

# PA CIRCULAR 1/19

## 1 CTB EXPLAINED

## 2 DNO SUBMISSION REQUIREMENTS - TOWER CRANES

### 1 CTB EXPLAINED

In the light of the fact that current legislation sets out that the possibility of regularising development will only be available, at the current rates, until September 2019 and, at higher rates, until September 2020, the Kamra Tal-Periti alerted the Authority that some issues relating to Category B Concessions (CTBs) may be unclear to a number of its members, and also to the general public. In view of the foregoing, the Authority is issuing the following clarifications:

- 1.1. A concession issued in terms of Category B of Schedule 8 of the Environment and Development Planning Act, 2010, never had the strength to regularise (make legal) the development subject of such a concession. The concession provided, solely, that the said development could be enjoyed/operated by its owners. Sub-article 91(2) of the same Act set out that:

"the development in question shall not be considered as having been regularised in terms of this Act unless and until a development permission has been granted to cover the development in question and a penalty fixed by the Authority within the limits established in article 93 has been paid"

Also, if Compliance Certification is requested, this would be issued, as long as there are no illegalities, other than those covered by the CTB, within the property relative to which such certification is requested. The development, however, remained illegal, and if it were to be demolished, it would not give the owner any vested right in relation to any re-construction options.

Despite the fact that the Environment and Development Planning Act, 2010, was repealed, the Authority will continue to consider development covered by an approved CTB as described above.

- 1.2. Notwithstanding the clarification in 1.1, above, it is recommended that all properties covered by a CTB are sanctioned or regularised (whilst this option is still available).
- 1.3. When a Planning Application (PA), is submitted, it needs to be processed in terms of the provisions of the Development Planning (Procedure for Applications and their Determination) Regulations in force at the time. When legislation still provided for the submission of a request for consideration under the CTB regime, the legislation in force was LN 514 of 2010 (as amended) [proviso to sub-regulation 14(1)], which provided that development subject to an approved CTB would not be considered as reason to halt the Authority from approving further development on site.

With the repeal of LN 514 of 2010 and the coming into force of Development Planning (Procedure for Applications and their Determination) Regulations, 2016 - LN 162 of 2016 (as may be amended) [S.L. 552.13], sub-regulation 17(4) therein sets out that:

"Any illegal development which is not indicated for sanctioning in a development application shall be removed prior to the issue of a development permission..."

It follows that, any development covered by an approved CTB (and is thus considered illegal) needs to either be sanctioned or removed, prior to any processing of the application. If the illegal development cannot be sanctioned, a regularisation application would need to have been submitted and approved prior to the planning application being confirmed as complete (and published on the DOI website).

## **2 DNO SUBMISSION REQUIREMENTS - TOWER CRANES**

- 2.1. Class 9 of Schedule 1 of the Development Notification Order, 2016 (as amended) [S.L. 552.08] provides for the "Placing of machinery and structures for the duration of construction works". In the case where such machinery involves the placing of a tower crane outside the confines of the site covered by development permission, clearances are required from:
- The Local Council
  - Transport Malta (TM)
  - Occupational Health and Safety Authority (OHSA)
- 2.2. In the past weeks, the Authority, in its bid to provide a holistic service wherever possible, has reached an agreement with the abovementioned entities such that they are now consulted by the Authority upon the submission of a DN application for such development.
- 2.3. In order to make such consultation process possible, applications falling within Class 9(i) of the DNO need to be accompanied by the following:
- A. Marked Site plan to include construction site covered by permit together with the tower crane location and hoarding area (if any).
  - B. Proper photographs of the site area and streets of concern, namely to include:
    - i. Photos from both sides of the development and opposite side of the road;
    - ii. Any third party garages, parking bays (including disabled parking bays), keep clear, un/loading bays, boarding and alighting, permanent crossings etc which might be affected by the development.
  - C. Block plan 1/200, is to clearly indicate the following:
    - i. Width of road, width of pavements (on both sides of development and on the opposite side of the road);
    - ii. Dimension of occupied footprint on pavement and or road;
    - iii. Traffic flow/directions, example:- two way or one way direction/s;
    - iv. Proposed temporary location of crossings (if any) and or temporary pedestrian walkway (measure for free and safe pedestrian passage around the tower crane site)
    - v. Section through tower crane site, if a pedestrian passage is proposed through the said site.
    - vi. Cross reference of submitted photographs.
  - D. The permit number of the construction site is to be quoted in the "Previous applications, permissions or notifications on this site" section of the application form.