanied by a written statement giving clearly and precisely the full reasons for that conclusion.

Where the Town Planner gives a screening opinion, a copy of the opinion and the written statement is sent to the Minister with a request that the Minister makes a screening direction which is published in the Gazette within 28 days. The screening direction determines for the purposes of the EIA Regulations whether or not a Schedule 2 development is EIA development.

In the case of Eastside, no formal screening opinion was requested by the Applicant and therefore no screening opinion has been given by the Town Planner. From the outset it was clear that Eastside would have qualified as EIA development under various descriptions of development for the purposes of the definition of Schedule 2 development under the EIA Regulations, notably:

- Schedule 2 (10) infrastructure projects (b) urban development projects, including the construction of shopping centres and car parks;
- Schedule 2 (10) infrastructure projects (m) coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;
- Schedule 2 (12) tourism and leisure (b) marinas; and
- Schedule 2 (12) tourism and leisure (c) holiday villages and hotel complexes outside urban areas and associated developments.

Therefore the Applicant has voluntarily undertaken this EIA process to support the application for Eastside.

2.3 **Scoping**

If the screening procedure determines a proposal to be EIA development, or if it is taken for granted that a development will qualify as EIA development, then the next stage of the EIA process is usually scoping. Scoping is the process of determining the context and extent of the matters which should be covered in the environmental information to be submitted to a competent authority for projects which are subject to EIA (European Council, 2001). It is in place to ensure that the EIA process provides all relevant information on significant and/or uncertain impacts. It is the stage of the EIA process where insignificant impacts are eliminated and mitigation measures can be incorporated into the project designs. Efficient scoping relies not only on a team of professionals who are experts in a wide variety of fields, but also on the views, concerns and local knowledge of individuals and groups.

Like screening, the procedure for scoping is established under European and Gibraltar law and is undertaken by the Town Planner. A developer undertaking EIA development may request that the Town Planner states in writing his opinion as to the information to be provided in the ES. The resulting statement is termed a scoping opinion. A request for a scoping opinion must be accompanied by information describing the development and its potential effects on the environment.

In the case of Eastside, an environmental scoping study was undertaken resulting in the production of an Environmental Scoping Report (Halcrow Group Ltd, 2004). The Developer submitted this report to the Town Planner as part of a request for a scoping opinion.

The Town Planner's scoping procedure included consultation with various consultation bodies, as required under the EIA Regulations. The Town Planner issued his scoping opinion in June 2005, thereby indicating the topics and general level of detail that he and consultees would wish to see included in the ES. A copy of the Scoping Opinion is provided in Appendix A. A summary of the consultees and their key responses is also contained in Appendix A.

It should be noted that the scope of the scheme that was the subject of the Scoping Opinion has changed since the Opinion was issued, in that the current proposals do not include a marina or breakwater arm at this stage. Therefore, the issues in the Scoping Opinion that relate specifically to these elements are no longer relevant and have not been addressed.

2.4 **Cumulative Impacts**

The combined environmental impacts of more than one development (i.e. the cumulation of developments) are termed cumulative impacts, and are sometimes referred as in-combination effects.

For the purposes of EIA, it is necessary to determine whether any other plans or projects will occur at the same time as Eastside so that their cumulative effects can be assessed.

Consultation with the Town Planner identified two plans or projects to be taken into account when assessing cumulative effects, namely:

- Beaches and Coast Protection Works at Catalan Bay; and
- Both Worlds Development at Sandy Bay.

Descriptions of these projects are included in Section 4.10 of Chapter 4 *Description of the Development*, and the assessment of cumulative impacts is covered in each chapter, as appropriate.

The Scoping Opinion (see Appendix A) identifies the need of the ES to assess the cumulative impacts on sediment transport, currents and flow regime (see Section 5) and water quality (see Section 6), and identifies the need to consider linkages between natural and human environmental issues.

2.5 *Transboundary Effects*

Transboundary effects are those which affect neighbouring countries or states.

The purpose of identifying significant transboundary effects in the ES is to ensure that the Minister can inform the relevant Member State and enter into consultations with that Member State regarding, inter alia, the potential significant effects of the proposed project on the environment in that State and the measures envisaged to reduce or eliminate such effects. He may also determine in agreement with that Member State a reasonable period, before development consent for the project is granted, during which members of the public in that Member State may submit representations to the Minister.

The Minister should also arrange for the information to be made available within a reasonable time, both to the authorities in the Member State which it considers are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public in that Member State and ensure that those authorities and the public in that Member State are given an opportunity before development consent for the project is granted, to forward to the Minister within a reasonable time their opinion on the information supplied.

2.6 *Uncertainty*

Any uncertainties associated with impact prediction or the sensitivity of receptors due to absence of data or other limitations, will also give rise to uncertainty about the significance of the effects on the environment. In these cases this should be explicitly stated within the ES, and where assumptions have been made, these have been highlighted. It is also recommended that measures should be put in place to deal with the uncertainty through conditions dealing with monitoring and/or environmental management plans. Schedule 4 part 1 paragraph 7 of the Regulations requires that the ES state whether any "difficulties" were experienced by the compiler of the ES.

2.7 *Environmental Statement*

The ES forms part of the Applicant's application to the Commission for planning permission for the Eastside development. In addition, the ES (and a copy of the application) will be issued to consultation bodies specified by the Commission. It is during this part of the EIA process that consultation bodies can make formal representations to the Commission.

The aim of the ES is to provide as systematic an account as possible of the significant environmental effects to which the project is likely to give rise. It contains objective, factual, scientific and technical information which assists in the decision making process. The ES also forms part of the wider consultation process and is deposited at various locations (public libraries, council offices etc.) for public viewing.

The report follows a format based on EIA and other recognised guidelines and procedures and is set out in a logical sequence. It gives the background to the scheme and describes the project. Then it is divided into chapters covering each topic area. Within each chapter, the methods employed for the assessment are set out. The existing baseline situation is described in detail and an assessment of the effects of the proposed development is made, both during construction and when occupied. Mitigating measures are recommended where necessary and the predicted residual impacts are stated.

2.7.1 *Format of the Environmental Statement*

Specific guidance relating to each technical assessment is referred to in the individual chapters of the Environmental Statement.

Generic figures of the site location and the proposals are provided in a separate section of the ES:

Figure ES.1 – Site Location (Regional)

Figure ES.2 – Site Location (Local)

Figure ES.3 – Masterplan.

Certain chapters will include figures, tables and references within the main text. Plans, photographs and other illustrative material are contained within the appropriate chapters and their Appendices.

Following completion of the scoping exercise (see Appendix A Scoping Opinion – Consultation Responses Table 3.2) highlighting the areas of potential impact, and having due regard to the EIA Regulations, the following key issues will be assessed in Chapters 5 – 17:

- Coastal Hydrodynamics and Geomorphology
- Water Quality
- Sediment Quality
- Soil Quality
- Ecology
- Nature Conservation
- Transport
- Air Quality
- Noise
- Landscape
- Archaeology & Cultural Heritage
- Recreation & Tourism
- Socio-Economics

Specific assessments have been undertaken for each of these key issues in accordance with the relevant guidelines to review the potential significant environmental impacts of the proposed redevelopment. Potential impacts have been predicted in each technical section (5-17) using current best practice and with reference to definitive standards and legislation where available. Where it has not been possible to quantify impacts, a qualitative assessment has been undertaken, based on available knowledge and professional judgement.

Each of the sections will provide a review of the assessment methodology, highlight any potential impacts likely to arise from the proposals, recommend mitigation measures where appropriate, and discuss any residual effects from the proposals. Each technical section will include the following key sub-headings:

- Introduction
- Assessment Methodology
- Baseline Conditions
- Potential Impacts
- Mitigation Measures
- Residual Effects
- Cumulative Effects
- Transboundary Effects
- Uncertainty
- Summary

A summary of the key impacts of the proposed redevelopment during construction and operation is provided in Chapter 18 '*Summary of Residual Impacts*' particularly in relation to the nature of the impact i.e. reversible/irreversible, short-term/long-term, and level of significance.

2.8 *Consideration of Main Alternatives*

The EIA Regulations specify for inclusion in the Environmental Statement ‘an outline of the alternatives studied by the applicant and an indication of the main reasons for his choice, taking into account the environmental effects’. This aspect has been addressed in Chapter 4 ‘Description of the Development’.

2.9 *Scheme Development*

During the EIA process, the design of the project may be adapted in light of relevant concerns and findings so that the plans that are submitted to the decision-making authority take into account and avoid, as far as possible, all the significant factors relating to the development and incorporate measures to mitigate any significant adverse impacts.

For Eastside, various technical studies were undertaken to establish the feasibility and viability of the proposed development, in particular the effects and impacts associated with the marine environment. The process has resulted in a number of options being considered and the scheme proposals have been revised over a period of time, as set out in Chapter 4, taking into account the constraints that were originally identified, which included visual impacts, access, biodiversity, hydrology, social and economic factors and air traffic.

Consultation was undertaken with GoG, stakeholders and other parties, which contributed to the development of the masterplan

Chapter 4 sets out the description of the project, its components and the process of its development in more detail.