



MINISTERU GĦAT-TRASPORT U L-INFRASTRUTTURA  
TRIQ, FRANCESCO BUONAMICI, IL-FURJANA, MALTA

15 ta' Settembru 2017

**Mr Speaker**

Skont l-artikolu 4 tat-Tielet Skeda tal-Kodiċi Ċivili, qiegħed nippreżenta fl-Uffiċċju tiegħek ir-rapport '*Sites Nominated to be declared as Public Domain*' li se nkun qed inqiegħed fuq il-Mejda tal-Kamra mal-ewwel opportunita peress li bħalissa l-Parlament jinsab wieqaf għal-ferjat tas-Sajf.

Tislijiet

L-Onor. Ian Borg  
**Ministru għat-Trasport, Infrastruttura u Progetti Kapitali**

CC: Mr. Ray Scicluna, Clerk of the House

Executive Council on 11<sup>th</sup> September, 2017

\_\_\_\_\_  
Executive  
Chairman

\_\_\_\_\_  
Executive Council  
Secretary



**Sites nominated to be declared as Public Doman**

**Civil Code (Amendment No.3) Act 2016**

**Annual Report  
September 2017 (Final)**



## 1 Introduction

1.1 The Executive Council of the Planning Authority, as established through the Development Planning Act, 2016 is delegated to prepare an annual report for submission to the Minister responsible for Lands. The annual report is to indicate those sites that have been proposed for designation as Public Domain which the Executive Council deems appropriate to be declared as public domain in conformity with article 3 of sub-title 2 of the Civil Code (Amendment No.3) Act as enacted by Parliament on the 13<sup>th</sup> of May 2016.

1.2 This report has been compiled following the public consultation process undertaken as required by the same legislation. It presents the technical information collated to assess whether the proposed sites deem to be declared as public domain is also provided, with a view to guide the final decision by the Executive Council.

It is to be noted that the quality of the data received from government entities and general public together with the limited time available to finalise the report restrict a comprehensive analysis on the proposed sites.

## 2 Proposals received

2.1 A total of 23 proposals were submitted by two NGOs, Flimkien għal Ambjent Aħjar (FAA) and Friends of the Earth (FoE) Malta, as listed in Table 1. These proposals were received by the Planning Authority on the 20<sup>th</sup> of July 2016. Another submission by Hon J. Herrera M.P. and Minister responsible for the Environment was submitted at the end of February 2017. Each submission included a brief write-up as supporting documentation, justifying the proposal.

**Table 1 List of proposed sites**

Ref	Location	Proponent	Scope for proposal: Proponent Justification
2016-1	Site at Manoel Island	FAA	To be declared a national heritage park, to celebrate the historical buildings and serve as a green lung
2016-2	Site at Wied Garnaw	FAA	To confer another layer of much needed protection to the valley and Bir Miftuh Chapel
2016-3	Site at Hondoq, Qala	FAA	To afford the site the utmost possible protection due to intrinsic value to ensure no further damage to the location
2016-4	Site at Kalanka, Delimara	FAA	To schedule the site as a National Heritage Park in view of its natural beauty, protected coastal cliffs, rocky beaches and ecosystems within the site
2016-5	Site of three historic landmark trees, Ta' Xbiex	FAA	Claim trees are >100 years old, serve as historic landmark and have a tangible impact to contribute to surrounding environment in terms of role in improving air quality.

2016-6	Site of beaches from St. George's Bay to Sliema	FAA	To ensure that protected land is truly accessible and can be enjoyed by the public
2016-7	Sites at Valletta coastline and Fort St. Elmo	FAA	To ensure that it is retained for international worth and recognised for the strong historic, architectural and national value.
2016-8	Sites from St. Thomas Bay (Marsascula) to Xrobb l-Għagin (Marsaxlokk)	FAA	To give further recognition to site's value and allow for beneficial restoration and preservation of natural habitat.
2016-9	Sites from Siggiewi to Żurriq	FAA	To ensure protection and preservation of invaluable worth of the sites
2016-10	Sites from Green area outside Sa Maison bastion walls (and parking/paved area)	FAA	To guarantee protection of green open spaces within a highly urbanised zone
2016-11	Stretch of land from Ġnejna to Mtaħleb	FAA	To ensure protection and preservation of invaluable worth of the sites
2016-12	Site at Villa Guardamangia, Pieta'	FAA	To ensure restoration and act as a touristic destination
2016-13	Site at Simblija	FAA	To ensure protection and preservation of invaluable worth
2016-14	Comino	FAA	To ensure protection and preservation from uncontrolled tourism particularly in the Blue Lagoon area
2016-15	Ċittadella, Victoria, Gozo	FAA	To ensure protection as national heritage park
2016-16	Site at Ta' Ċenc, Sannat	FAA	To take an active stance in protecting the site's natural heritage and ensure that the utmost is done to preserve land for future generations
2016-17	Site at Has-Saptan and Wied Żembaq	FoE (Malta)	To protect a green area for recreational purposes threatened by a scrapyard
2016-18	Site at Is-Simblija (including Wied ir-Rum, Ta' Baldu and Wied Hażrun)	FoE (Malta)	To safeguard access and the undeveloped countryside
2016-19	Site at Il-Ballut tal-Wardija	FoE (Malta)	Continued protection to trees and safeguard access
2016-20	Site at il-Ballut tal-Imġiebah (l/o Mellieħa)	FoE (Malta)	To afford the site the additional protection
2016-21	Site at Ras ir-Raheb and Qlejgħa	FoE (Malta)	To safeguard access
2016-22	Site at Fomm ir-Riħ	FoE (Malta)	To safeguard access
2016-23	Comino	FoE (Malta)	To safeguard against uncontrolled tourist activity/pressure and alien species
2017-1	Park Nazzjonali tal-Inwadar	Hon Herrera, M.P.	To strengthen the existing level of protection afforded to the site

### **3 Method adopted for the preparation of the Annual Report**

#### *Step 1: Compilation of information for public consultation*

3.1 The first step undertaken following the submission of the nominations was to adopt a procedure to guide the reporting process. The Government Property Division and the Land Registry were approached in parallel to obtain information on the property rights associated with each of the proposed site. Not all the information could be provided in view of administrative issues. Data from the Gozo office of the Land Registry was not provided.

3.2 The information provided in map form by site proponents and the respective entities was then digitised and uploaded on an ad hoc portal for the consultation process.

#### *Step 2: Eligibility of sites*

3.3 The next step was to assess whether each site can qualify for nomination as public domain in conformity with article 3 of sub-title 2. According to this provision, the things and their fruits and accessories listed in Table 2 may be subject of a declaration that they form part of the public domain, depending on the owner.

3.4 Furthermore, according to Article 4 (1) the following are already considered as property in public domain without the need of any further declaration, registration or other formality:

- (a) The coastal perimeter;
- (b) Internal waters such as bays, coves and other areas which lie between coastal perimeter and the baselines from which the territorial water are measures and relative seabed and subsoil and the overlying water-column and its airspace provided they are not harbours or ports;
- (c) The seabed and subsoil underlying the territorial seas beyond the baselines from which the territorial waters are measures and the relative seabed and subsoil and the overlying water column and its airspace.

3.5 The coastal perimeter is defined by the provisions of the Civil Code as 'that part of the land which lies fifteen metres from the shoreline inwards, whether it is foreshore, landmass or cliff or is a combination of them, and where the foreshore extends beyond fifteen metres, to the limit of the foreshore.' The definition of the foreshore is further provided in the Civil Code, differentiating also between (i) a beach; and (ii) a land mass or cliff.

3.6 The sites proposed were checked to identify whether any of them have already been declared as public domain by virtue of the legislation coming into force in 2016.

**Table 2 Sites eligible sites for declaration as public domain**

Description	Government Property	Private Property
Waterways, aqueducts, lakes, natural springs and valleys	✓	✓
Harbours, ports or parts thereof	✓	
Public roads, public squares, all streets, alleys and lanes and access routes by whatever name called, to other public places, including those leading to the coastal perimeter or areas declared to be in the public domain in accordance with this Schedule;	✓	
Woods, parks and other areas of ecological or environmental importance;	✓	✓
Sites of cultural, social or historical importance including bastions, fortifications and other similar structures;	✓	✓
areas which serve the national security, such as airports;	✓	
the open countryside, including any cliff which does not constitute part of the coastal perimeter	✓	✓
<i>res sacrae, res sanctae and res religiosae;</i>	✓	
movable things having cultural, social, archaeological, artistic, ecological, environmental or historical importance, including collections of museums, art galleries, archives and libraries;	✓	
generally things belonging to the Government which serve direct and immediate public and collective utility or which should be preserved for future generations because of their public nature, common social, historical or cultural nature, environmental importance or natural and strategic importance.	✓	

*Step 3: Determination of existing titles*

3.7 Following the public consultation process, titles were forwarded to a lawyer for assessment.

3.8 In parallel a digitisation exercise of maps received was carried out. It is to be noted that not all of the submissions made included a site plan. Whilst an effort has been made to digitise the maps/site plans received through the public consultation exercise a number of discrepancies were met that do not allow for a comprehensive stock-take of land ownership and titles associated with each site. For e.g. since MIDI did not submit a site plan with the contracts, no digitising could be undertaken to reflect that specific claim.



3.9 Therefore following assumptions were made to enable digitising to proceed:

- (i) All maps submitted are indicative of a private interest, which still needs to be checked through an evaluation of documentation submitted (contracts; agricultural leases etc);
- (ii) The final map layer from the public consultation exercise does not reflect all the submissions made. Following an evaluation of documentation submitted one may extract relevant information to identify actual site.

*Step 4: Relevant planning policy framework and special laws affecting the proposed sites*

3.10 The final step was to determine (i) special laws, and (ii) specific designations under any plan, policy or schedule issued under the Development Planning Act of 2016, applicable for each site which may restrict public access or enjoyment of such property. For the purpose of this exercise, relevant policies which are site specific were extracted from the respective Local Plans and the Strategic Plan for Environment and Development (SPED).

## **4 Public Consultation process**

4.1 The public consultation process was launched on Monday 3<sup>rd</sup> July 2017 for 6 weeks, ending on Friday 11<sup>th</sup> August 2017. The Executive Council opted to utilise an online portal where digital maps illustrating the proposed sites, together with information obtained from the Lands Authority and Land Registry were uploaded. The public was given the opportunity to comment on whether or not they agree with the nominations made and was invited to come forward with proof of titles on property. The public was invited to submit feedback either on line through the consultation portal, or via a dedicated email address, or via normal post. In addition the public was encouraged to set an appointment should there be any difficulties in accessing or using the online portal.

4.2 The Planning Authority also utilised radio stations and its online social media as well as printed press to publicise the consultation process and explain what is expected from the public.

4.3 During the public consultation phase over 225 meetings were held, 776 emails received (excluding the petition emails), 119 submissions received by post and over 160 telephone calls requesting clarifications were responded to. Submissions mainly consisted of either documentation concerning proof of title or expressions of support or otherwise for the proposed sites to be declared as public domain. Duplicate and at times triplicate submissions were at times received as the public sent documents both via email and mail and at times also in person.

4.4 Two petitions dominated the feedback received: one organised by FoE Malta and another led by FKNK. Through the organised petition by FoE Malta over 5500 submissions were received. The petition from FKNK representatives needs further analysis to identify total number of submission. It is to be noted FKNK submitted an objection on all sites on behalf of all its members. A separate document listing

the submissions received, excluding legal documentation re proof of titles, will be made public with the final Annual Report of 2017.

4.5 The key issues identified from the public consultation process included:

- Requests for clarity on what the implications arising from a site being declared as public domain, really are;
- fear of uncontrolled access by the general public on private property or sites with private titles with repercussions linked to damage particularly to crops and to the detriment of natural environment;
- Fear of restrictions on types of activities one can undertake in a site with private titles/rights;
- Fear of loss of natural areas through development.

As a result most owners of private titles objected to the inclusion of the property in question in sites declared as public domain.

Certain areas received particular attention with submissions in favour and against declaration, e.g. Simblija, other sites received no feedback at all e.g. Valletta coast and the three trees at Ta' Xbiex.

As an overall comment, in the absence of a clear explanation of the legislation, the public consultation was dominated by **misconceptions** and **misunderstandings**. However one key concern that deserves attention is the need for greater efforts by all concerned to:

- respect rights holders in relation to public access and use in countryside,
- identify and implement countryside access routes, and
- adopt a clear code of conduct for public access in the countryside and enforce it.



## 5 Information on the proposed sites

### *Eligibility of Sites*

5.1 Of the 23 submissions received, some of the sites proposed extended to the sea. In total, the proposed sites incorporate 21.6km<sup>2</sup> of land which amounts to 6.8% of the land area in the Maltese Islands almost 1km<sup>2</sup> of marine space. As indicated in Table 2 above all the proposed sites are eligible for nomination.

5.2 In accordance with the provisions of the legislation, the coastal perimeter and the marine waters from the shoreline up to the limits of the territorial sea including the seabed, subsoil and airspace are already declared as public domain (refer to paragraph 3.4). This implies that most of the sites as proposed include areas that are already designated as public domain (refer to Table 3 below).

5.3 The only sites as proposed which do not include any area already declared as public domain are the following:

- |   |             |
|---|-------------|
| – Site at Wied Garnaw                                   | Ref 2016-2  |
| – Site of three historic landmark trees, Ta' Xbiex      | Ref 2016-5  |
| – Sites from Green area outside Sa Maison bastion walls | Ref 2016-10 |
| – Site at Villa Guardamangia, Pieta'                    | Ref 2016-12 |
| – Site at Simblija                                      | Ref 2016-13 |
| – Site at Citadella, Victoria, Gozo                     | Ref 2016-15 |
| – Site at Has-Saptan and Wied Żembaq                    | Ref 2016-17 |
| – Site at Il-Ballut tal-Wardija                         | Ref 2016-19 |

**Table 3 Implications of the 2016 declaration of public domain sites**

Ref	Location	Includes areas already declared as Public Domain
2016-1	Site at Manoel Island	✓
2016-2	Site at Wied Garnaw	No
2016-3	Site at Hondoq, Qala	✓
2016-4	Site at Kalanka, Delimara	✓
2016-5	Site of three historic landmark trees, Ta' Xbiex	No
2016-6	Site of beaches from St. George's Bay to Sliema	✓
2016-7	Sites at Valletta coastline and Fort St. Elmo	✓
2016-8	Sites from St. Thomas Bay (Marsascula) to Xrobb I-Għagin (Marsaxlokk)	✓
2016-9	Sites from Siġġiewi to Żurrieq	✓
2016-10	Sites from Green area outside Sa Maison bastion walls (and parking/paved area)	No
2016-11	Stretch of land from Ġnejna to Mtaħleb	✓
2016-12	Site at Villa Guardamangia, Pieta'	No
2016-13	Site at Simblija	No
2016-14	Comino	✓
2016-15	Ċittadella, Victoria, Gozo	No
2016-16	Site at Ta' Ċenc, Sannat	✓
2016-17	Site at Haş-Saptan and Wied Żembaq	No
2016-18	Site at Is-Simblija (including Wied ir-Rum, Ta' Baldu and Wied Hażrun)	✓
2016-19	Site at Il-Ballut tal-Wardija	No
2016-20	Site at il-Ballut tal-Imġiebah (l/o Mellieħa)	✓
2016-21	Site at Ras ir-Raheb and Qlejgħa	✓
2016-22	Site at Fomm ir-Riħ	✓
2016-23	Comino	✓
2017-1	Park Nazzjonali tal-Inwadar	✓

#### ***Determination of existing titles***

5.4 The proportion of land under Government or Private ownership together with any relevant private titles therein or each proposed site that was identified as being under Government ownership and, according to information obtained from Lands Authority, Land Registry and through public consultation, has been calculated for each data set.

5.5 Care needs to be taken when considering such figures in view of inconsistencies between data provided by government entities, as well as overlaps on the same sites. The statistical data extracted

provides for a relative evaluation since an aggregation of data is not possible - conclusive figures can only be achieved once all data (including individual contracts) are verified and quality checked by the entities responsible for land management.

5.6 The data sheets for each proposed site included in Annex I provide the relevant statistical figures.

#### ***Relevant planning policy framework restricting access in the proposed sites***

5.7 It is to be noted that the burden of public utility in declared public domain sites is solely for those things under Government ownership, in accordance with the Civil Code Third Schedule Title III Article 4 (11). On the other hand all owners including private owners are burdened with the principal obligation 'to preserve the substance of the thing with regard to both matter and to form' in accordance with Article 4 (10) of the same Schedule and Title.

5.8 In addition, in accordance with the Third Schedule, Title I of the Civil Code article 2 (2) (b) private rights over land in the public domain may be affected if 'the land is subject to reasonably implied restrictions on use or enjoyment attributable to its specific public domain nature and to its designation under any plan, policy or schedule issued under any law from time to time regulating development planning'.

5.9 This section provides a summary of those policies under the Development Planning Act of 2016 (Cap. 552) that may affect public access on the proposed sites. The key sources are the Strategic Plan for Environment and Development (SPED) 2015, the approved Local Plan policies and the Scheduled property data base. Two types of policies emerge:

- (i) *Policies related to public enjoyment*, where in view of the nature, characteristics and protection afforded to a site, direction is provided to promote visitor management with a view to halt the degradation resulting from unmanaged access;
- (ii) *Policies designating sites for specific uses*, where policies zone areas for development that would restrict access or public enjoyment of the proposed sites.

#### ***Strategic Policy***

5.10 The SPED policy TO 8.7 requires the control of activities which might have an impact on areas, buildings, structures, sites, spaces and species with a general presumption against the demolition of scheduled and vernacular buildings whilst policy TO 8.2 safeguards protected areas including SACs, SPAs and MPAs whilst enabling activities aimed at enhancing their management objectives, in order to safeguard and enhance biodiversity, cultural heritage, geology and geomorphology. These policies provide the strategic direction that allows for appropriate restrictions to access.

5.11 SPED Policy GO1.1 designates Rabat Gozo, including the Citadella, as a Business Hub for retail, office, tourism, culture and leisure related activities, whilst SPED Policy TO 4.6 retains Has Saptan as a fuel storage site and calls for its upgrade.

#### *Local Plan policies*

5.12 Most of the Local Plan policies affecting the proposed sites are compatible with the objective of the provisions of the civil code in relation to public domain. Policies within all the approved Local Plans call for restrictions of development in protected rural areas as well as the identification and establishment of specific footpaths and country walkways that enable enjoyment whilst limiting impacts from uncontrolled access by visitors.

5.13 Local Plan policies that are site specific and support development have been identified for three of the proposed sites:

- Policy NHGT16 of the North Harbours Local Plan (2006) supports the development an international yachting centre with related facilities and ancillary uses in Manoel Island (site 2016-1), whilst at the same time calling for the restoration and rehabilitation of heritage resources and public access to them.
- Policy GZ-Qala-4 within the Gozo and Comino Local Plan (2006) supports the continued extraction of mineral reserves as part of a development project proposal for tourism and marine related uses through sensitive design at Hondoq ir-Rummien (site 2016\_3)
- Policy SMGH 07 within the South Malta Local Plan (2006) confirms the use of Has Saptan fuel storage facility site with consideration for the relocation of such facilities to a more appropriate location in future (site 2016\_17)

5.14 The site at Manoel Island is also subject to a Development Brief approved by Government in 1992 which calls for the development of Manoel Island for an international yachting centre and related tourist centre and to provide for a range of supporting uses such as commercial facilities and leisure/recreational facilities.

Annex 1 attached to this report provides a comprehensive list of relevant Local Plan policies for each proposed site.

#### ***Other legislation that affects public access on the proposed sites***

5.15 The Third Schedule, Title VI of the Civil Code article 15 (2) states that nothing in the Schedule shall affect the provisions of or anything done or which could be done under a number of Chapters of Maltese legislation, any regulations made, or guidelines or notices issued, under any of these Acts. This implies that further restrictions on public access and enjoyment, as a result of the legislation listed in Table 4 may be applicable, even within areas under Government ownership.



**Table 4: relevant Chapters of Maltese legislation**

<b>Legislative Act</b>	<b>Reference</b>
The Petroleum (Production) Act	Cap. 156
The Land (Compulsory Eviction) Act	Cap. 228
The Disposal of Government Land Act	Cap. 268
The Environment Protection Act	Cap. 552
The Cultural Heritage Act	Cap. 445
The Authority for Transport in Malta Act	Cap. 499
The Development Planning Act	Cap. 552
The Crimes Against the Environment Act	Cap. 522
The Malta-Libya Continental Shelf Delimitation (Ratification) Act	Cap. 316
The Continental Shelf Act	Cap. 535
The Territorial Waters and Contiguous Zone Act	Cap. 226
The Malta Resources Authority Act	Cap. 423
The Fisheries Conservation and Management Act	Cap. 425

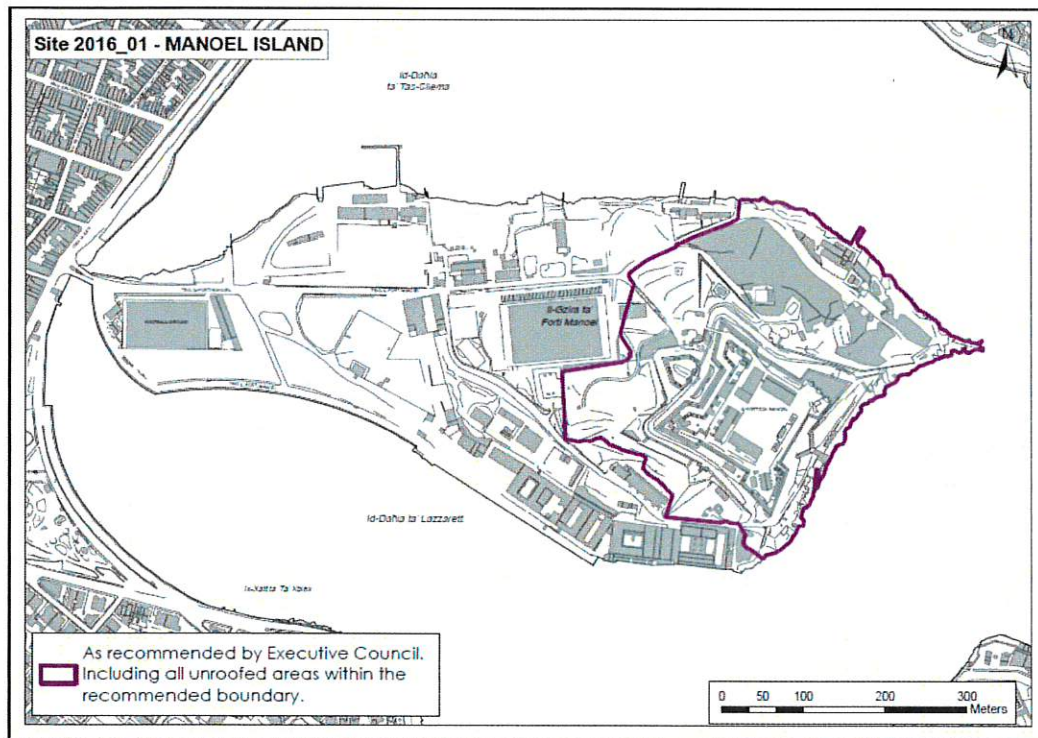
## 6 Opinion on the proposed sites

6.1 The Executive Council's recommendation on each respective site is presented below. For ease of reference and where relevant, a map indicating the recommended area is included.

6.2 The Executive Council's overall position is that its recommendations affect areas that are not already designated as public domain by virtue of the provisions of Schedule Three, Title III Article 4 (1) of the Civil Code (Amendment No 3) Act of 2016. Those parts of the proposed sites that are already declared as public domain as they constitute the coastal perimeter and internal waters with the relative seabed, subsoil and airspace, provided that they are not harbours or ports, remain as declared.

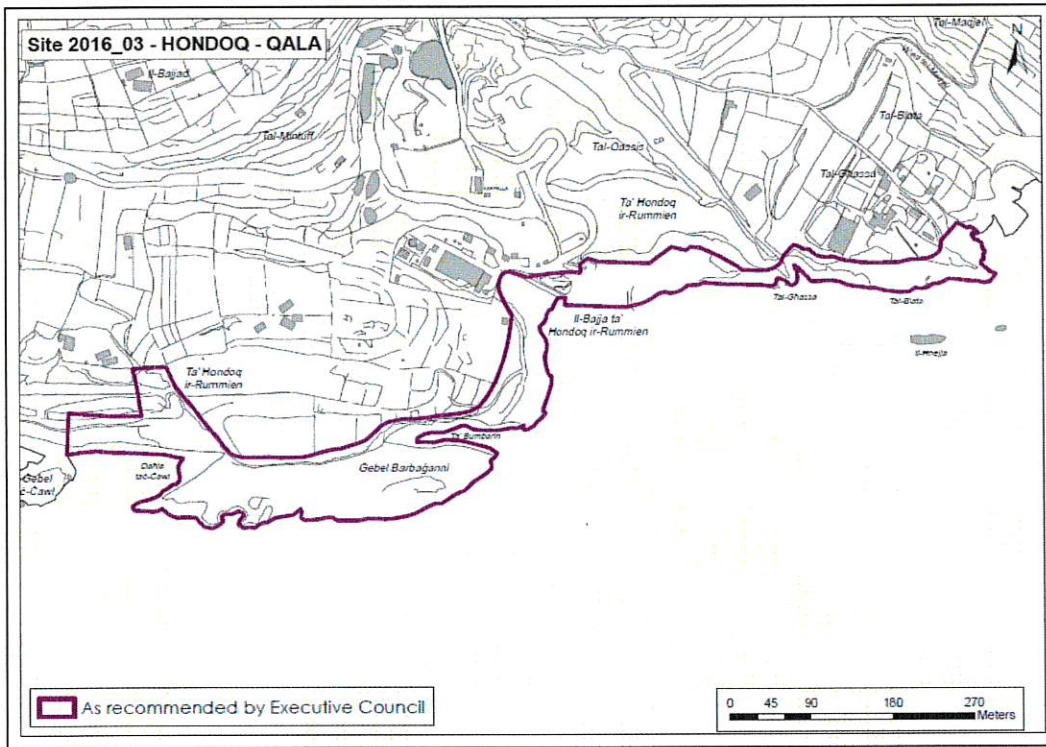
### 6.3 Site 2016 – 1 Manoel Island

The Executive Council recommends that Fort Manoel Glacis and any unroofed spaces within are declared as public domain.



6.4 Site 2016 – 3 Hondoq ir-Rummien, Qala

The Executive Council recommends the area that is government owned land and all areas currently accessed by the public with all areas linked by a 15m stretch along the coast.



6.5 Site 2016 – 5 Site of Three historic trees, Ta' Xbiex

The Executive Council does not recommend that the trees are declared as public domain as protection can be afforded by other legislation.

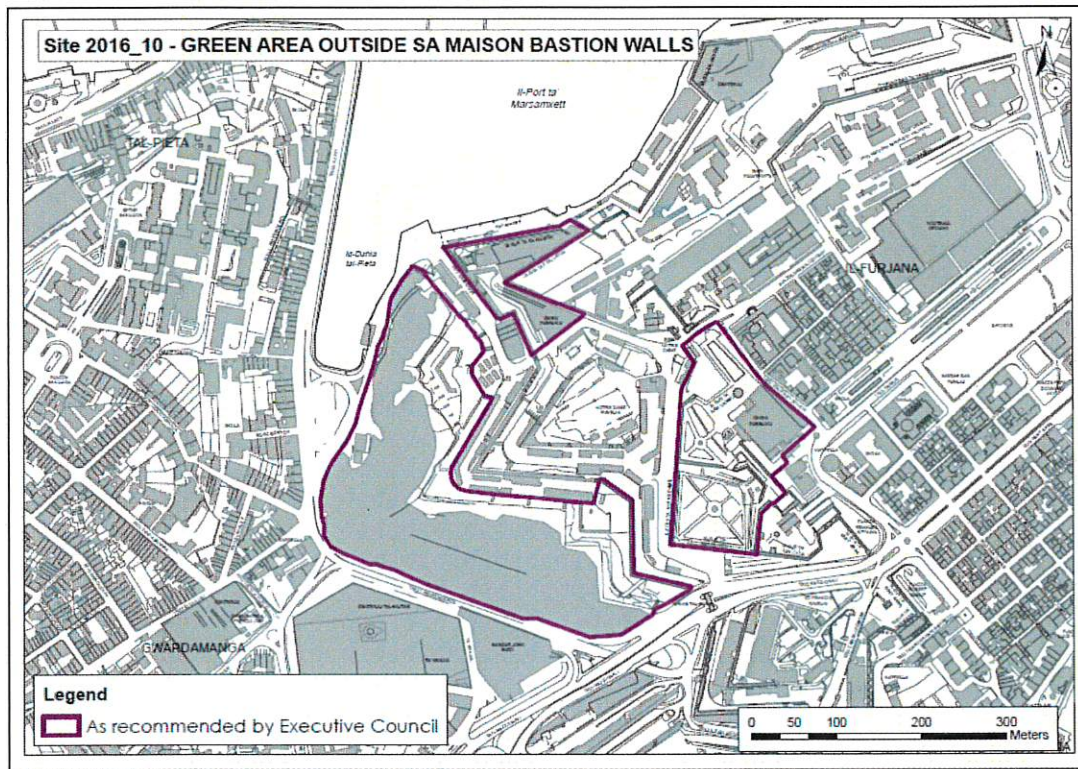
6.6 Site 2016 – 6 Site of beaches from St. George's Bay to Sliema

The Executive Council recommends that the area should be restricted to those areas specified in Schedule Three, Title III Article 4 (1) of the Civil Code (Amendment No 3) Act of 2016 and declared as public domain.



6.8 Site 2016-10 Sites from Green area outside Sa Maison bastion walls (and parking/paved areas)

The Executive Council recommends that the site as proposed is declared as public domain.

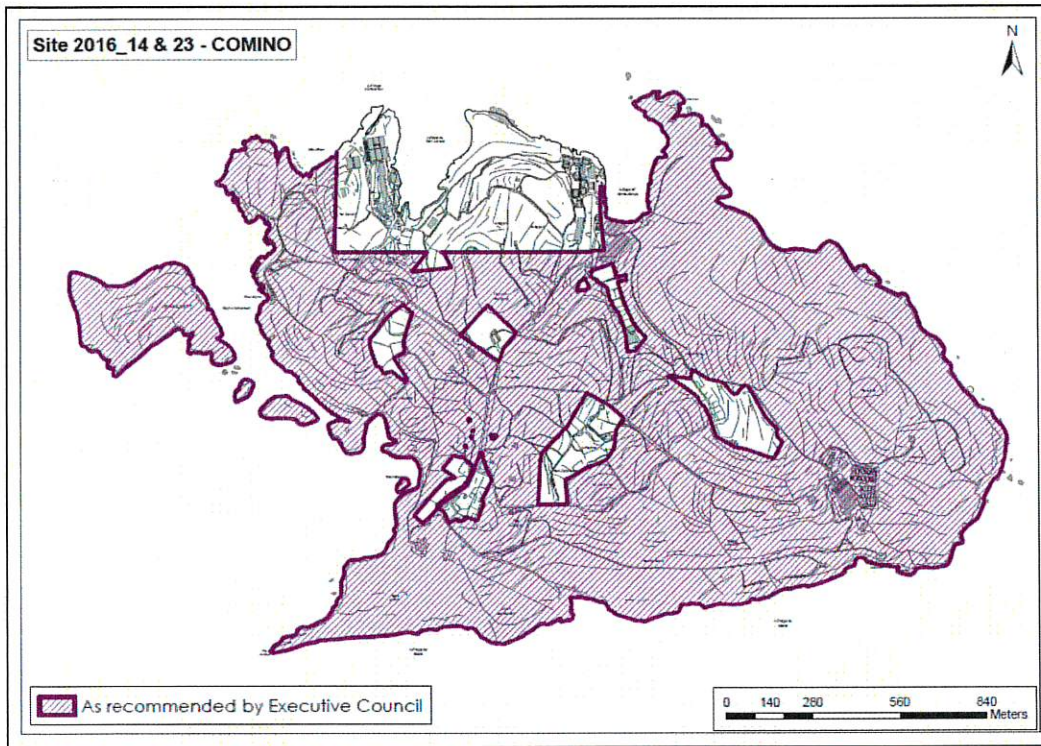


6.9 Site 2016-12 Site at Villa Guardamangia, Pieta'

The Executive Council recommends that the site is not declared as public domain since it is wholly privately owned.

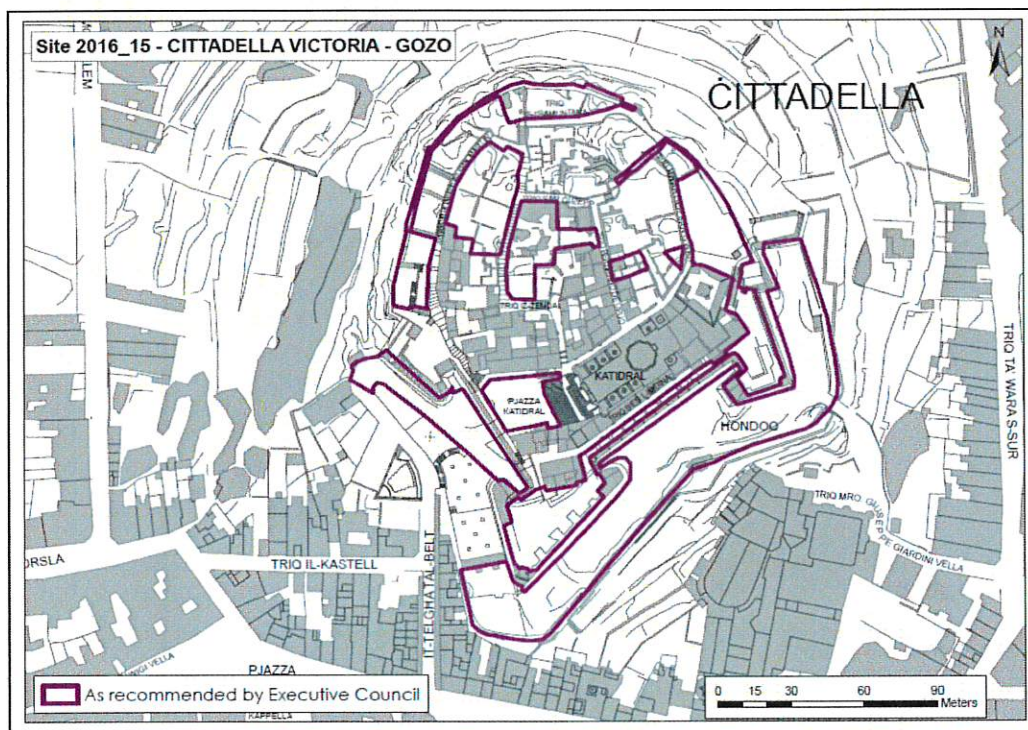
6.10 Sites 2016-14 and 2016 -23 Comino

The Executive Council recommends that all government owned land which does not have any private commitments is declared as public domain.



6.11 Site 2016-15 Cittadella, Victoria, Gozo

The Executive Council recommends that all government owned land which does not have any private commitment the main piazza and the walkway at the level of the bastion around the perimeter of the citadel are declared as public domain.



6.12 Site 2016-16 Site at Ta' Cenc, Sannat

The Executive Council does not recommend that the site is declared as public domain since it is privately owned.

6.13 Site 2016-19 Site at Il-Ballut tal-Wardija

The Executive Council does not recommend that the site is declared as public domain as it is largely privately owned or committed by third party rights.



**ANNEX I**

A small, handwritten mark or signature in green ink, located in the bottom right corner of the page. It appears to be a stylized initial or a signature.

# Public Domain 2017 Annual Report

## Site 2016 – 1 Manoel Island



	Area in sq m	% of total area
<b>Site_2016_01_Manoel Island</b>	<b>307013.39</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No Data	n/a
GPD Areas (Govt)	36493.68	11.9
GPD Areas (Govt with 3rd Party Rights)	254894.83	83
GPD Areas (Not Govt Property)	No Data	n/a
Land Registry Areas (Govt)	No Data	n/a
Land Registry Areas (Govt with 3rd Party Rights)	289060.57	94.1
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation*</b>	<b>16009.42</b>	<b>5.21</b>

\*Not all information submitted included maps that can be digitised

Relevant Planning Policies and environmental designations
<p><b>1992 Manoel Island/Tigne Point Development Brief (approved by Government)</b></p> <p>To develop Manoel Island, as part of Marsamxett Harbour for an international yachting centre and related tourist centre; and to develop Tigne' Point primarily for tourists related facilities and accommodation. Also to provide for a range of other uses which support these main uses, such as commercial facilities, leisure/recreational facilities and rental space for various essential minor Government uses.</p> <p><b>2006 North Harbours Local Plan:</b></p> <p><b>Policy NHGT16:</b> Support of International Yachting Centre with related facilities and ancillary uses as approved in outline development permit PA 20135/94. Full development Applications are to be considered within context and within the approved Planning Application. The restoration and rehabilitation of heritage resources and public access to them will also be a priority in considering Full Development Applications on site.</p> <p><b>Scheduling:</b> The whole island as AHLV harbour fortifications and Fort Manoel bastions as Grade I military architecture through GN 133 of 2001.</p> <p><b>Environment Protection</b></p> <p>Bird Sanctuary: IUCN Category III through EPA LN 41/03.</p> <p>The site includes a number of protected species covered by SL 549.44 and SL549.64 including the Winged Radish and Southern Buckthorn.</p>

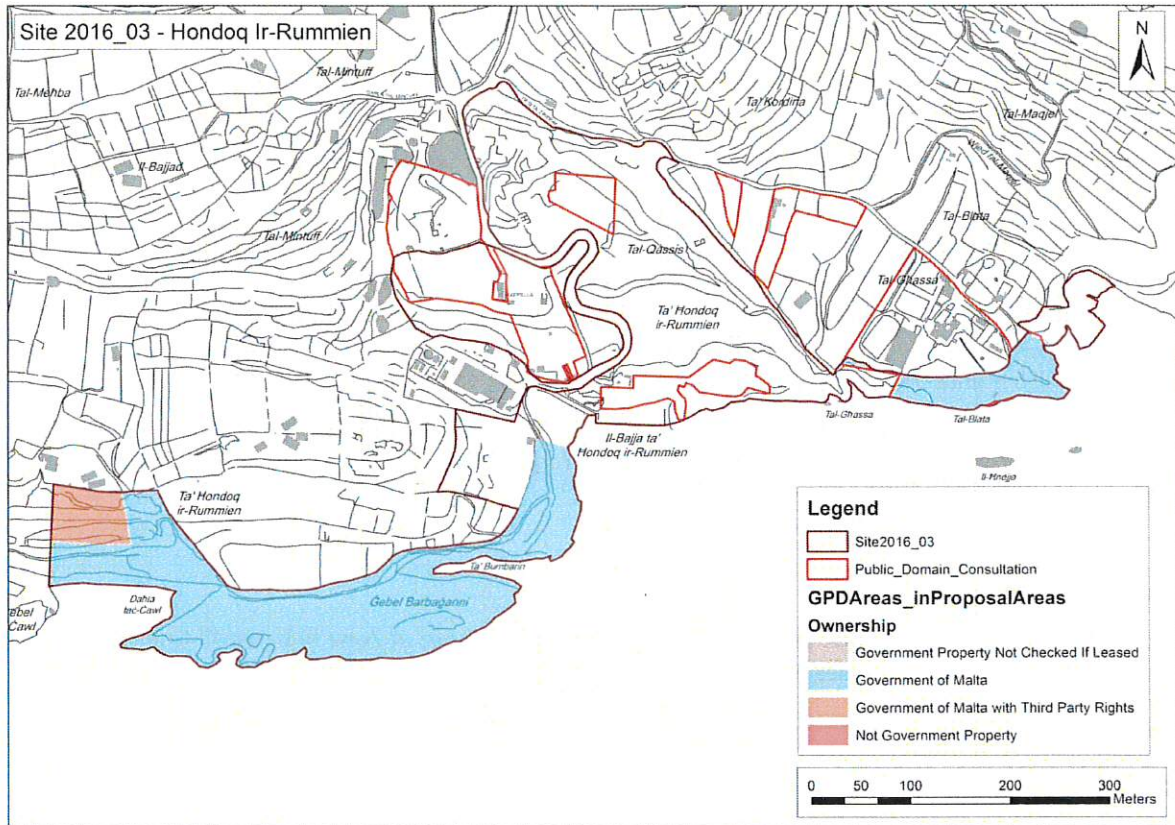
#### Summary report from Legal Advice to Executive Council

It is clear that the Government of Malta holds the bare ownership of the whole area within Manoel Island proposed to be designated as public domain according to Act No XXV of 2016. There are, however, third parties who have rights both real rights and personal rights over the said land. There are considerable areas of land which were given on emphytheusis and certain other areas of land which according to researches were at first registered as having been given on emphytheusis but were later discovered to be, in fact, encroachments.

Ref	Location	Includes areas already declared as Public Domain
2016-1	Site at Manoel Island	✓

# Public Domain 2017 Annual Report

## Site 2016 – 3 Hondoq ir-Rummien



	Area in sq m	% of total area
<b>Site_2016_03 - Hondoq Ir-Rummien</b>	<b>145038.95</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No Data	n/a
GPD Areas (Govt)	49467.35	34.11
GPD Areas (Govt with 3rd Party Rights)	4049.13	2.79
GPD Areas (Not Govt Property)	No Data	n/a
Land Registry Areas (Govt)	No Data	n/a
Land Registry Areas (Govt with 3rd Party Rights)	No Data	n/a
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation</b>	<b>24936.44</b>	<b>17.19</b>

Relevant Planning Policies and environmental designations
<p><b>2006 Gozo and Comino Local Plan</b></p> <p><b>Policy GZ-RLCN – 1:</b> Proposal for scheduling as Areas of Ecological Importance and Areas of High Landscape Value</p> <p><b>Policy – GZ- Qala-3:</b> Favourably consider proposals from public agencies to upgrade beach facilities at Hondoq ir-Rummien with a view to:</p> <ul style="list-style-type: none"> <li>• to rehabilitate the damaged landscape;</li> <li>• to provide basic beach amenities (e.g. changing rooms and showers);</li> <li>• to encourage unrestricted public access to the beach; and the built facilities provided shall be designed in a manner</li> <li>• which is unobtrusive and complement the surrounding environment</li> </ul> <p><b>Policy GZ-Qala-4:</b> Supports the continued extraction of mineral reserves in quarry as part of a development project proposal for tourism and marine related uses through sensitive design, high quality and low density buildings that blend into the landscape.</p> <p><b>Environment Protection</b></p> <p>No scheduling. Adjacent marine area is part of the Natura 2000 site at Zona fil-bahar fil-Grigal ta' Malta and includes a number of species protected through SL 549.44 such as the endemic Maltese Top Shell.</p> <p>No trapping zone, except cultivated agricultural land officially registered with the Department of Agriculture prior to end July 2014 (this exemption does not apply to Bird Sanctuaries or Protected Beaches) SL 504.71.</p>

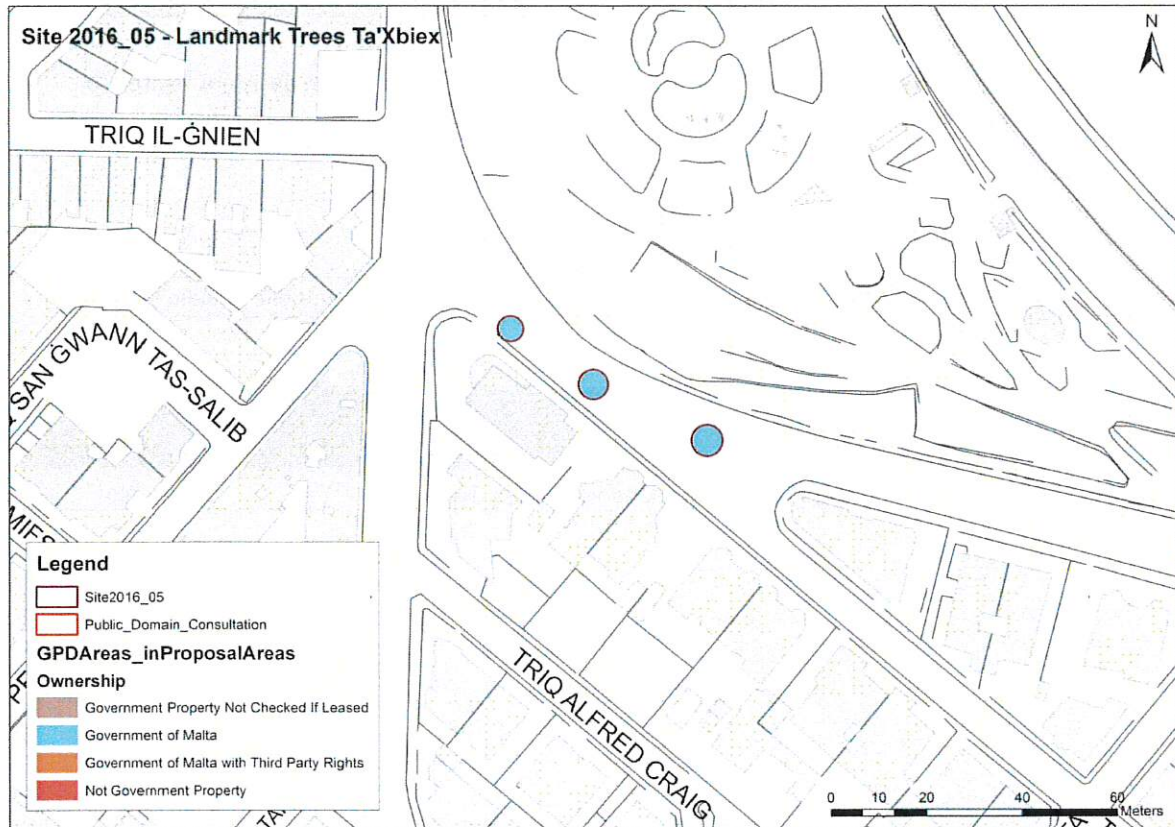
**Summary report from Legal Advice to Executive Council**

One would need researches from Land Registry and extraction of percentages from plotted parcels of land indicating how much of the area in question belongs to government and how much belongs to third parties, to come to the conclusion of how impactful third party property is on the area. As a general comment however one can say that Qala Local Council are in favour of public domain designation whereas other people holding various third party interests, from ownership to emphyteusis are opposing the move.

Ref	Location	Includes areas already declared as Public Domain
2016-3	Site at Hondoq, Qala	✓

# Public Domain 2017 Annual Report

## Site 2016 – 5 Trees at Ta' Xbiex



	Area in sq m	% of total area
<b>Site_2016_5 Trees at Ta' Xbiex</b>	<b>85.60</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No Data	n/a
GPD Areas (Govt)	85.60	100
GPD Areas (Govt with 3rd Party Rights)	No Data	n/a
GPD Areas (Not Govt Property)	No Data	n/a
Land Registry Areas (Govt)	No Data	n/a
Land Registry Areas (Govt with 3rd Party Rights)	No Data	n/a
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation</b>	<b>No Data</b>	<b>n/a</b>

<b>Relevant Planning Policies and environmental designations</b>
<p><b>2006 North Harbours Local Plan</b></p> <p><b>Policy NHCV 05</b> – Protection of trees. Generic policy within the local plan to guide decisions related to existing trees in relation to development proposal.</p>

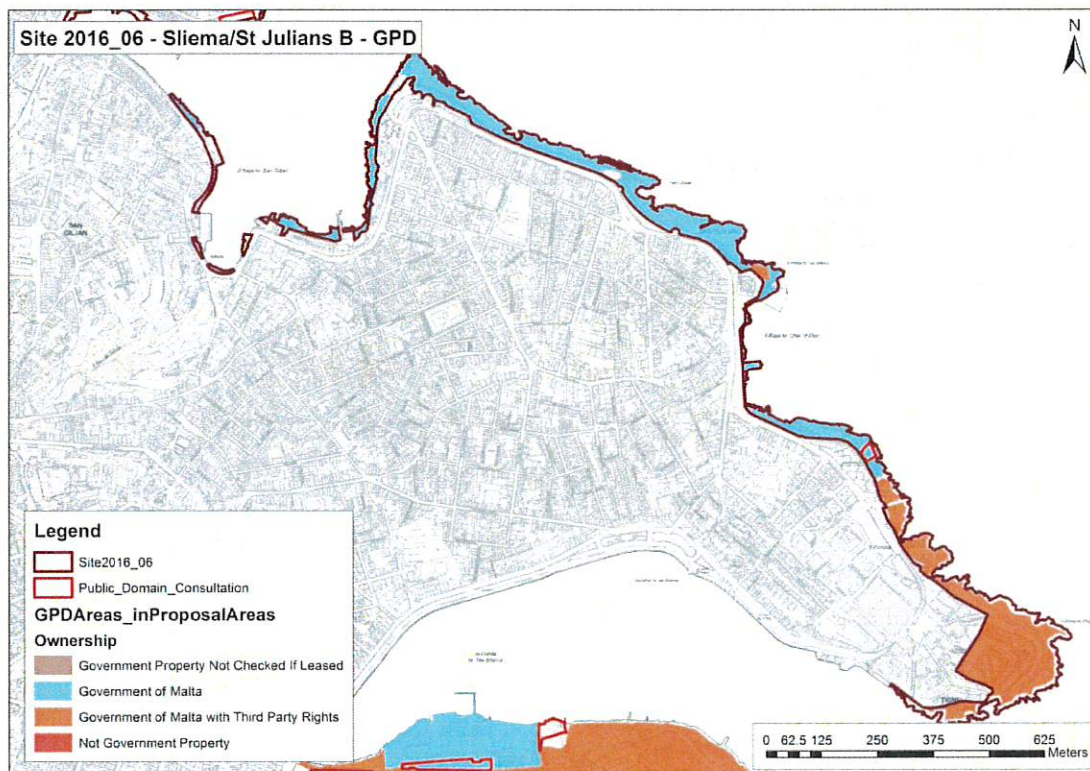
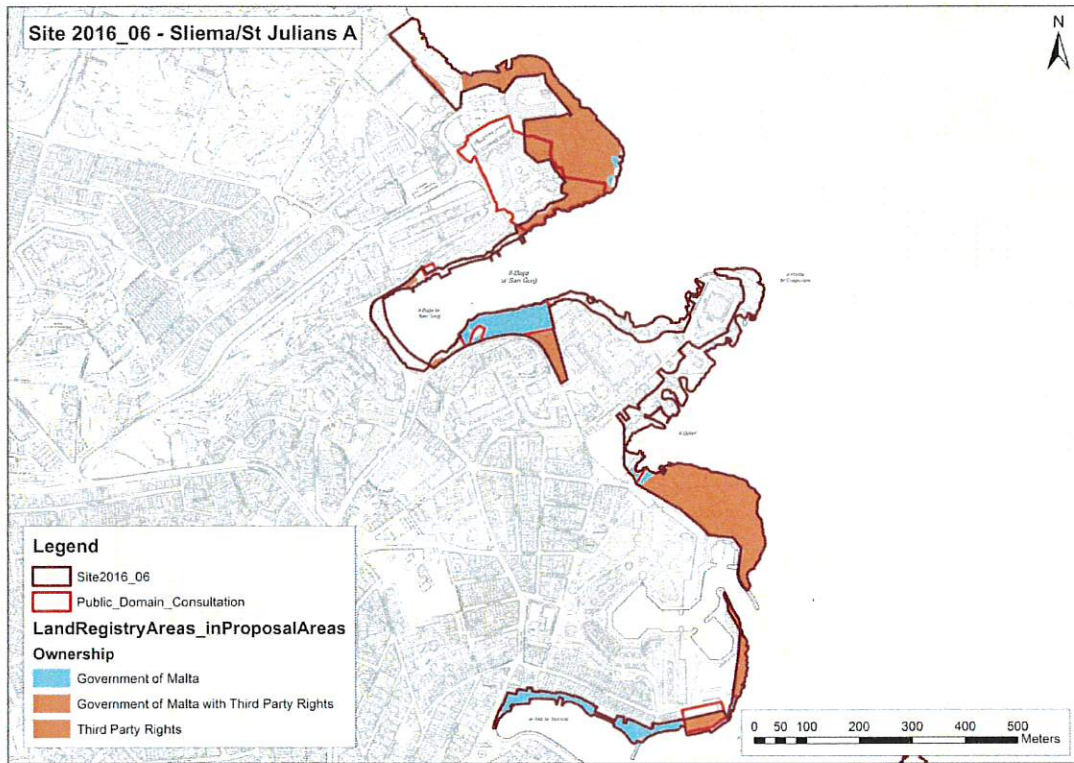
**Summary report from Legal Advice to Executive Council**

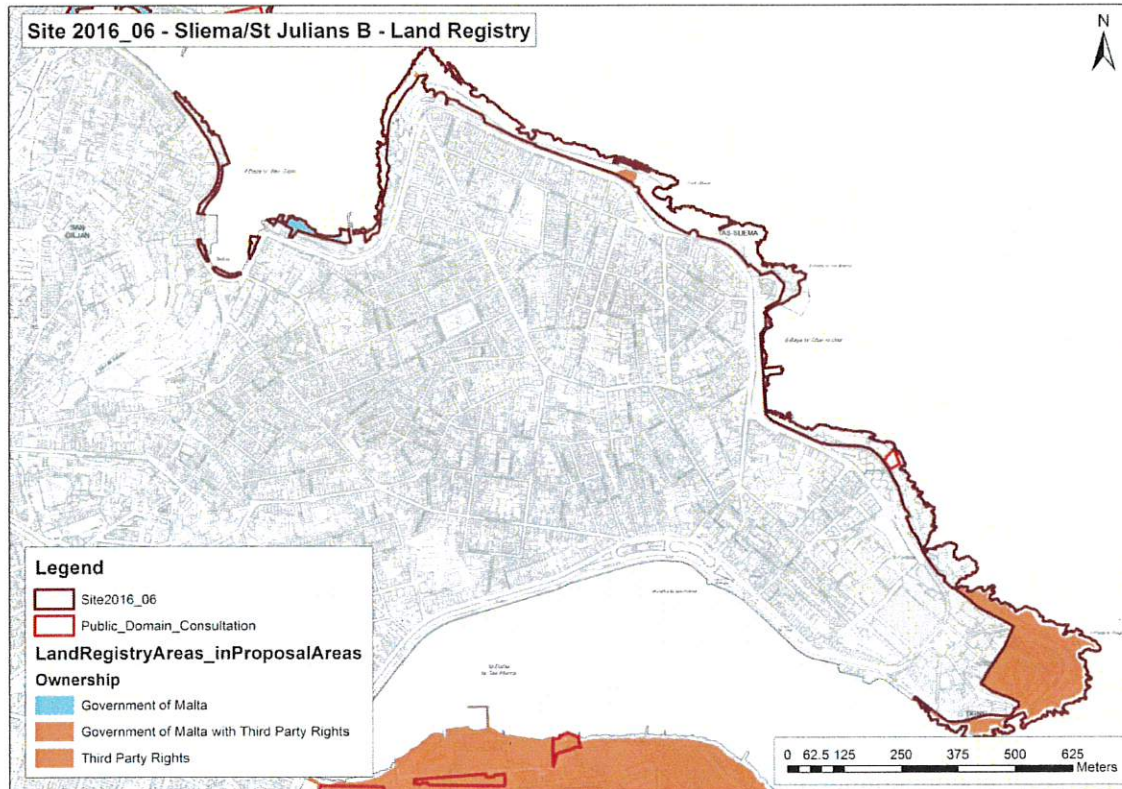
There does not seem to be any public objection to this particular site being given public domain status
---

Ref	Location	Includes areas already declared as Public Domain
2016-5	Site of three historic landmark trees, Ta' Xbiex	No

# Public Domain 2017 Annual Report

## Site 2016 – 1 Manoel Island





	Area in sq m	% of total area
<b>Site_2016_06_Sliema_St Julians</b>	<b>250879.66</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No Data	n/a
GPD Areas (Govt)	65476.17	26.10
GPD Areas (Govt with 3rd Party Rights)	74228.78	29.59
GPD Areas (Not Govt Property)	No Data	n/a
Land Registry Areas (Govt)	18635.35	7.43
Land Registry Areas (Govt with 3rd Party Rights)	98297.99	39.18
Land Registry Areas (3rd Party Rights)	2321.00	0.93
<b>Public Domain Consultation</b>	<b>44343.67</b>	<b>17.67</b>

**Relevant Planning Policies and environmental designations**

**2006 North Harbours Local Plan**

**Policy NHCV 03 and Policy NHRL 03:** where maps identify area as natural coast, no urban development permitted whilst areas identified as coastal areas with leisure uses may be considered for certain uses (restaurants, bars, leisure and assembly) provided they are located within existing buildings/structures covered with development permission and involve only very minor extensions and consolidation of such existing buildings/structures.

**Scheduling:** cultural features

- Fort Tigne Military Architecture Grade 1 and AHLV harbour fortifications GN 133/01;
- It-Torri, Sliema Grade 1 - GN 700/95;
- It-Torri u Batterija, San Giljan Grade 1 - GN 729/96;
- 5 Dwellings Triq il Kbir, San Giljan, Grade 2 - GN576/94;
- Sea wall and Stairs, Grade 2 San Giljan - GN 576/94.

**Environment protection:** San Giljan site adjacent to marine Natura 2000 site Zona fil-Bahar fil-Grigal ta' Malta.

Tigne Point, St George's Bay and Hilton area - No trapping zone, except cultivated agricultural land officially registered with the Department of Agriculture prior to end July 2014 (this exemption does not apply to Bird Sanctuaries or Protected Beaches) SL 504.71.

Il-Qaliet is one of the very important transitional water communities with species and habitats protected under SL549.44.

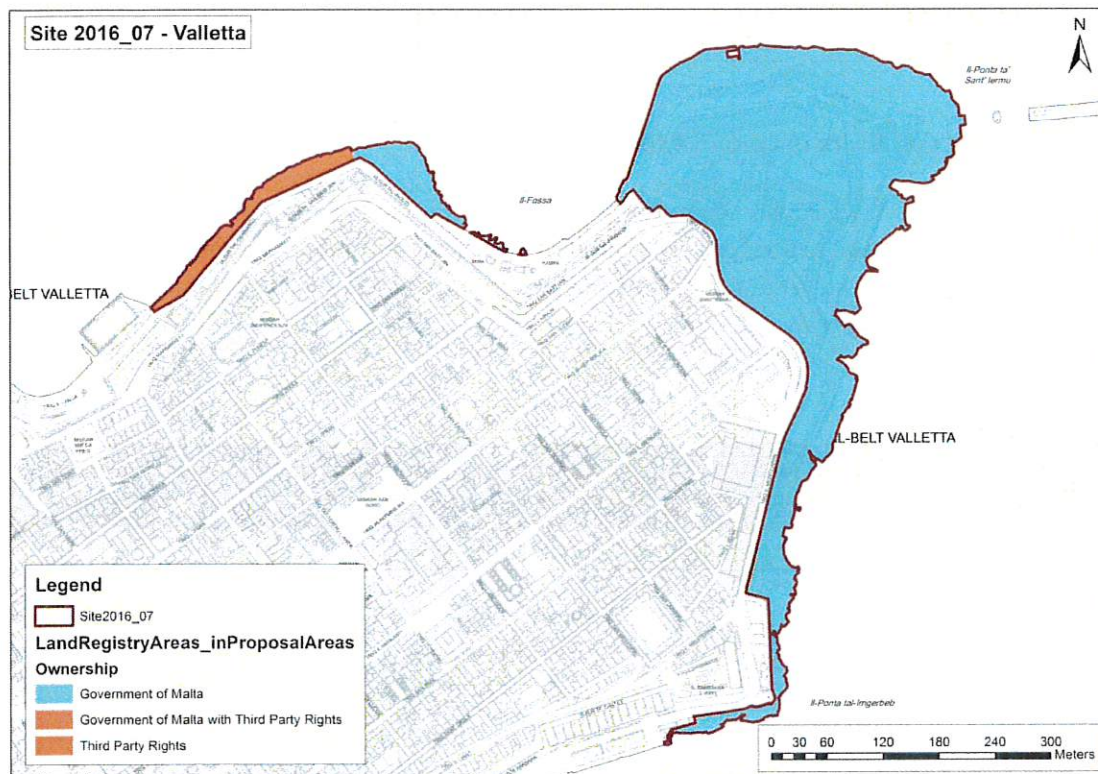
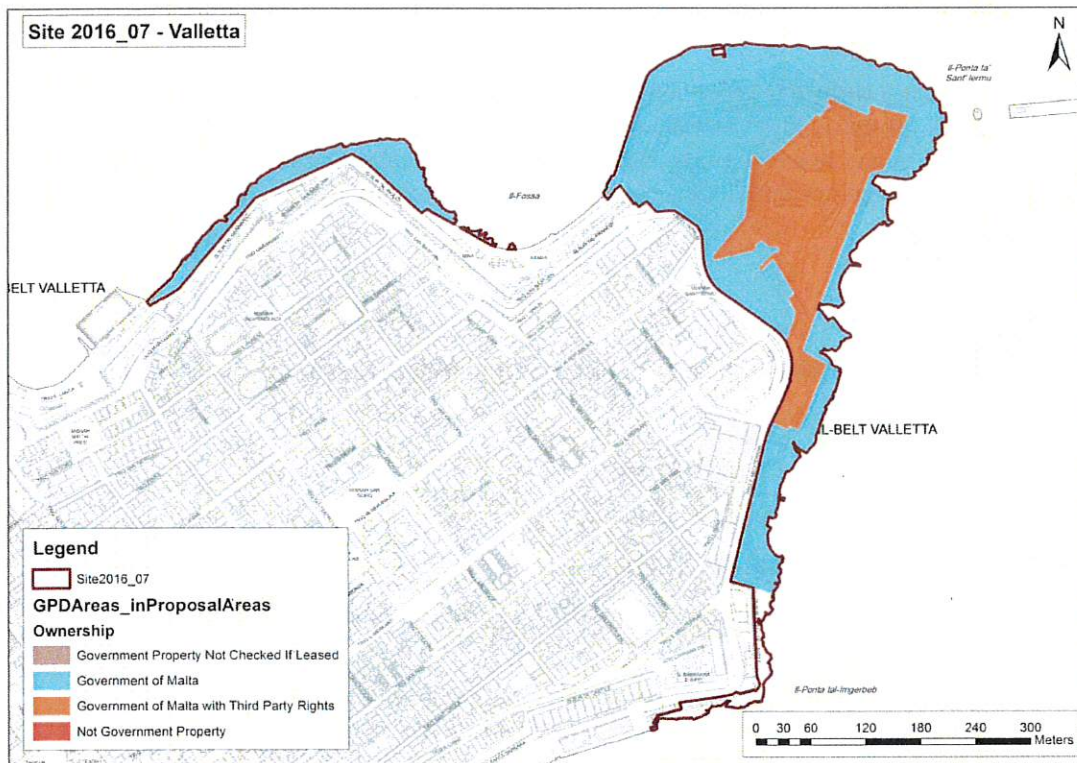
**Summary report from Legal Advice to Executive Council**

In this area, even though it would be commendable to look into what percentage of land belongs to government and what percentage to third parties before coming to any conclusions, it is clear that the interest of third parties claiming rights and various titles over the area is considerable including third parties who are today owners of the hotels in the area.

Ref	Location	Includes areas already declared as Public Domain
2016-6	Site of beaches from St.George's Bay to Sliema	✓

# Public Domain 2017 Annual Report

## Site 2016 – 7 Valletta



	Area in sq m	% of total area
<b>Site_2016_07_VLT</b>	<b>96384.81</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No Data	n/a
GPD Areas (Govt)	67688.74	70.23
GPD Areas (Govt with 3rd Party Rights)	25668.57	26.6
GPD Areas (Not Govt Property)	No Data	n/a
Land Registry Areas (Govt)	91975.90	95.43
Land Registry Areas (Govt with 3rd Party Rights)	4216.52	4.37
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation</b>	<b>No Data</b>	<b>n/a</b>

Relevant Planning Policies and environmental designations
<p><b>2002 Grand Harbour Local Plan</b></p> <p><b>Policy GC 04</b> supports upgrading of Marsamxett waterfront for public use on Valletta stretch whilst respecting other policies in the GHLP and Structure Plan.</p> <p><b>Policies GV26, GV 29:</b> Development Brief for St Elmo</p> <p><b>Policy GE01:</b> identifying rocky shoreline as SSI and AEI. In these areas, development of any description which could prejudice the unique natural characteristics of the areas or adversely affect individual sites will not be permitted.</p> <p><b>Policy GH03:</b> The Planning Authority will support initiatives to restore the fortifications, clear unauthorised and/or uncomplimentary uses, and maintain the fortifications in a suitable setting. Reuse of the bastions for activities which respect and are complementary to their historical setting will be encouraged.</p> <p><b>Scheduling:</b> AHLV Harbour Fortifications and Bastions as Grade 1 buildings through GN 133/01</p>

#### Summary report from Legal Advice to Executive Council

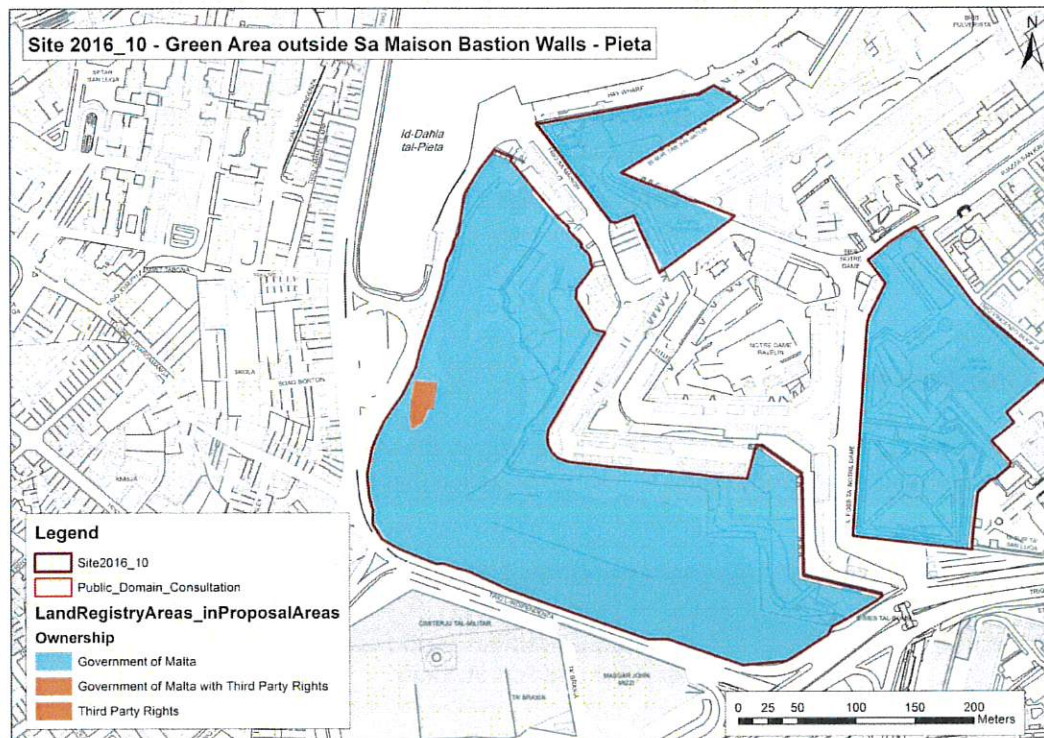
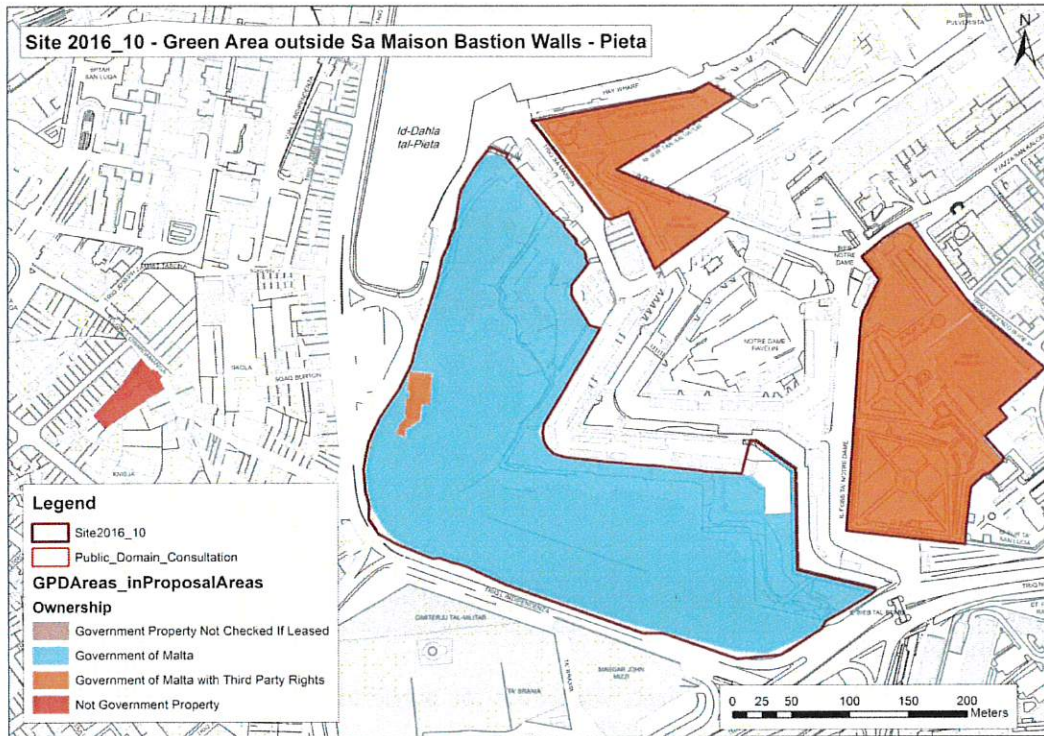
From researches presented to this office it is clear that this area is in the majority owned by government with third party interest being minimal. Nobody seems to have an objection that this area becomes public domain.

Ref	Location	Includes areas already declared as Public Domain
2016-7	Sites at Valletta coastline and Fort St. Elmo	✓



# Public Domain 2017 Annual Report

## Site 2016 – 10 Pieta' Sa Masion



	Area in sq m	% of total area
<b>Site_2016_10_Green Area outside Sa Maison Bastion Walls - Pieta</b>	<b>115548.40</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No Data	n/a
GPD Areas (Govt)	73273.62	63.41
GPD Areas (Govt with 3rd Party Rights)	38590.90	33.40
GPD Areas (Not Govt Property)	No Data	n/a
Land Registry Areas (Govt)	113004.55	97.80
Land Registry Areas (Govt with 3rd Party Rights)	644.81	0.56
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation*</b>	<b>No Data</b>	<b>n/a</b>

\*UoM submission concerning management of part of Argotti Gardens did not include site plan

Relevant Planning Policies and environmental designations
<p><b>2002 Grand Harbour Local Plan</b></p> <p><b>Policy GF 13, GF 14 and Figure 10:</b> The nominated site is identified as an area of open space and public garden where no development which detracts from or jeopardises these areas will be permitted. A systematic rehabilitation, and tree planting scheme will be introduced, together with a management and maintenance programme</p> <p>The Jubilee Gardens (the area bordered by Triq Indipendenza/Triq Sa Maison) will be the subject of an appropriate management scheme designed to ensure that the semi-natural characteristics of this area are maintained. It will be developed into an urban park to cater for the Inner Harbour area, with parking and access being provided from the eastern part along Triq Sa Maison. Soft and hard landscaping works will be promoted. The series of underground galleries will be conserved.</p> <p><b>Scheduling:</b> Area of High Landscape Value of Harbour Fortifications; Bastions as Grade 1; Military Glacis as Grade 1.</p> <p>The pinetum is a Bird Sanctuary Category III IUCN through LN 41/03.</p>

#### Summary report from Legal Advice to Executive Council

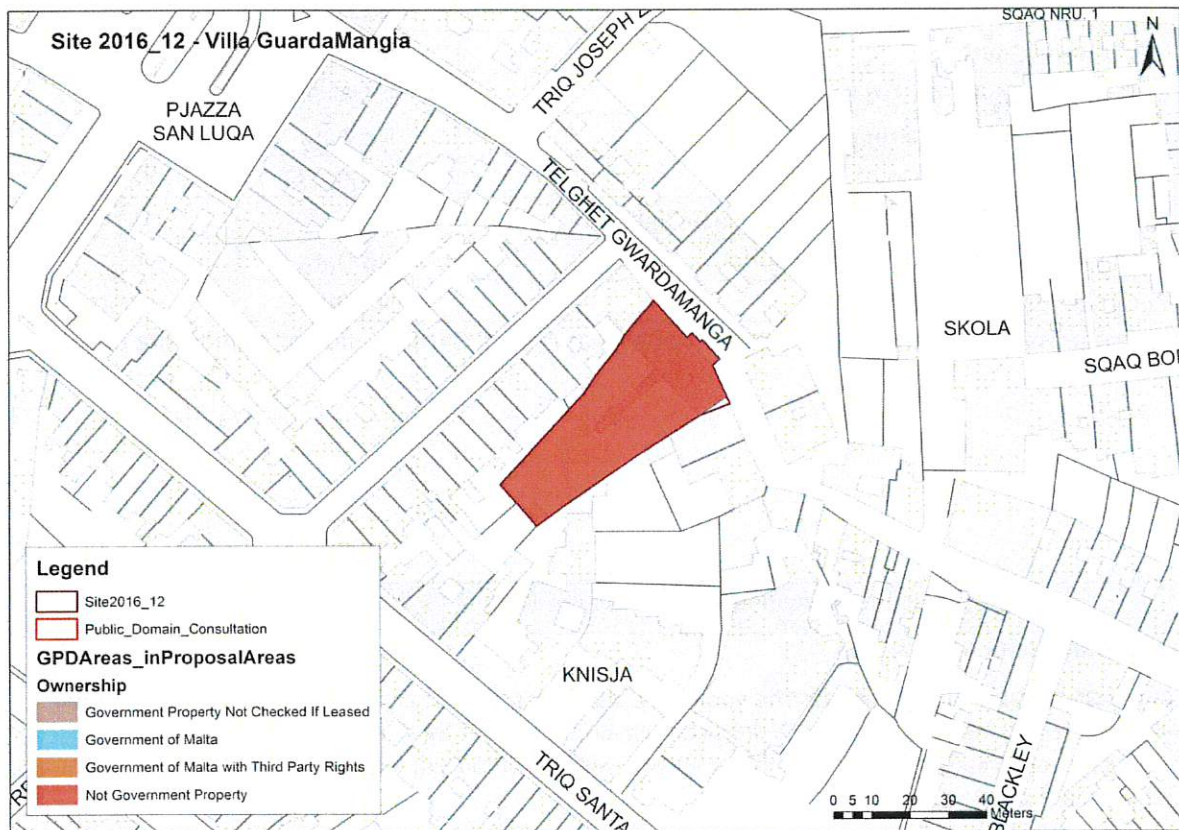
In this area the owner of the land is government although there are third party rights, both personal and real. This does not necessarily mean that third parties are all in opposition that the area becomes public domain. The University of Malta, for one, is not objecting, and it is marjorly responsible for the Pineatum in the area.

Ref	Location	Includes areas already declared as Public Domain
2016-10	Sites from Green area outside Sa Maison bastion walls (and parking/paved area)	No



# Public Domain 2017 Annual Report

## Site 2016 – 12 Villa Guardamangia



	Area in sq m	% of total area
<b>Site_2016_12_Villa Guardamangia</b>	<b>1405.36</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No Data	n/a
GPD Areas (Govt)	No Data	n/a
GPD Areas (Govt with 3rd Party Rights)	No Data	n/a
GPD Areas (Not Govt Property)	1393.37	99
Land Registry Areas (Govt)	No Data	n/a
Land Registry Areas (Govt with 3rd Party Rights)	No Data	n/a
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation*</b>	<b>No Data</b>	<b>100</b>

\*Not all information submitted included maps that can be digitised; legal contract indicates proof of ownership

**Relevant Planning Policies and environmental designations**

**2006 North Harbours Local Plan**

**Policy NHSE 09** and Map MP 1: site is within an Urban Conservation Area where the policy states that MEPA will promote the rehabilitation of traditional buildings and will seek to secure the conservation or enhancement of the character and appearance of the UCA.

**Scheduling:** Proposed area is Scheduled as Grade 2 Architectural building through GN 349/01.

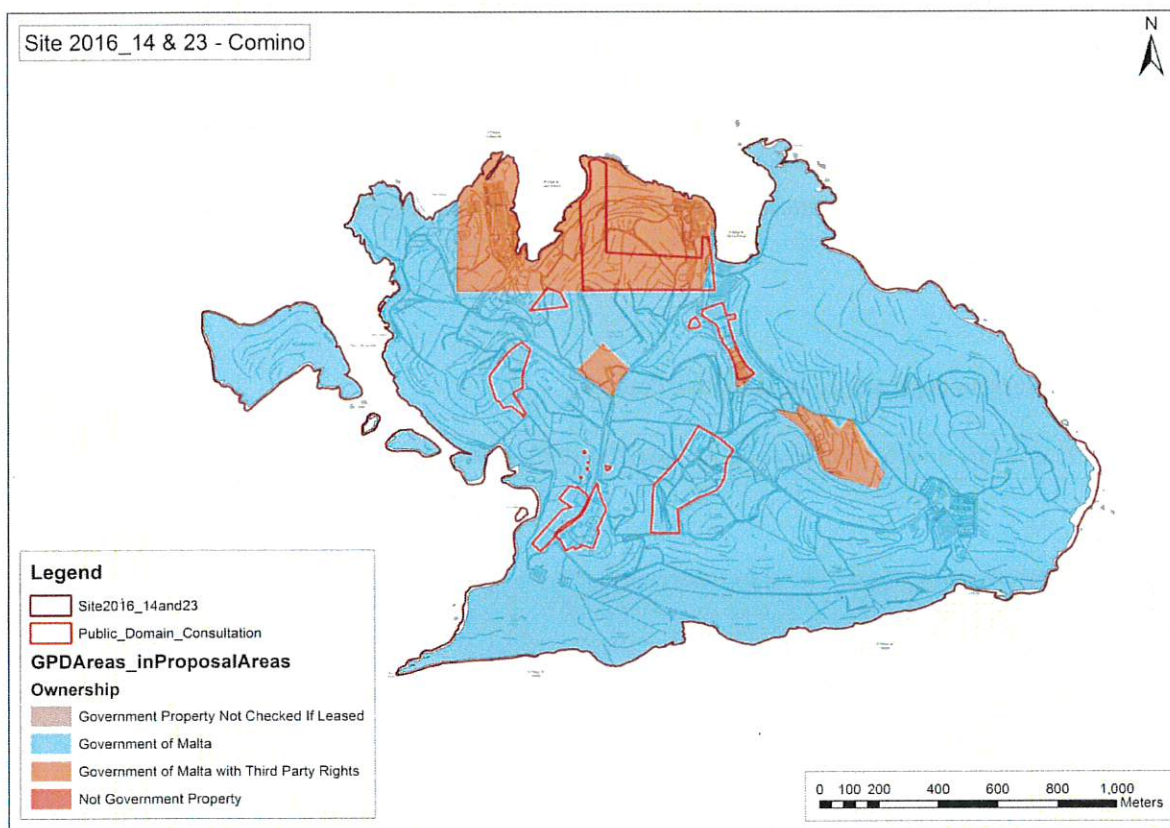
**Summary report from Legal Advice to Executive Council**

This property is in fact private property and the owners are objecting that it becomes public domain.

Ref	Location	Includes areas already declared as Public Domain
2016-12	Site at Villa Guardamangia, Pieta'	No

# Public Domain 2017 Annual Report

## Site 2016 – 14 & 23 Comino



	Area in sq m	% of total area
<b>Site_2016_14&amp;23_Comino</b>	<b>2940092.32</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No data	n/a
GPD Areas (Govt)	2527507.94	85.96
GPD Areas (Govt with 3rd Party Rights)	351223.86	11.94
GPD Areas (Not Govt Property)	No Data	n/a
Land Registry Areas (Govt)	No Data	n/a
Land Registry Areas (Govt with 3rd Party Rights)	No Data	n/a
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation</b>	<b>191326.32</b>	<b>6.51</b>

**Relevant Planning Policies and environmental designations**

**2006 Gozo and Comino Local Plan**

**Policy GZ-RLST-6:** In view of its environmental sensitivity, new dwellings on Comino shall not be permitted. In this respect, Policy GZ-AGRI-3 shall not apply to Comino or to any of the other minor islets.

**Policies GZ-Ghjn-8, GZ-Ghjn-9, GZ-Ghjn-10, GZ-Ghjn-11, Map 14.2-A1**

GZ-Ghjn-8: There shall be a general presumption against the further development of built facilities on Comino which entail additions in height, extent or intensity of use of existing or proposed facilities.

GZ-Ghjn-9: MEPA shall give favourable consideration to the upgrading of the existing complex at Comino known as "il-Palazz", for the conservation and restoration of the building. Additions to the building shall be strictly prohibited. The development of a visitor centre at 'il-Forn' shall be actively encouraged.

GZ-Ghjn-10: The existing unofficial camping site at il-Bajja ta' Santa Marija is to be closed down and adequate facilities provided in a site designated on Map 14.2-A1.

GZ-Ghjn-11: Consolidation of the existing routes on Comino will be promoted.

**Scheduling:** Santa Marija Marshland AEI and SSI through GN 401/96

**Environment:** Special Area of Conservation, Natura 2000 site and Special Protection Area GN 223/05. Comino includes various habitats and species covered by SL 549.44. SL549.42 and SL 549.64.

A number of operational objectives in the Natura 2000 site Management Plan seek to control access to certain habitats to reduce trampling and minimise disturbance to sensitive species such as breeding birds.

Bird Sanctuary IUCN Category III through LN 43/01.

**Summary report from Legal Advice to Executive Council**

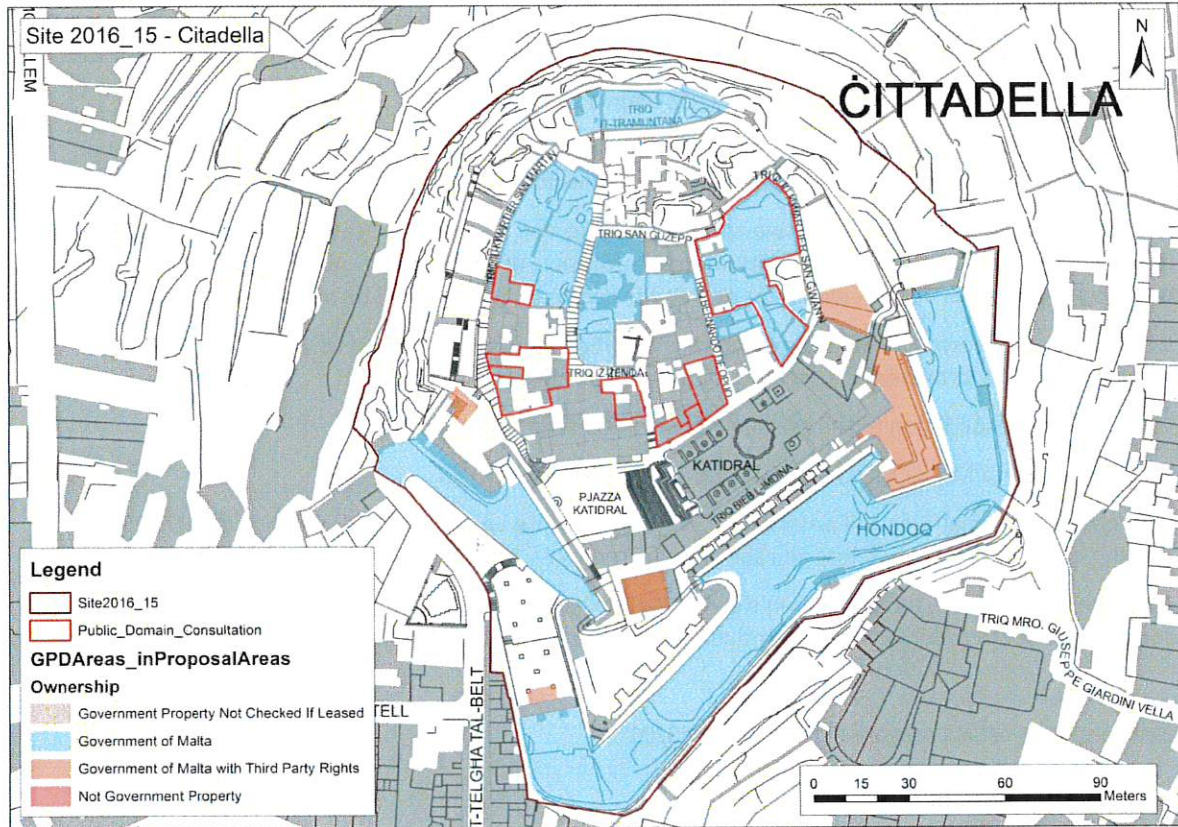
On Comino, third party interests were ample, extending over the whole of the island however today they have been drastically reduced. There are third party real rights, both due to ownership and emphyteusis however one would have to assess the percentage coverage of these rights in order to come to conclusions since one cannot arrive at such conclusions from analysing contracts.

Ref	Location	Includes areas already declared as Public Domain
2016-14	Comino	✓



# Public Domain 2017 Annual Report

## Site 2016 – 15 Citadella, Gozo



	Area in sq m	% of total area
<b>Site_2016_15_Citadella</b>	<b>32706.23</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No Data	n/a
GPD Areas (Govt)	9341.30	28.56
GPD Areas (Govt with 3rd Party Rights)	1034.47	3.16
GPD Areas (Not Govt Property)	No Data	n/a
Land Registry Areas (Govt)	No Data	n/a
Land Registry Areas (Govt with 3rd Party Rights)	No Data	n/a
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation</b>	<b>1886.89</b>	<b>5.77</b>

Relevant Planning Policies and environmental designations
<p><b>2006 Gozo and Comino Local Plan</b></p> <p><b>Policy GZ-Rbat-1:</b> Encourages the preparation of a Heritage Management Plan in line with the Conservation Order in GN83/2001 to focus on safeguarding existing architectural, urban and cultural heritage within the Cittadella according to the provisions of the Conservation Order with a view to optimise their utilisations and the facilitation of interpretation of heritage features at Cittadella and identify opportunities for tourism related infrastructure.</p> <p><b>Scheduling:</b> Fortified City Grade 1, Area of Archaeological Importance and AHLV, GN 765/98. Conservation Order GN83/01.</p> <p><b>Environment:</b> Special Area of Conservation, Natura 2000 site and Special Protection Area GN 223/05.</p>

**Summary report from Legal Advice to Executive Council**

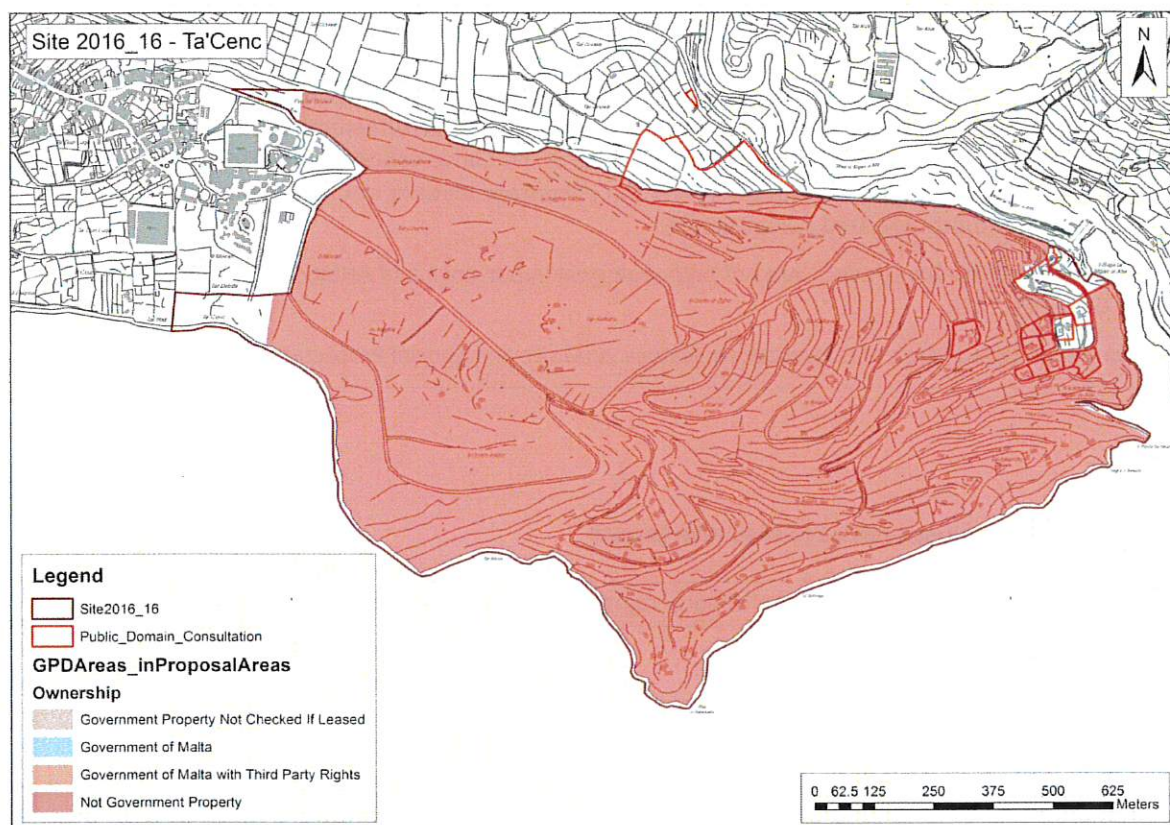
In the Cittadella area there are various third party rights and many of them are fully fledged ownership rights.

Ref	Location	Includes areas already declared as Public Domain
2016-15	Cittadella, Victoria, Gozo	No



# Public Domain 2017 Annual Report

## Site 2016 – 16 Ta' Cenc



	Area in sq m	% of total area
<b>Site_2016_16_Ta'Cenc</b>	<b>1392710.48</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	No Data	n/a
GPD Areas (Govt)	No Data	n/a
GPD Areas (Govt with 3rd Party Rights)	No Data	n/a
GPD Areas (Not Govt Property)	1329646.71	95.47
Land Registry Areas (Govt)	No Data	n/a
Land Registry Areas (Govt with 3rd Party Rights)	No Data	n/a
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation</b>	<b>58911.03</b>	<b>4.23</b>

**Relevant Planning Policies and environmental designations**

**2006 Gozo and Comino Local Plan**

**Policy GZ-Snat-2:** On the basis of the 1992 Structure Plan policy TOU 10 which guides the development of a multi-ownership tourism hotel development as well as a national park at Ta'Cenc, this policy specifies which elements need to be taken into consideration in determining applications for planning permission. These include, amongst others, the protection of natural and cultural heritage, the preferred location for tourism development, upgrading of existing facilities, safeguarding public access.

**Scheduling:** Coastal Cliffs SSI for ornithology, GN 853/05; Mgarr ix-Xini watercourse SSI, GN 937/01

**Environment:**

Special Area of Conservation, Special Protection Area and Natura 2000. The site is of prime importance in terms of various habitats and species listed in SL 549.42 and LS549.44.

Bird Sanctuary, LN 41/03

No trapping zone, except cultivated agricultural land officially registered with the Department of Agriculture prior to end July 2014 (this exemption does not apply to Bird Sanctuaries or Protected Beaches) SL 504.71

**Summary report from Legal Advice to Executive Council**

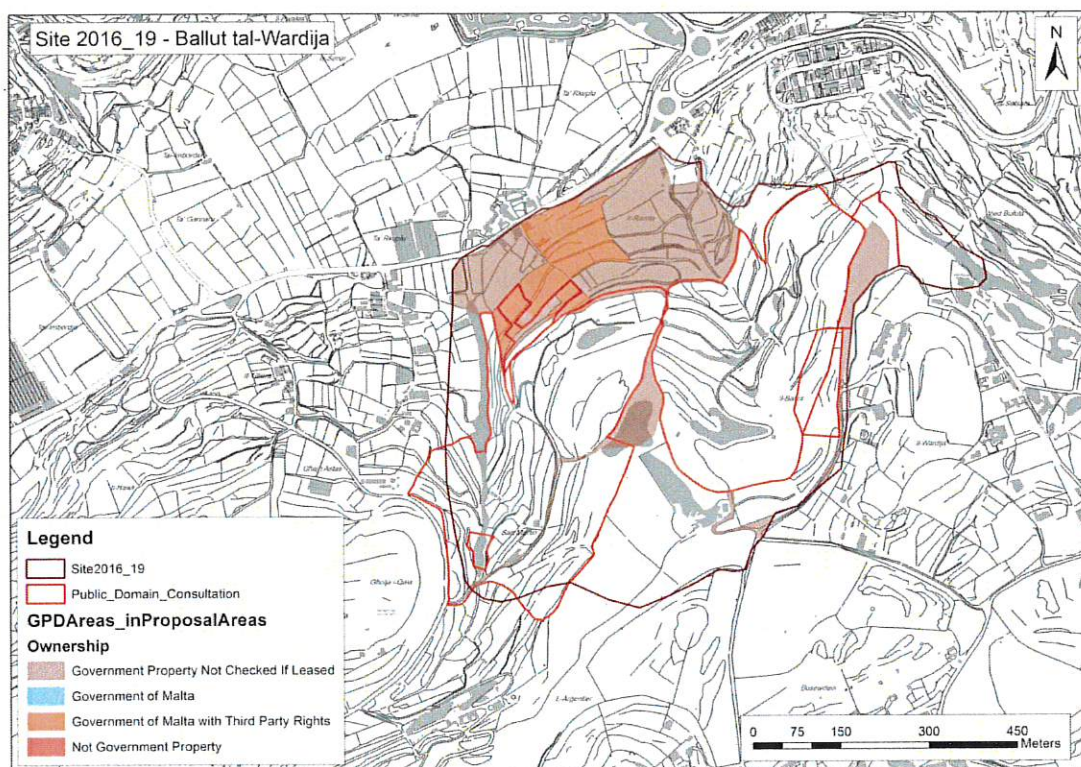
One would need to assess percentage coverage of third party rights in this area however there are a good number of third parties having rights over properties in the area, especially villas with surrounding gardens, and they have vented their concerns during the public consultation process and are against the area being designated as public domain.

Ref	Location	Includes areas already declared as Public Domain
2016-16	Site at Ta' Cenc, Sannat	✓



# Public Domain 2017 Annual Report

## Site 2016 – 19 Ballut tal-Wardija



	Area in sq m	% of total area
<b>Site_2016_19 - Ballut Tal-Wardija</b>	<b>459252.51</b>	<b>100</b>
GPD Areas (Govt not checked if leased)	82086.40	17.87
GPD Areas (Govt)	No Data	n/a
GPD Areas (Govt with 3rd Party Rights)	25246.26	5.49
GPD Areas (Not Govt Property)	No Data	n/a
Land Registry Areas (Govt)	No Data	n/a
Land Registry Areas (Govt with 3rd Party Rights)	No Data	n/a
Land Registry Areas (3rd Party Rights)	No Data	n/a
<b>Public Domain Consultation</b>	<b>278385.15</b>	<b>60.61</b>

Relevant Planning Policies and environmental designations
<p><b>2006 North West Local Plan</b></p> <p><b>Policy NWCO 10 and Map 20:</b></p> <p>Site is designated as Woodland Conservation Area for protection and no development will be permitted which will be detrimental to the ecosystem of the areas. The use of woodland for passive recreation activities will be encouraged.</p> <p><b>Policy NWRE 6 and Map 11:</b> Existing and proposed long distance footpaths and other access ways will be protected from any development that would adversely affect their route or character.</p> <p>MEPA in conjunction with Local Councils and other agencies will initiate a system of recording and way marking of footpaths and access ways. MEPA will encourage Government to prepare legislation to secure and protect public rights of access to designated footpaths.</p> <p>v. Widien and Wardija - St Paul's Bay combined with the ridge crest;</p> <p><b>Environmental Protection:</b></p> <p>Trees at il-Ballut tal-Wardija are protected as historical trees of antiquarian importance through the Cultural Heritage Act – SL 54.02 (GN269 of 1933).</p> <p>Tree protection area GN473/2011</p> <p>Tree species protected through GN316 of 2017. SAC and Natura 2000 site</p> <p><b>Scheduling:</b> Woodland is a Level 1 AEI and SSI; Wied San Martin as a Level 1 AEI and SSI whilst whole area is an AEI and AHLV through GN 1137/2008.</p> <p>No trapping zone, except cultivated agricultural land officially registered with the Department of Agriculture prior to end July 2014 (this exemption does not apply to Bird Sanctuaries or Protected Beaches) SL 504.71.</p>

**Summary report from Legal Advice to Executive Council**

The area in question is an area where there are a lot of third party rights, both owners as well as third parties having rights such as agricultural leases, both from private parties and government.

Ref	Location	Includes areas already declared as Public Domain
2016-19	Site at Il-Ballut tal-Wardija	No



