



# **Benchmark Report on** **Evaluation of the Roles and Responsibilities** **of Local and Central Governments in Spatial** **Planning in Selected Small Countries**



Embassy of the Turkish Republic  
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# I. INTRODUCTION

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- I.1. This report sets out a detailed comparative evaluation of the roles and responsibilities of local and central governments in spatial planning in the Republic of Malta, the Republic of Ireland and the Isle of Man.
- I.2. Island Consultancy Services in collaboration with Adi Associates Environmental Consultants Ltd was awarded the contract to undertake the evaluation as part of a study on benchmarking Northern Cyprus with other small countries. The study is being conducted within the framework of the Functional-Institutional Review in Northern Cyprus (FOKUS), a project being carried out by the Economic Policy Research Foundation of Turkey (TEPAV).

## SCOPE OF WORK

- I.3. The Terms of Reference for the project identified the delivery of information on the following components:
  - A comparative description and discussion of the institutional and legal setting of the small states, with a focus on:
    - the overall organisation, including a brief description of the political-administrative structure of the states; and
    - the organisational scheme of institutions in relation to spatial planning and their relations with each other and with the rest of the public sector.
  - A comparative description and discussion of the making of a spatial plan in the small states, with a focus on:
    - the different levels and modes of public participation in the making of a spatial plan; and
    - the distribution of roles and responsibilities among public institutions at central and local government levels in the making of a spatial plan.
  - A comparative description and discussion of the implementation of spatial planning in the states, providing statistics where possible and with a focus on:
    - the process and cost of issuing building and construction licenses;
    - the process of enforcing the implementation of the spatial plan; and
    - the process of making amendments to the spatial plan.
  - An account of the major reform agenda in the states in the field of spatial planning, if possible, from a historical perspective and, when relevant, in the light of the process of European integration, providing answers to the following questions:
    - what have been the drivers of the reforms?

- which aspects of the spatial planning system have been subject to reform?
- how have the reforms been managed, that is, in which institutional environments and through which tools (with a specific insight on the possible reorganisation of local-central government relations)?
- what, if any, are the new institutions that are created or to be created as a result of the reform agenda, and which functions are they expected to serve?
- what, if any, are the organisations / functions that were abolished or to be abolished or that underwent drastic change?
- what is the current reform agenda, if any, and which priorities and strategies have informed this agenda? and
- what are the impacts of the concerned reforms? Is there a specific evaluation / assessment process regarding these impacts?

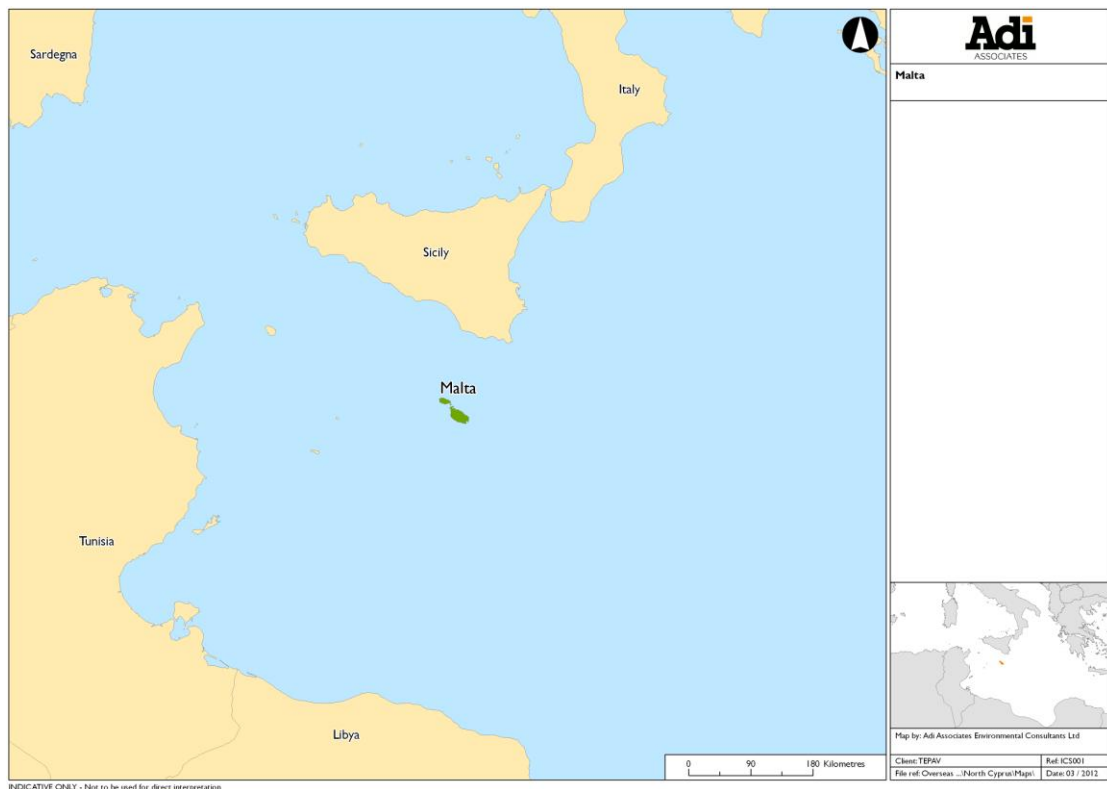
## **WHAT IS SPATIAL PLANNING?**

- I.4. Spatial planning is a key instrument in the process of establishing a sustainable framework for physical, social, and economic development. The primary role of spatial planning is to ensure and maximise integration in the delivery of national and local cross-sectoral policy objectives, also taking into account environmental considerations.
- I.5. Spatial planning represents a move away from traditional land-use planning, which focuses on the regulation and control of land-use. Spatial planning takes a wider and more inclusive approach to development management, which is still concerned with the physical aspects of land use but which seeks to improve the spatial impact of the broad range of sectoral policies. Spatial planning is therefore a key delivery mechanism for achieving sustainable development and an improved quality of life.

## 2. THE REPUBLIC OF MALTA

- 2.1. The Republic of Malta is an archipelago of three main islands in the central Mediterranean Sea, located approximately 80 kilometres (km) south of Sicily and 330km north of Libya (see **Figure I**).
- 2.2. The main islands of Malta, Gozo and Comino, together with a number of subsidiary islets, make up a total land area of approximately 320 square kilometres (km<sup>2</sup>). Malta has a population of approximately 415,000 and a population density of approximately 1,300 per km<sup>2</sup>, rendering the State one of the most densely populated countries in the world.
- 2.3. Malta is a member of the European Union (since 2004). The State is highly dependent on services, particularly tourism and financial services. It also has a vibrant manufacturing sector.

**Figure I: Site Location – Republic of Malta**



## INSTITUTIONAL AND LEGAL SETTING

### Political-administrative Structure of the State

- 2.4. Malta is a parliamentary democracy. The Parliament is unicameral, with the House of Representatives being elected by direct universal suffrage through single transferable vote every five years. The House is made up of 69 Members of Parliament: however, a constitutional provision exists that allows a political party that wins an absolute

majority of votes without a majority of seats to be allocated extra parliamentary seats to ensure a parliamentary majority.

- 2.5. The Head of State is the President of Malta, appointed for a five-year term by a resolution of the House of Representatives; the President's role is primarily ceremonial.

### **Local Government**

- 2.6. Malta has a relatively new system of local government, established in 1993 following the promulgation of the *Local Councils Act, 1993*. The Act is modelled on the European Charter of Local Self-Government.
- 2.7. There are currently 68 local councils; within certain of the councils, there are hamlet communities with their own Administrative Committee (currently 16 in number).
- 2.8. Each local council is made up of a number of Councillors (the number of Councillors varies depending on the population of the locality). The Mayor is elected from among the Councillors, being the Councillor with the most votes from the political party that has received the overall majority of votes. An Executive Secretary, who is appointed by the Council, is the executive, administrative, and financial head of the council. Councillors are elected every four years through the single transferable vote system.
- 2.9. The role of the local councils in Malta is relatively limited, reflecting the relatively recent introduction of the local government system. Their role is primarily restricted to the upkeep of non-arterial roads, embellishment of public spaces, refuse collection and running a local traffic warden system. The councils also undertake certain administrative functions on behalf of central government, including the collection of government rents.

## **Spatial Planning Organisational Structure**

### **Planning System**

- 2.10. The current planning system in Malta was introduced relatively recently, in 1992, with the promulgation of the *Development Planning Act, 1992*. The system introduced was heavily based on the English planning system of that time, and changes in the Maltese planning system since then have broadly reflected the changes in English planning.
- 2.11. The current planning legislative framework is provided for by the *Environment and Development Planning Act 2010*<sup>1</sup>. The Act sets out the detail of, and process for the making of, spatial plans, as well as the framework of the development management and planning permission system. The Act also provides the statutory basis for

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<sup>1</sup> See: <http://www.justiceservices.gov.mt/LegalPublications.aspx?pageid=30&year=2010&type=1>



protecting natural and architectural heritage and for the carrying out of Environmental Impact Assessments (EIAs).

2.12. The planning system in Malta operates two main functions:

- preparation of spatial plans (a national strategic plan and local plans at regional level); and
- implementation of spatial plans, through the granting of planning permission and the enforcement of planning decisions.

### ***Responsibility for Spatial Planning***

2.13. **Figure 2** outlines the organisational responsibility for spatial planning in Malta.

2.14. Overall responsibility for spatial planning in Malta currently lies with the Ministry for Tourism, Culture and the Environment. The Minister for Tourism, Culture and the Environment (hereinafter referred to as the Minister for the Environment) has responsibility for overseeing the Malta Environment and Planning Authority (MEPA), which is the national agency responsible for the administrative operation of the planning function. MEPA is also the national agency responsible for environmental regulation.

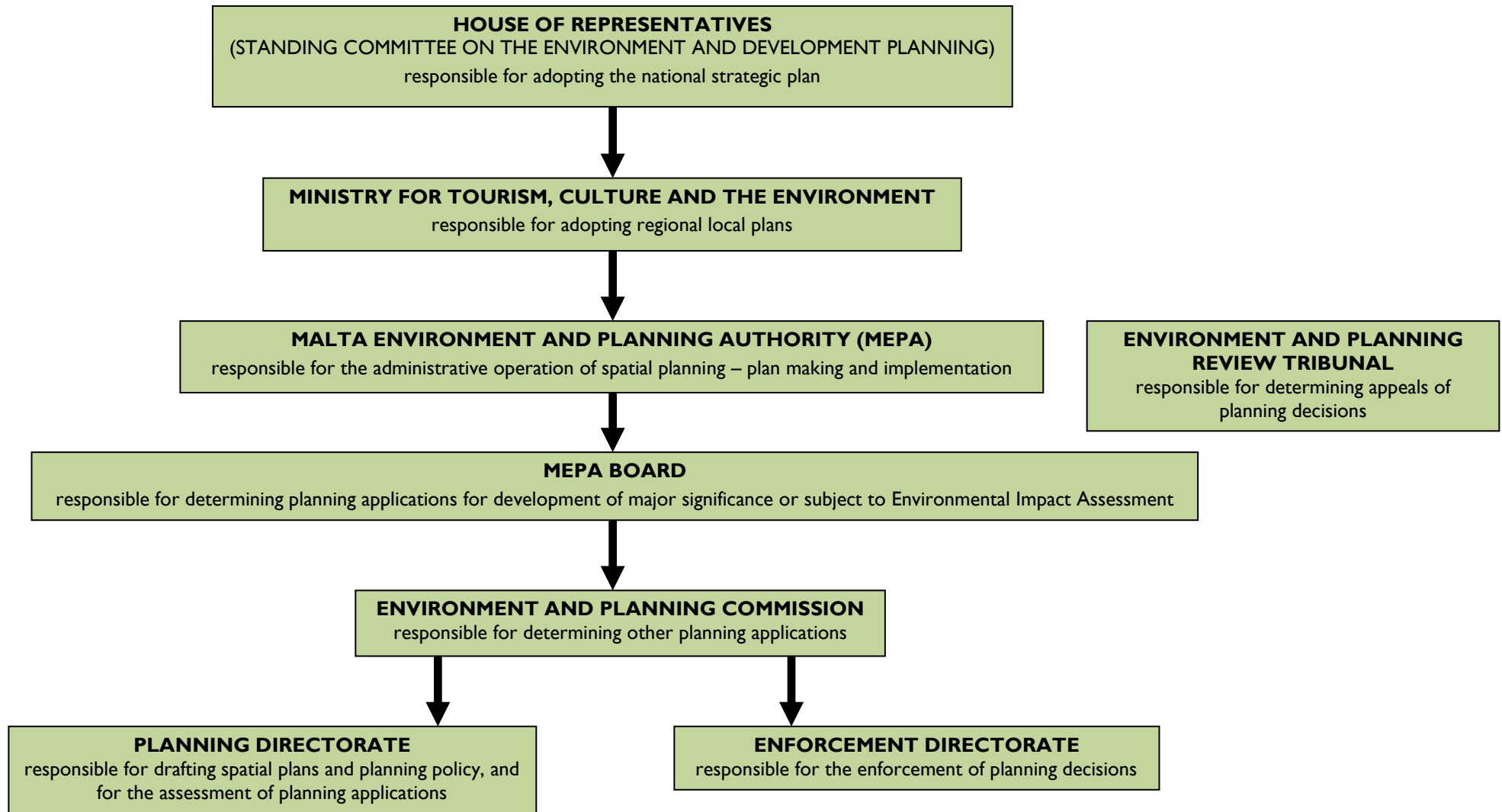
2.15. MEPA is composed of a Board made up of independent members and others representing government, non-governmental organisations (NGOs), industry and civil society, all of whom are appointed by the Prime Minister. The Board provides strategic guidance to, and is supported and advised by four directorates – the Planning Directorate, the Enforcement Directorate, the Environment Protection Directorate, and the Corporate Services Directorate.

2.16. The Planning Directorate is responsible for the development and coordination of spatial planning - the making of plans and policies and the assessment of applications for planning permission. The Enforcement Directorate is responsible for the enforcement of planning decisions.

2.17. A number of advisory committees also exist to facilitate and support the work of MEPA. These include: the Heritage Advisory Committee, the Minerals Advisory Board, the Integrated Pollution Prevent and Control (IPPC) Committee, the Bio-Safety Coordinating Committee, and the Planning Consultative Committee.

2.18. The MEPA Board is responsible for approving new or revised spatial plans. The national strategic plan is adopted by the House of Representatives (having been reviewed and recommended by the Standing Committee on Environment and Development Planning). The Minister for the Environment has ultimate responsibility for adopting the regional level local plans. The process of making spatial plans is explained in detail below (see **Making of a Spatial Plan**).

**Figure 2: Organisational Responsibility for Spatial Planning in Malta**



- 2.19. The MEPA Board is also responsible for determining planning applications for developments considered to be of major significance or those subject to an Environmental Impact Assessment (EIA). Decisions on applications for less significant developments are delegated to one of three Environment and Planning Commissions. Certain delegated decisions on very minor developments are taken by the officers of the Planning Directorate (with decisions being overseen by the Commissions). The process of determining planning applications is explained in detail below (see **Implementation of a Spatial Plan**).
- 2.20. Planning decisions can be appealed to the Environment and Planning Review Tribunal (the Tribunal). The Tribunal is an independent agency. The appeal process is explained in detail below (see **Implementation of a Spatial Plan**).

## **MAKING OF A SPATIAL PLAN**

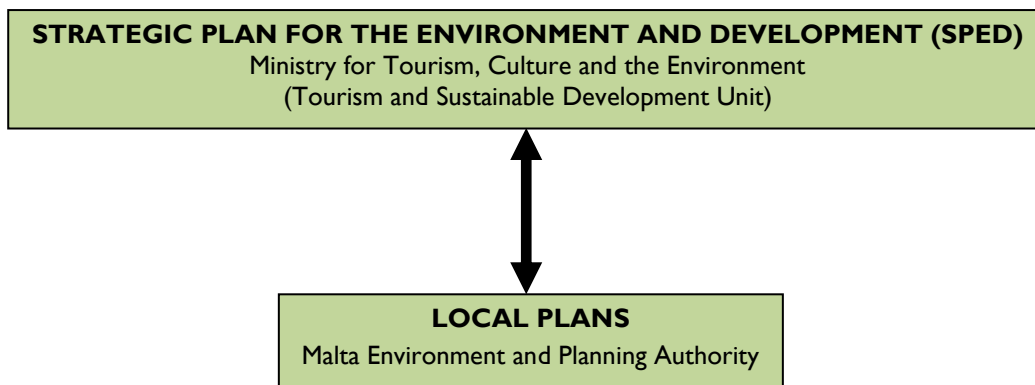
- 2.21. Malta has a two-tiered hierarchy of spatial plans – the national strategic plan and regional local plans. The policy framework of the local plans cascades from that of the strategic plan. However, decisions regarding land-use change are taken having regard to the policy framework in both spatial plans.
- 2.22. The *Structure Plan for the Maltese Islands 1990*<sup>2</sup>, currently outlines land-use planning policy at the national level. The *Environment and Development Planning Act, 2010* provides for the formulation of a new national strategic plan - *Strategic Plan for the Environment and Development* – which will regulate the sustainable management of land and sea resources and provide the national strategic spatial policy framework up to 2020. The *Strategic Plan for the Environment and Development* (SPED) introduces the concept of spatial planning based on a more comprehensive and integrated approach, and it will replace the current Structure Plan. The process of formulating the SPED is currently underway<sup>3</sup>, under the responsibility of the Tourism and Sustainable Development Unit within the Ministry for the Environment.
- 2.23. The local plans provide local interpretations of the general policies of the current Structure Plan (and will in time be revised to interpret the new SPED). They set out the local development framework on a regional level. Local plans are prepared by MEPA and adopted by the Minister for the Environment. There are currently seven local plans, covering six regions on the island of Malta and one covering the islands of Gozo and Comino. These regions each encompass several local councils.
- 2.24. **Figure 3** summarises the spatial plan hierarchy in Malta. The process of the making of the SPED and of a local plan is described in detail below.

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<sup>2</sup> [Structure Plan for the Maltese Islands 1990](#)

<sup>3</sup> A draft document entitled [Strategic Plan for the Environment and Development: Document to Establish Strategic Objectives](#) was issued for consultation in February 2012

**Figure 3: Hierarchy of Spatial Plans in Malta**

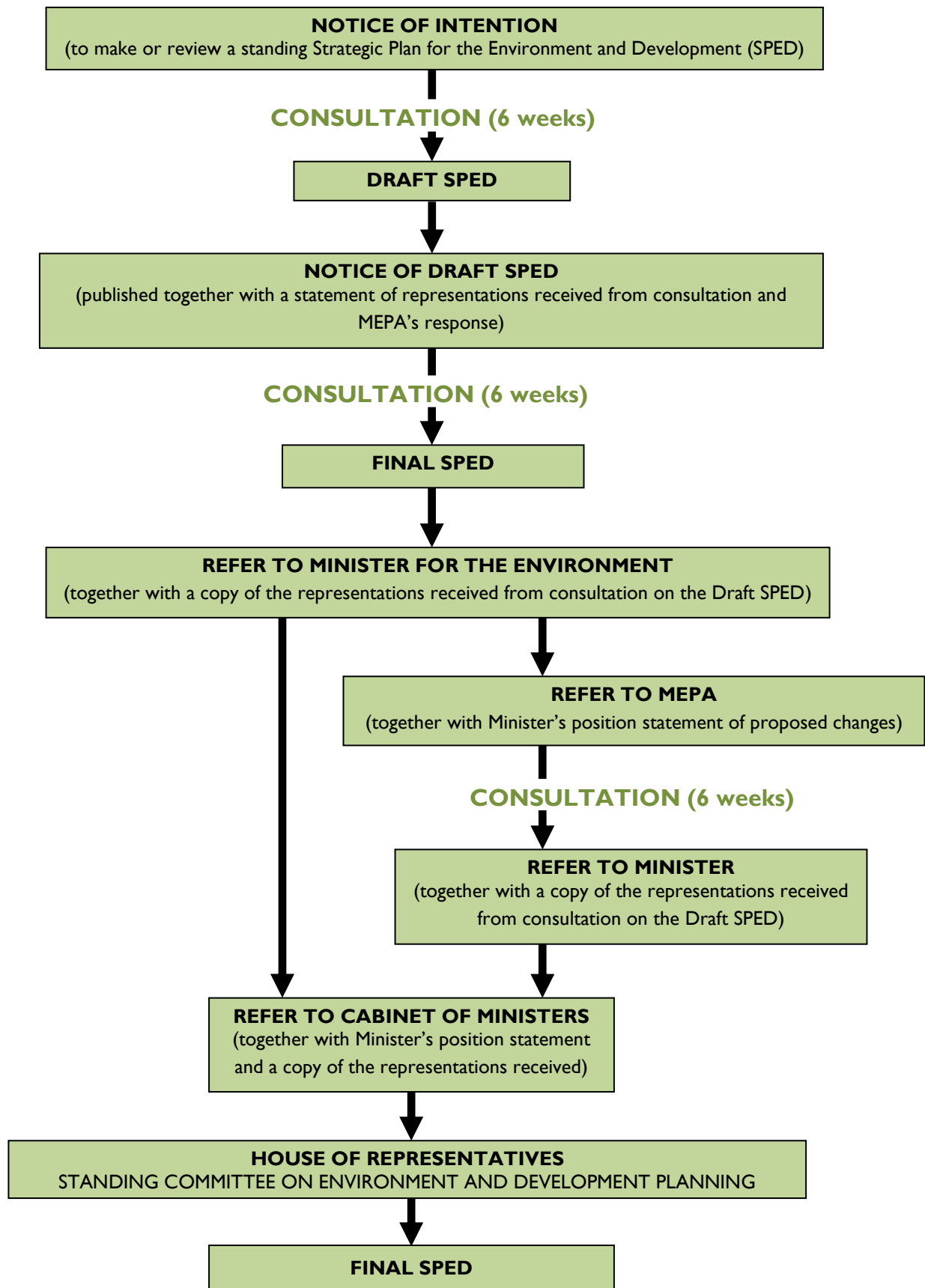


- 2.25. A number of other more detailed plans set out the more specific development framework for specific sites – action area plans, environment briefs and masterplans. There are also a number of subject plans, which are prepared to address specific topic areas (a list of the current subject plans is set out in **Appendix I**). All these plans must have regard to the policy objectives set out in the SPED and the relevant local plan(s).
- 2.26. The SPED, local plans and other plans are also supported by a set of supplementary planning guidance documents (a list of the current planning guidance documents is set out in **Appendix 2**).

### **Strategic Plan for the Environment and Development**

- 2.27. **Figure 4** summarises the process for the making of the SPED.
- 2.28. The SPED may be reviewed “*as deemed necessary*”, provided such review does not take place within a period of less than five years. There is also provision for the SPED to be reviewed in part, where the need arises, by means of a Resolution of the House of Representatives.
- 2.29. The making of the SPED is a regulated process. MEPA must advertise the preparation of the SPED, making known to the public the matters it intends to take into consideration in the making of the plan. The Authority is statutorily required to “*provide adequate opportunities*” for individuals / organisations to make representations in relation to the new SPED. There is no statutory timeframe for consultation.
- 2.30. The Draft SPED is also published for consultation, together with a statement of the representations received from the initial consultation, and MEPA’s response to the representations. Further representations are invited in relation to the Draft SPED. These must be submitted within a specified period of not less than six weeks.
- 2.31. The Final SPED is prepared “*as soon as practicable after the expiry of the consultation period*”, together with a report of all representations made in relation to the Draft SPED. Both the plan and the report of consultations are referred to the Minister for the Environment.

**Figure 4: Process of the Making of the Strategic Plan in Malta**



- 2.32. The Minister may refer the SPED back to MEPA if s/he does not agree with the plan, together with a position statement explaining the changes s/he proposes to the plan. MEPA must revise the SPED as directed by the Minister, and must publish the revised SPED for a further period of consultation, unless the changes made are minor. The Minister may refer the SPED back to MEPA only once.
- 2.33. The Final SPED (together with a final position statement from the Minister and a copy of the representations made in relation to the SPED) is considered by the Cabinet of Ministers. The Minister is then responsible for placing the Final SPED before the House of Representatives. The Standing Committee on Environment and Development Planning, a sub-committee of the House, which is charged with reviewing any plan referred to the House, recommends to the House whether the SPED should be approved, with or without amendments, or rejected. The Standing Committee must carry out this function within one month.

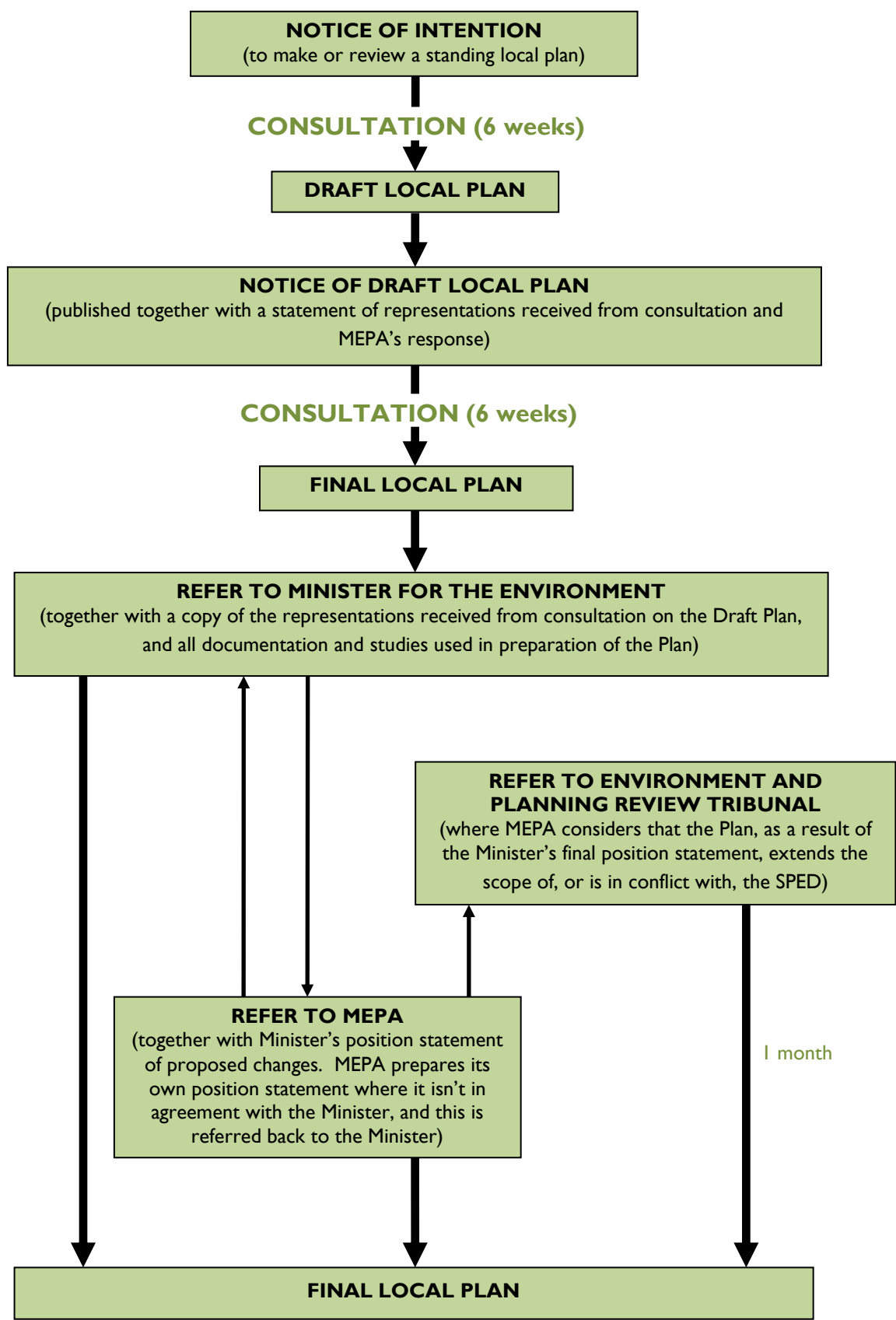
### **Local Plans**

- 2.34. **Figure 5** summarises the process for the making of a local plan.
- 2.35. There is no statutory requirement to review a local plan within a particular timeframe. Local plans can be reviewed as frequently “*as may be necessary*”, but must be reviewed following the making of a new strategic plan. A local plan cannot be reviewed within two years of its last review (unless the review is necessitated by the adoption of a new strategic plan). Certain minor modifications, not affecting the substance of a local plan may be made by MEPA.
- 2.36. The making of a local plan is also a regulated process. As in the case of the SPED, MEPA must advertise the preparation or review of the Plan, making known to the public the matters it intends to take into consideration. Again, MEPA is statutorily obligated to “*provide adequate opportunities*” for individuals and organisations to make representations in relation to the new plan.
- 2.37. The Draft Local Plan is published for consultation together with a statement of the representations received from consultation and MEPA’s response to the representations. Further representations are invited in relation to the Draft Plan, and these must be submitted within a specified period of not less than six weeks. Where the Draft Local Plan proposes that any land be excluded from a development boundary<sup>4</sup>, MEPA must publish a notice in the local daily newspapers (and in the Government Gazette) showing the land to be excluded.
- 2.38. Where minor modifications are proposed to a local plan (not affecting the substance of a planning policy), the consultation period can be a period of not less than three weeks.

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<sup>4</sup> Development boundaries enclose settlements, and the land within the development is zoned for development. Development of land which lies outside the development boundary is substantially restricted.

**Figure 5: Process of the Making of a Local Plan in Malta**



- 2.39. MEPA adopts the local plan, after taking into consideration all the representations submitted in relation to it. The Final Local Plan is referred to the Minister for the Environment, together with a statement of the representations received, and of the responses and amendments that have been made to the plan as a result of the representations. Where the Minister agrees with the plan, s/he adopts it, and MEPA publishes the plan.
- 2.40. The Minister may refer the local plan back to MEPA where s/he does not agree with the plan, together with a position statement explaining the changes s/he proposes to the plan. Where MEPA does not agree with the Minister, the Authority can draw up its own position statement and refer it to the Minister. The Minister must then issue a final position statement, following which MEPA must accordingly amend the plan and refer the Final Local Plan to the Minister for final approval.
- 2.41. Where MEPA considers that as a result of the proposals made by the Minister, the local plan extends the scope of, or is in conflict with the SPED, the Authority may request the Environment and Planning Review Tribunal to rule accordingly. The Tribunal must rule within one month as to which version of the local plan shall apply, and the decision of the Tribunal is final.

#### ***Consultation and Public Participation in the Spatial Plan Making Process***

- 2.42. In the making of the SPED and of local plans, MEPA is required to consult with prescribed statutory bodies as necessary. Such bodies include any regulatory authority established under any law and the Superintendent of Cultural Heritage. The national energy agency (Enemalta Corporation), the National Commission for Disabled Persons, and the Sanitary Engineering Officer all have representative office within MEPA.
- 2.43. Public participation is an integral part of the making (or review) of the SPED and a local plan, and the planning legislation obligates public engagement at critical stages of the process, as described above and summarised in **Figures 4 and 5**.
- 2.44. MEPA is obligated to consider all representations received from the public and, in a published statement, to describe the issues raised and to give an opinion on them. Furthermore, where a Draft Local Plan seeks to exclude any land from within a development boundary<sup>5</sup>, MEPA must publish a notice showing the land to be excluded.

#### ***Content of Spatial Plans***

- 2.45. The *Environment and Development Planning Act 2010* prescribes that the SPED must set out policies in relation to the development and use of land and sea and must be illustrated by diagrams as necessary. The SPED must also be accompanied by an 'Explanatory Memorandum' which sets out a reasoned justification for each of the

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<sup>5</sup> Development boundaries enclose settlements, and the land within the development boundary is zoned for development. Development of land which lies outside the development boundary is substantially restricted.



policies and proposals contained in the plan.

2.46. The specific content of the SPED is not described in the Act. However, the Act does prescribe that the SPED must ensure that:

- plans, policies and programmes are spatial, holistic and comprehensive, so that all factors in relation to land and sea resources and environmental conservation are addressed and included, and so as to balance demands for development with socio-economic considerations and the need to protect the environment;
- sectoral policies, activities and inputs are integrated and coordinated with each other;
- all actions are based on a clear understanding of the natural and legitimate objectives and needs of individual land users; and
- the plan follows other national policies and plans.

2.47. The Act prescribes that a local plan must consist of a map or maps supported by a written statement and by such diagrams as may be necessary. Examples of current local plans are the *Grand Harbour Local Plan 2002*<sup>6</sup>, which covers the densely populated urban area of Valletta and its wider hinterland, and the *North West Local Plan 2006*<sup>7</sup>, which addresses the more rural, north western portion of the Island of Malta.

### ***Assessment of Spatial Plans***

2.48. The SPED and the local plans must be subject to Strategic Environmental Assessment<sup>8</sup>, as well as to Appropriate Assessment, where they are likely to have a significant effect on a site governed by the Habitats Directive (92/43/EEC).

## **IMPLEMENTATION OF A SPATIAL PLAN**

### **Process of Issuing Planning Permission for Building and Construction**

2.49. The SPED and the local plans are effectively implemented through the 'development management' or 'development control' system. In Malta, all development, with the exception of permitted development<sup>9</sup>, requires planning permission. Through this process, all development proposals can be checked against the policies and objectives of the SPED and the local plans, to ensure that the proposal conforms to the aims and intentions set out in the plans. The spatial plan is applied by vetting and checking all development proposals to ensure that they conform and are consistent with the

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<sup>6</sup> [Grand Harbour Local Plan 2002](#)

<sup>7</sup> [North West Local Plan 2006](#)

<sup>8</sup> SEA Directive (2001/42/EC), which took effect in Malta in 2005.

<sup>9</sup> A definition of what qualifies as permitted development is available in *Development Notification Order, 2007*, Schedule I <http://www.mjha.gov.mt/DownloadDocument.aspx?app=lom&itemid=10193>

aims and objectives contained in the plan.

- 2.50. The Planning Directorate within MEPA is responsible for determining planning applications.

### ***Form of a Planning Application***

- 2.51. A planning application in Malta can take one of three forms:
- application for Full Planning Permission for development, which addresses the full detail of the development;
  - application for Amended Planning Permission, in the case where permission is sought for an amendment(s) to a development previously granted but which hasn't yet been completed; and
  - application for Renewal Planning Permission, in the case where the permission has expired and the development hasn't been completed.
- 2.52. All planning applications are vetted on submission, in a rigorous screening exercise designed to ensure that MEPA has all of the information required to determine the application, and in order for the application to be formally validated. MEPA advises the applicant in writing of what information is missing from the application, including any studies required to explain the potential impact of the development (for example, Environmental Impact Assessment). Any information submitted by the applicant at this stage must not represent a material change in the nature of the development as originally submitted. Where this is the case, the application is returned to the applicant and must be resubmitted as a new planning application.

### ***Consultation on a Planning Application***

- 2.53. MEPA is responsible for advertising all valid planning applications, by:
- placing a summary description of the application on the Public Register;
  - placing a summary description of the application in the local newspaper (Newspaper Notice); and
  - fixing a notice of the application on site (Site Notice). The Site Notice must be displayed on site for a period of two weeks from the date of receipt of the planning application.
- 2.54. In the case of applications for development of major significance and development subject to EIA, MEPA may require the applicant to hold consultations in relation to the development.
- 2.55. Any member of the public has the right to make a representation in relation to a planning application. Representations must be made in writing within 20 days from the date of the Newspaper Notice / Site Notice. MEPA has discretion to extend the period up to 30 days in the case of an application for development of major significance and development subject to EIA.

- 2.56. A person making a representation is required to give their name and address. There is no fee for the submission of a representation.
- 2.57. Importantly, MEPA cannot determine a planning application until after two weeks from the receipt of the application, in order to allow for public representations.
- 2.58. Where further information or revised plans is / are submitted by the applicant, MEPA must notify any person who made a representation following initial receipt of the application of the submission of the further information / revised plans. Those persons may then make further representations, in writing, within 20 days from the date of notification.
- 2.59. Furthermore, where MEPA considers that the further information / revised plans supplied contains significant additional information, the change in the development is publicised in the newspaper (Newspaper Notice) and on site (Site Notice). Further representations can be made at this stage.
- 2.60. MEPA must also advise all relevant statutory consultees that the development has been significantly amended.
- 2.61. Any person who has made a representation in relation to a planning application is formally notified of the decision by MEPA, and has a right to appeal the decision. The appeal process is explained below (see **Appealing a Planning Decision**).
- 2.62. General information on all planning applications received is available free over the internet (from the MEPA website) as well as from the public office of the Authority. The general public has only limited access to the information (the description of the development, name of the applicant, name of the architect, brief description of the stage reached in the assessment of the application, summary of the correspondence received on the application, summary of the minutes of the MEPA Board / Commission meeting, and brief description of the decision). Local councils and certain non-governmental organisations (NGOs) also have access to the drawings submitted with the application. Decision Notices, together with the Case Officer's report of the assessment, are available to anyone for a €1 fee.

### ***Determination of a Planning Application***

- 2.63. The timeframe for determination of a planning application in Malta varies, depending on the significance and location of the development<sup>10</sup>, as follows:
  - applications for minor development within a development boundary<sup>11</sup> must generally be decided within 12 weeks of the date of validation of the application;
  - applications for minor development outside of a development boundary must

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<sup>10</sup> See *Development Planning (Procedure for Applications and their Determination) Regulations, 2010*

<http://www.mjha.gov.mt/DownloadDocument.aspx?app=lom&itemid=11468&l=1>

<sup>11</sup> Development boundaries enclose settlements, and the land within the development boundary is zoned for development. Development of land which lies outside the development boundary is substantially restricted

generally be decided within 26 weeks of the date of validation of the application;

- applications for more complex development within a development boundary must generally be decided within 26 weeks of the date of validation of the application; and
- applications for more complex development outside of a development boundary must generally be decided within 52 weeks of the date of validation of the application.

- 2.64. The timeframes can be extended in circumstances where MEPA considers it necessary to request further information and / or revised plans to enable it to deal with the application, or to allow for sufficient consultation with statutory bodies.
- 2.65. Certain developments must be assessed for likely environmental effects (EIA) before planning permission can be granted. When submitting a planning application for such a development, the applicant must also submit an Environmental Statement (ES).
- 2.66. Planning permission can be granted unconditionally, or, as in most cases, with conditions (including pre-development conditions which must be complied with prior to the commencement of the development). Where permission is granted with conditions, MEPA is required to give its reasons for the decision. Similarly, where planning permission is refused, MEPA must also give its reason for the decision.
- 2.67. The MEPA Board determines those planning applications for development considered to be of major significance (those which have involved EIA and /or are of national or strategic significance, for example). Decisions on applications for less significant developments are delegated to the Environment and Planning Commission (the Commission). The Commission refers to the MEPA Board for guidance when necessary.
- 2.68. Certain delegated decisions are taken by the officers of the Planning Directorate, in the case of straight-forward planning applications on minor developments, and where there isn't an objection raised in any representation received from the public. Such decisions are overseen by the Commission.
- 2.69. The Minister for the Environment can 'call in' applications in respect of development which is of a strategic significance, which is likely to affect matters of national security or national interests, or the interests of other governments, or where the applicant is a department of Government or a body corporate established by law. In this case, the Minister tasks the Environment and Planning Review Tribunal (the Tribunal) to hear submissions on the application. The Tribunal recommends a decision and the Minister refers the recommendation to the Cabinet of Ministers. This recommendation is made available for public inspection. The Cabinet has a period of 15 days in which to decide on the application. The decision, together with the reasons for the decision is made available for public inspection.
- 2.70. A planning permission is generally granted in perpetuity, but may be granted for a limited period in certain circumstances where it is considered necessary by MEPA either that the development be temporary or in order to allow MEPA to monitor the

impact of the development. In all cases, the permission ceases to have effect if the development has not been completed within five years of the issue of the permission, provided that an application to extend the effective period of the permission hasn't been submitted.

### ***Appealing a Planning Decision***

- 2.71. In Malta, there are two types of appeal in respect of planning decisions:
- request for reconsideration of the decision, which is made by the applicant, to MEPA, and which can only be made where planning permission has been granted with conditions, and where the appeal is in relation to one or more of the conditions; and
  - appeal against the decision, which can be made by the applicant or any third party who made a representation on the planning application, and is made to the Environment and Planning Review Tribunal.
- 2.72. Requests for reconsideration must be made within 30 days of the receipt of the decision, and must be determined within 28 days of the request being made.
- 2.73. Appeals to the Tribunal can be made in relation to any decision. Such appeals must also be made within 30 days of the receipt of the decision. The Tribunal must generally determine the appeal within a period of three months of receipt.
- 2.74. A request for reconsideration cannot be made concurrently with an appeal. An appeal can however be made subsequent to a decision following a request for reconsideration.
- 2.75. In Malta, the determination of all requests for reconsideration and appeals to the Tribunal are conducted through the holding of a public meeting.

### **Public Participation in the Determination of a Planning Application**

- 2.76. As mentioned, all applications for planning permission are widely publicised and any member of the public can make a representation in relation to any application.
- 2.77. All meetings of the MEPA Board, the Environment and Planning Commissions and of the Environment and Planning Review Tribunal are public meetings. Participation of the public in the discussion on the application is at the discretion of the Chairperson of the meeting. Normally, in the case of the MEPA Board and the Commissions, interested parties can speak if highlighting aspects relevant to the application which have not been previously raised in the course of the assessment of the application.
- 2.78. Malta is one of the few countries in Europe with an independent third-party planning appeals system. Third parties who made a representation on the planning application can appeal a decision if they feel aggrieved.

### **Cost of Issuing Planning Permission for Building and Construction**

- 2.79. In Malta, a fee is payable when making any planning application, and this fee is paid to MEPA. Known as the Building Levy, the fee is in part a fee for the making of the application (Development Permit Fee), and a contribution towards the provision of services and infrastructure required to accommodate the development (Infrastructure Service Contribution). Both fees vary, depending on the nature and scale of the development, and the Development Permit Fee is capped at a certain level.
- 2.80. MEPA has the power to impose an additional Environment Fee. This is paid into the Environment Fund, administered by MEPA, and which is used generally by MEPA to finance its own projects, programmes and schemes.
- 2.81. The fee for a request for reconsideration is calculated at 3% of the Development Permit Fee, subject to a minimum fee of €69.88.
- 2.82. The fee for an appeal is calculated at 6% of the Development Permit Fee, subject to a minimum fee of €186.34.
- 2.83. **Table I** sets out the fees payable when making a planning application in Malta.

**Table I: Fees Payable for a Planning Application in Malta**

Development Type	Building Levy						Environment Fee (EF)		Cappings	
	Development Permit Fee (DPF)	Infrastructure Service Contribution								
		Sewer		Street						
	€/m²	€/unit	€/m²	€/unit	€/m²	€/unit	€/m²	€/unit	DPF	EF
Advertisement	104.12	-	-	-	-	-	10.00	-	-	-
Agriculture	0.96	-	1.98	-	0.94	-	0.05	-	-	-
Boathouse	2.08	-	3.29	-	1.88	-	0.20	-	-	-
Bungalow	11.90	-	5.60	-	2.80	-	0.12	-	-	-
Change of use to non-residential	9.07	-	-	-	-	-	0.80	-	25,000 <sup>(1)</sup>	2,000 <sup>(1)</sup>
Change of use to social/cultural/sports/educational use	5.50	-	-	-	-	-	0.12	-	40,000	2,000
Commerical building (including extensions)	9.07	-	5.97	-	3.22	-	0.80	-	-	-
Engineering operations	0.57	-	-	-	-	-	0.30	-	40,000	13,000
Film set	2.12	-	-	-	-	-	0.15	-	-	-
Flat/terraced house/ maisonette	1.24	-	3.08	-	1.68	-	0.12	-	-	-
Garages ancillary to other uses on site	1.24	-	3.08	-	1.68	-	0.12	-	-	-
Greenhouse	0.69	-	-	-	-	-	0.05	-	-	-
Land reclamation for agriculture	0.71	-	-	-	-	-	0.10	-	6,000	1,000
Livestock farm building	0.96	-	-	-	0.94	-	0.05	-	-	-
Other garages	5.95	-	3.29	-	1.88	-	0.10	-	-	-
Penthouse	13.02	-	12.69	-	5.17	-	0.05	-	-	-
Public car park	6.35	-	5.97	-	3.22	-	0.12	-	-	-
Quarry (new/ horizontal extension)	1.28	-	-	-	0.47	-	0.30	-	40,000	13,000
Social/cultural/sports/educational/ building	5.50	-	3.00	-	1.70	-	0.80	-	40,000	2,000
Temporary structure/use of land	2.12	-	-	-	-	-	0.30	-	-	-
Villa (semi- detached/detached - 2 dwelling units)/farmhouse	7.29	-	5.60	-	2.80	-	0.12	-	-	-
Waste disposal	1.42	-	-	-	-	-	0.30	-	25,000	5,000

Development Type	Building Levy						Environment Fee (EF)	Cappings		
	Development Permit Fee (DPF)		Infrastructure Service Contribution							
			Sewer		Street					
	€/m <sup>2</sup>	€/unit	€/m <sup>2</sup>	€/unit	€/m <sup>2</sup>	€/unit	€/m <sup>2</sup>	€/unit	DPF	EF
Satellite dishes (>2m diameter)/ telecommunication antennae	-	150.00	-	-	-	-	-	5.00	-	-
Other development not otherwise specified	-	150.00	-	-	-	-	-	5.00	-	-
Vending machine	-	150.00	-	-	-	-	-	10.00	-	-
Overall application capping									1,000,000	1,000,000
(1) only where the change of use solely involves the use of land										
Development Type	Building Levy					Environment Fee				
	Development Permit Fee	Infrastructure Contribution Fee								
			Sewer		Street		Per application			
	Per application		€/m <sup>2</sup>		€/m <sup>2</sup>		25.00			
Application for Renewal Development Permission	150.00		-		-		25.00			
Application for Amended Development Permission	150.00		-		-		25.00			
Extensions/minor alteration to dwellings	150.00		-		-		120.00			
Quarry – vertical extension	1,487.43		-		-		15.00			
Special Buildings or Uses	148.74		3.29		1.88		25.00			

Demolition of building / structure	Development Permit Fee (€)	Environment Fee (€)
Up to 30m <sup>2</sup>	-	-
31m <sup>2</sup> - 100m <sup>2</sup>	400 flat rate	140 flat rate per application
101m <sup>2</sup> - 300m <sup>2</sup>	1,000 flat rate	-
301m <sup>2</sup> - 600m <sup>2</sup>	1,500 flat rate	-
601m <sup>2</sup> - 1000m <sup>2</sup>	1,985 flat rate	-
>1,000m <sup>2</sup>	1,985 for first 1,000m <sup>2</sup> remainder at 0.5 per m <sup>2</sup>	-



## Planning Statistics

- 2.84. **Table 2** provides a breakdown of the planning applications determined and the decisions made by MEPA over the period 2008 - 2010. **Table 3** provides a breakdown of the requests for reconsideration dealt with over the same period.

**Table 2: Planning Applications Determined in Malta 2008 - 2010**

Year	Total Planning Applications Determined	Granted	Refused
2010	5533	4570 (72%)	963
2009	5285	3911 (74%)	1174
2008	6271	5079 (81%)	1192

**Table 3: Requests for Reconsideration dealt with in Malta 2008 - 2010**

Year	Total Requests for Reconsideration	Dismissed	Upheld
2010	407	216 (53%)	191
2009	745	415 (56%)	330
2008	617	339 (55%)	278

## Process of Enforcing the Implementation of a Spatial Plan

- 2.85. Enforcement of planning control is the responsibility of MEPA's Enforcement Directorate. Where development takes place without planning permission, or where it does not comply with conditions of a planning permission, the authority may take enforcement action.
- 2.86. Where MEPA considers that development is not being carried out in accordance with a planning permission, or that development is being carried out without planning permission, the Authority can issue an Enforcement Notice. The Notice may be issued on the owner or the occupier of the land, or both. The Local Council in whose locality the land is located is also informed of the issuing of an Enforcement Notice.
- 2.87. On the serving of the Enforcement Notice the development must immediately cease, and the applicant is required to restore the land to its condition before the development took place. This restoration is required to take effect not less than 15 days and not more than 30 days after the serving of the Notice.
- 2.88. When an application for development permission has been submitted before the expiry of the 30 day period, for the retention on the land of any buildings or works to which the Enforcement Notice relates, or for the continuance of any use of the land, the Notice is suspended pending a decision on the application, with the exception of the prohibiting of any further development. Notably, any application to regularise development is dismissed if the development is continued at any time before the determination of the application.

- 2.89. Persons served with an Enforcement Notice may appeal against the Notice to the Planning and Environment Review Tribunal, within 15 days of the serving of the Notice. Where the Tribunal dismisses the appeal, it may direct that an Enforcement Notice will not come into force until at least 15 days after the determination of the appeal, with the exception of the prohibiting of any further development.
- 2.90. When an Enforcement Notice has not been appealed, or where the Notice has been appealed but the appeal has been dismissed by the Tribunal, and the owner / occupier of the land fails to comply with the Notice within the prescribed period, a maximum penalty of not more than €50 for every day the default continues after the expiration of the period is imposed. The fine is payable to MEPA. MEPA may also recover from the owner or occupier all expenses reasonably incurred by the Authority in pursuing the enforcement action.

## **MAJOR REFORM AGENDA IN THE FIELD OF SPATIAL PLANNING**

- 2.91. The Maltese spatial planning system has undergone a very recent major reform (between 2002 and 2011), with certain of the changes still being taken forward. This represented the most significant reform since the introduction of the planning system in 1992.
- 2.92. The reform agenda was driven by recognition of the need to enhance the integration of spatial planning and environmental management, reflecting concerns in the area of land use control and environmental regulation, and taking account of Malta's accession to the EU in 2004. The reform was also driven by recognition of, and substantial public pressure for, the need to simplify the process of the management of planning and development, and to improve transparency of the system for users.
- 2.93. The primary and secondary legislation was substantially overhauled as part of the reform, to provide a clearer framework for development management and in order to introduce the concept of spatial planning based on a more comprehensive and integrated approach, in the context of spatial plans. This is still being taken forward through the preparation of the national strategic plan (SPED), which will provide the strategic spatial policy framework for environment and development up to 2020, complementing the Government's policy direction for the same period.
- 2.94. The eventual adoption of the national strategic plan will prompt the review of all standing local plans (local development frameworks). In the next decade therefore, the spatial planning policy framework in Malta will be wholly updated and a comprehensive and integrated spatial planning framework will be delivered ensuring a more robust framework for development management and for the determination of planning applications.
- 2.95. The reforms themselves achieved a simplification of the process for determining planning applications, and greater efficiency and coordination of the planning management process and improved consistency in the decision-making process.

- 2.96. Key in the reform process was the setting up of the Malta Environment and Planning Authority (MEPA), as the agency responsible for the administrative function of spatial planning and environmental regulation. MEPA came about through the merger in 2002 of the former Planning Authority and the Environment Protection Department.
- 2.97. The current planning system in Malta is fundamentally centralised. A number of challenges arise because of this, not least in the area of local democracy, with local authorities (local councils) having no role in the planning process beyond that of an interested third party. There are reasons why spatial planning in Malta is a central government function – the relatively recent introduction of local government (in 1993) and of a formal planning system (in 1992). The local government system is not yet evolved to the extent that a case can be made to devolve the planning function to local authorities.

**Websites:**

**Planning System:**

Malta Environment and Planning Authority <http://www.mepa.org.mt>

Ministry for Tourism, Culture and the Environment <https://opm.gov.mt/mtce>

**Local government:**

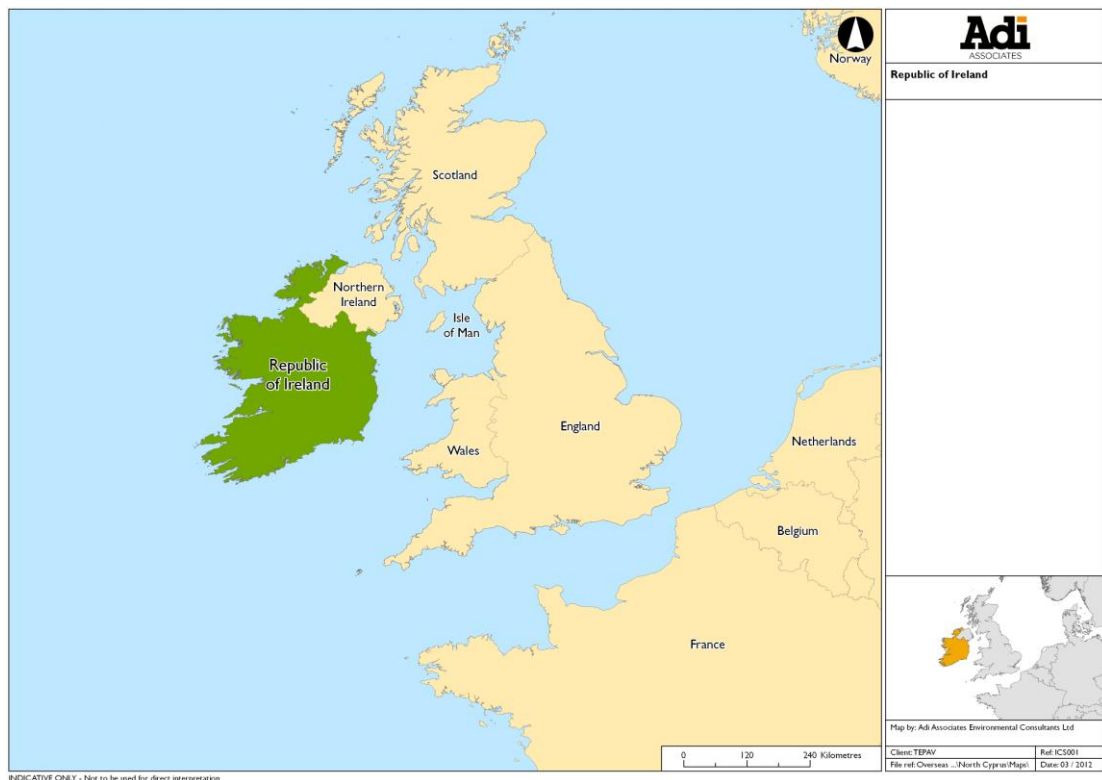
Local Government Association <http://www.lga.org.mt>



### 3. THE REPUBLIC OF IRELAND

- 3.1. The Republic of Ireland is the most westerly country in Europe; the Island of Ireland is separated from Great Britain by the Irish Sea, with the Atlantic Ocean lying to the west and south and the North Sea to the north (see **Figure 6**).
- 3.2. The Republic of Ireland occupies approximately two-thirds of the Island of Ireland (land area of approximately 70,280 km<sup>2</sup>), with the remaining territory (Northern Ireland, occupying the north-eastern corner) being part of the United Kingdom (UK).
- 3.3. The population of the Republic of Ireland is approximately 4.5 million, and the State has one of the lowest population densities in Europe, at 60 persons per km<sup>2</sup>.
- 3.4. Ireland is a member of the EU (since 1973) and of the Council of Europe. The State was one of the most impoverished countries in the World while it was a part of the UK, and up until the 1980s. On joining the EU and opening up its markets, and as a result of economic liberalism from the late 1980s onwards, the State experienced rapid economic expansion, particularly from 1995 to 2007 (the Celtic Tiger period). The financial crisis of 2008 - 2009 has negatively impacted on Ireland's economy however, and has plunged the State into economic crisis.

**Figure 6: Site Location: Republic of Ireland**



## INSTITUTIONAL AND LEGAL SETTING

### Political-administrative Structure of the State

- 3.5. Ireland is governed as a parliamentary democracy, with an elected president serving as Head of State. The bicameral National Parliament (Oireachtas), comprises the President of Ireland, and the two Houses of the Senate (Seanad Éireann) and the House of Representatives (Dáil Éireann).
- 3.6. The President is elected for a seven-year term and may be re-elected once. The President is primarily a figurehead, but has discretion in some areas, as provided in the Constitution, including referring a bill to the Supreme Court for a judgement on its constitutionality.
- 3.7. The Prime Minister (Taoiseach) serves as the Head of Government and is appointed by the President upon the nomination of the House of Representatives. The Taoiseach is generally also the leader of the political party that gains the most seats in the national election. However, there has not been a single-party government in Ireland since 1989.
- 3.8. The Senate is composed of 60 members, with 11 nominated by the Prime Minister, six elected by two universities, and 43 elected by public representatives from panels of candidates established on a vocational basis. The House of Representatives has 166 members elected to represent multi-seat constituencies under the system of proportional representation, and by means of the single transferable vote.
- 3.9. According to the Constitution of Ireland, parliamentary elections must be held at least every seven years, though a lower limit may be set by statute law.

### Local Government

- 3.10. The *Local Government Act 1898* is the founding document of the present system of local government in Ireland. The most recent set of reforms, under the *Local Government Act 2001*, established a total of 114 local authorities, in a two-tier structure comprising a top tier of 29 county councils and five city councils, and a second tier of 80 borough and town councils.
- 3.11. Each local authority has a Council (made up of Councillors), elected by resident voters in local elections, and a Council or City Manager (the Chief Executive), an appointed official who manages the implementation of policy. Elections to local government take place every five years.
- 3.12. Local authorities in the Republic of Ireland are responsible for matters including planning, transportation infrastructure, sanitary services, public safety (notably fire services) and the provision of public libraries. The borough and town councils exercise limited functions, which are subsidiary to those of the top tier local authorities.
- 3.13. The local authorities are grouped into eight regions, each overseen by a regional authority composed of members delegated by the local authorities in that region.

The regional authorities do not have any direct administrative role as such. Their main role and function are to promote co-ordination and co-operation between the local authorities and other public authorities in the region, and between such authorities of other regions; and to promote co-ordination, consistency and compatibility with programmes, plans, policies, proposals or objectives of central Government.

## **Spatial Planning Organisational Structure**

### ***Planning System***

- 3.14. The Republic of Ireland's current planning system was introduced in 1964, when the *Local Government (Planning and Development) Act, 1963* came into effect. This Act provided for the “orderly planning and development of the country” on a local government basis, with local authorities also designated as planning authorities.
- 3.15. As in Malta, the planning system introduced in Ireland was heavily based on the English planning system of that time, and the current planning system still broadly reflects the English system.
- 3.16. There has been a raft of planning legislation produced since 1964, in response to the expansion of the statutory development control system to meet the demands arising from economic growth, and reflecting concerns in the area of environmental control and a desire on the part of the public for a statutory and independent planning appeals system. The current planning legislative framework is provided for by the *Planning and Development Acts 2000-2010*<sup>12</sup>. Details of the implementation are outlined in the *Planning and Development Regulations 2001-2011*<sup>13</sup>.
- 3.17. The primary legislation sets out the detail of the spatial plans, as well as the basic framework of the development management and planning permission system. The Acts also provide the statutory basis for protecting natural and architectural heritage and for the carrying out of EIAs.
- 3.18. The planning system in the Republic of Ireland operates two main functions:
  - preparation of spatial plans (development plans setting out the development framework at local authority level); and
  - implementation of the spatial plans, through the granting of planning permission and the enforcement of planning decisions.

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<sup>12</sup> <http://www.environ.ie/en/DevelopmentHousing/PlanningDevelopment/Planning/PlanningLegislation-Overview/PlanningActs/>

<sup>13</sup> <http://www.environ.ie/en/DevelopmentHousing/PlanningDevelopment/Planning/PlanningLegislation-Overview/PlanningRegulations/>

### ***Responsibility for Spatial Planning***

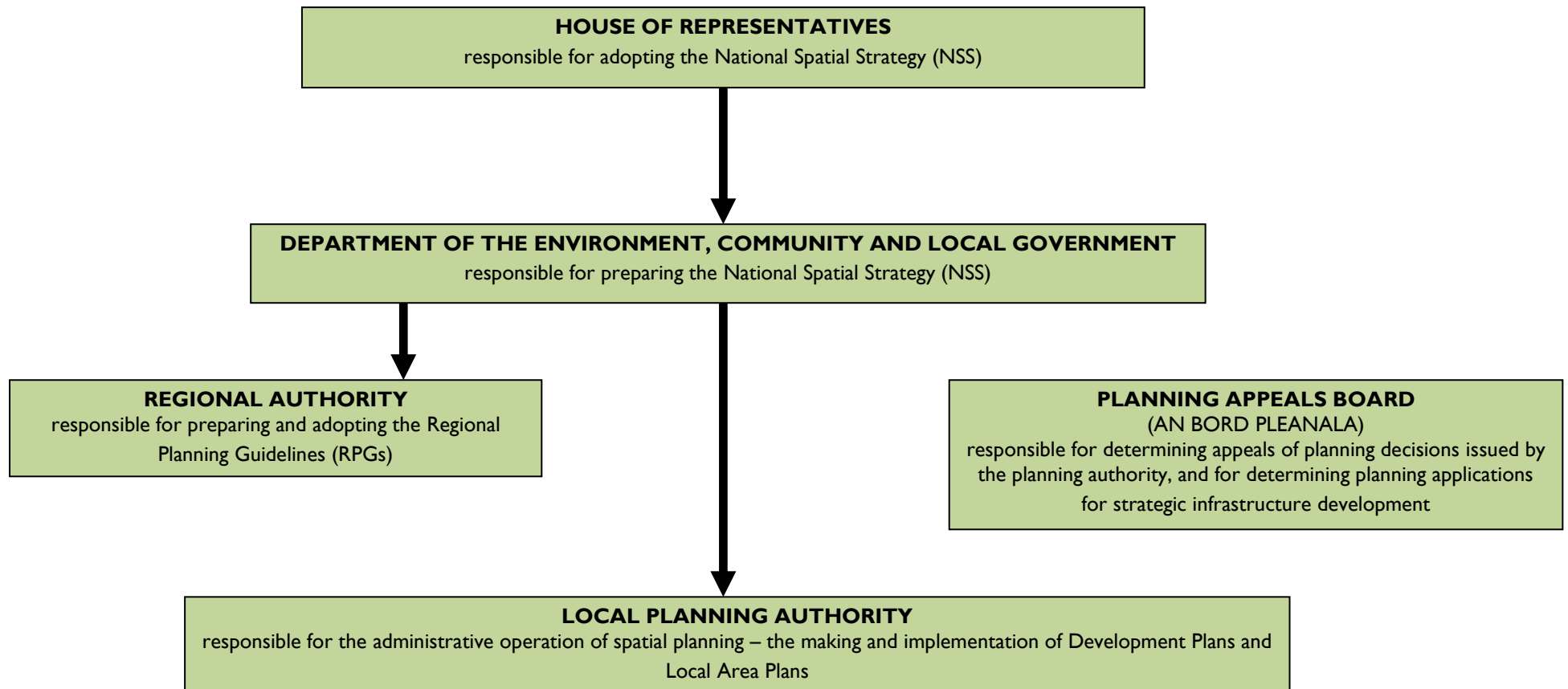
- 3.19. **Figure 7** outlines the organisational responsibility for spatial planning in Ireland.
- 3.20. The Department of the Environment, Community and Local Government (hereinafter referred to as the Department of the Environment) is the main overseer of the planning system in Ireland, responsible for formulation of planning legislation, as well as for the preparation of policy guidance in respect of national planning issues. The Department of the Environment also provides an expert advisory service on heritage and conservation issues to the planning authorities responsible for operating the planning system on the ground.
- 3.21. There are currently 88 planning authorities (these generally accord with the local authorities described above (county and city councils), and certain of the borough and town councils). The functions of a planning authority are two-fold:
- reserved functions, performed by the elected representatives (the Council). The Councillors have priority when it comes to adopting the spatial plans; and
  - executive (management) functions, performed by the County or City Manager. The Manager is responsible for determining planning applications, as well as for planning enforcement.
- 3.22. The regional authorities provide an important role in regulating the making of spatial plans and in ensuring consistency and co-ordination in the delivery of national and regional policy.
- 3.23. Planning decisions can be appealed to the independent Planning Appeals Board (An Bord Pleanála). As in the case of Malta, Ireland is one of the few European countries to have an independent third-party planning appeals system (see **Appealing a Planning Decision**).
- 3.24. The Planning Appeals Board is also responsible for the determination of planning applications for strategic infrastructure development, including major road and railway cases.

### **MAKING OF A SPATIAL PLAN**

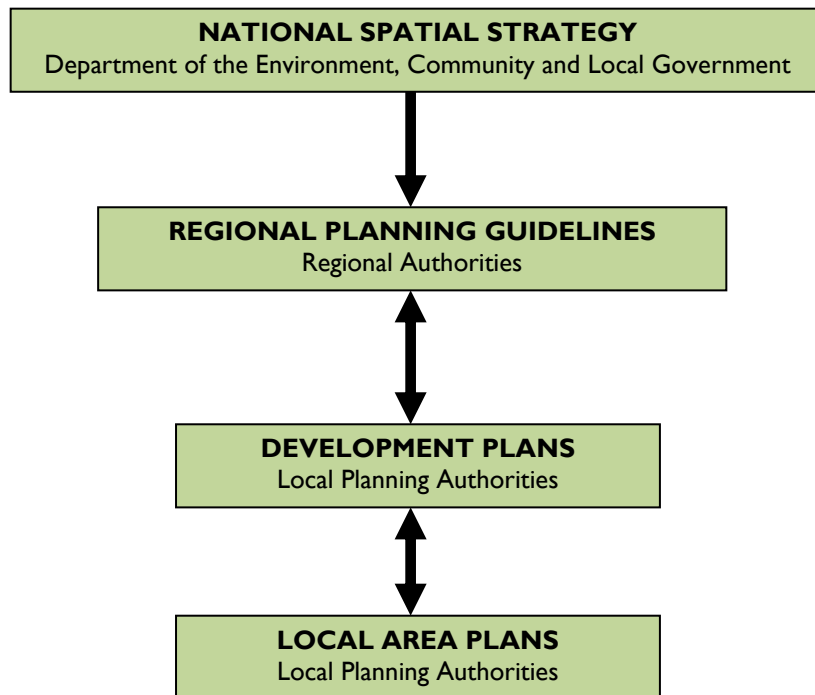
- 3.25. **Figure 8** summarises the spatial plan hierarchy in Ireland.
- 3.26. The *Planning and Development Act 2000* introduced a more tiered and ‘plan-led’ system in Ireland, cascading from the National Spatial Strategy (NSS), to the Regional Planning Guidelines (RPGs) and the local planning frameworks - Development Plans and Local Area Plans.
- 3.27. The development plan is the primary instrument for regulation and control of development in Ireland. It is at the heart of the system, transposing national and regional policies and setting the strategic context for local area plans. Each planning authority is required to prepare its own development plan, which takes the form of a statement of aims and policy objectives in written and map form, outlining how planning will be managed for that locality.



**Figure 7: Organisational Responsibility for Spatial Planning in the Republic of Ireland**



**Figure 8: Hierarchy of Spatial Plans in the Republic of Ireland**



- 3.28. Subsidiary plans for specific towns and areas within the remit of the planning authority – Local Area Plans – and outlining a more detailed development framework, are also prepared. Local area plans must be in line with the development plan. Local area plans are prepared for all towns having a population of more than 2,000, or for substantial sites that are earmarked for development or redevelopment, in order to facilitate the sustainable development of the area and to avoid it being developed in a piecemeal and incoherent fashion.
- 3.29. Guiding the formulation of the development plans (and local area plans) is the *National Spatial Strategy 2002-2020*<sup>14</sup>. This is the national strategic planning framework for Ireland designed “to achieve a better balance of social, economic and physical development across Ireland, supported by more effective planning”.
- 3.30. The regional authorities prepare the Regional Planning Guidelines (RPGs), which take forward the *National Spatial Strategy* (NSS) at a regional level.
- 3.31. Development plans must take on board and implement relevant national and regional policies in a manner consistent with the NSS and the RPGs. Similarly, new / revised development plans inform policies at regional and national level.
- 3.32. As in Malta, a number of other more detailed plans set out the more specific development framework for specific sites – action area plans, environment briefs and

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<sup>14</sup> *National Spatial Strategy 2002-2020* (<http://www.irishspatialstrategy.ie/pdfs/Completeea.pdf>).

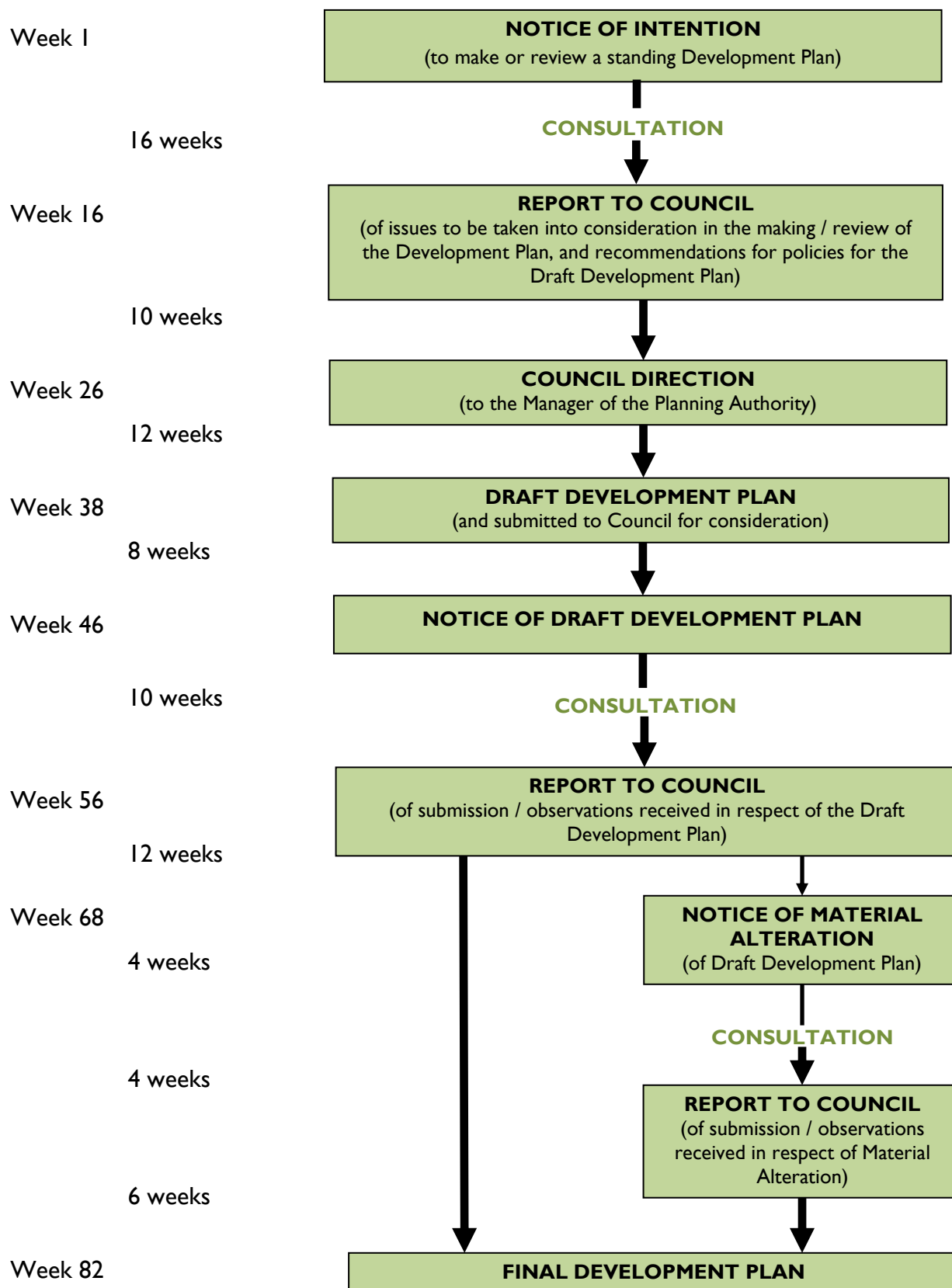
masterplans. All these plans must have regard to the policy objectives set out in the NSS, the RPGs, and the relevant development plans and local area plans.

- 3.33. The NSS, RPGs, development plans, local area plans and other plans are also supported by a set of supplementary planning guidance documents (a list of the current planning guidance documents is set out in **Appendix 3**).

### **Development Plans**

- 3.34. **Figure 9** summarises the development plan making process.
- 3.35. The making of a development plan is a regulated process. The plan must be reviewed every six years, and a planning authority is required to begin review of a standing development plan after four years of its adoption.
- 3.36. The planning authority must publish a Notice of Intention to make (or review) its development plan, which is intended to invite the public and statutory bodies to identify the issues to be taken account of in the new (revised) plan.
- 3.37. Not later than 16 weeks after the publication of the Notice, the Manager of the planning authority must publish a report for the members of the planning authority (the Council) on any representations received from the public, and on the issues / matters raised in any consultations undertaken with statutory bodies. This report summarises the issues raised, gives the opinion of the Manager to the issues raised, and states the Manager's recommendations on the policies to be included in the Draft Development Plan.
- 3.38. Within 10 weeks of this report, the Council may issue directions to the Manager regarding the preparation of the Draft Plan, and the Manager must comply with any such directions. The Draft Development Plan must be prepared and submitted to the Council within 12 weeks of any direction. The Council then has a period of eight weeks to amend the Draft Plan, as necessary.
- 3.39. The Draft Development Plan is formally consulted on. The Plan is referred to the Department of the Environment, the statutory bodies, and any other entities which the planning authority considers appropriate. Additionally, a notice must be published in one or more local newspaper, advising the public of the preparation of the Draft Plan. The Draft Plan is made available for public inspection for a period of not less than 10 weeks, and all representations received within the consultation period must be taken into consideration before the making of the final Development Plan.
- 3.40. Not later than 22 weeks following the publication of the Draft Plan, the planning authority must publish a report for the Council on all representations received from the consultation. This report must list the persons / bodies who made the representation, summarise the issues raised, and give the response of the Manager to the issues raised.

**Figure 9: Process of the Making of a Development Plan in Ireland**



- 3.41. The report together with the Draft Plan is then considered by the Council for a period of not more than 12 weeks. The Council may amend the Draft Development Plan at this stage. Where any amendment is considered to be significant (a 'material alteration'), the planning authority must advertise this amendment in at least one local newspaper and notify the Department of the Environment, the statutory bodies, and any other entities which the planning authority considers appropriate. The proposed amendment of the Draft Plan is consulted on for a period not less than four weeks. The details of any representations received must be published in a report not later than four weeks after the end of the consultation period. The Council has not more than six weeks to consider the report and to adopt the Final Development Plan, with or without the amendment.

### ***Consultation and Public Participation in the Spatial Plan Making Process***

- 3.42. In the making of a development plan (and a local area plan), a planning authority is required to take whatever measures it considers necessary to consult with prescribed statutory bodies, as necessary in order to ascertain any long-term plans for the provision of the infrastructure and services in the area of the planning authority. The authority must also consult with the relevant regional authority, as well as other planning authorities and regional authorities as may be affected by the making of the development plan.
- 3.43. Public participation is an integral part of the making (or reviewing) of a development plan (and a local area plan), and the planning legislation obligates public engagement at critical stages of the process, as described above and summarised in **Figure 9**.
- 3.44. During the making (or review) of the development plan, the public has an opportunity to engage at the outset of the process, and to identify the issues to be taken account of in the new plan. The planning authority is obligated to consider all representations received from the public at this stage, and in a published report to describe the issues raised, to give an opinion on the issues, and to recommend the policies to be included in the Draft Plan as a result of the issues raised.
- 3.45. Following publication of the Draft Plan, the public has the opportunity to comment on the draft policies, and the planning authority is again obligated to consider all representations received from the public at this stage, and in a published report to describe the issues raised, and to explain how the issues raised have been taken account of in the Final Development Plan.
- 3.46. Furthermore, where the Draft Plan includes any provision relating to any addition to or deletion from the 'Record of Protected Structures', the planning authority is required to notify individually each person who is the owner or occupier of the Protected Structure, or the proposed Protected Structure, advising them of what is intended. Those persons have a period of not less than 10 weeks in which to make written representations with respect to the proposed addition or deletion. The planning authority must take account of any representations received within the stated consultation period before the making of the Final Development Plan.

### **Content of a Development Plan**

- 3.47. The content of the development plan is prescribed in detail in the *Planning and Development Acts 2000-2010*. The development plan must set out an overall strategy for the “*proper planning and sustainable development of the area*” and must indicate the development objectives for the area. These development objectives must include objectives for:
- zoning of land, for the use solely or primarily for particular purposes (residential, commercial, industrial, agricultural, recreational, as open space or otherwise, or a mixture of those uses);
  - provision, or facilitation of the provision of, infrastructure (transport, energy and communication facilities, water supplies and waste recovery and disposal facilities);
  - conservation and protection of the environment, including, in particular, the archaeological and natural heritage and the conservation and protection of European sites and any other designated sites (international and national designations);
  - integration of the planning and sustainable development of the area with the social, community and cultural requirements of the area and its population;
  - preservation of the character of the landscape, including the preservation of views and prospects and the amenities of places and features of natural beauty or interest;
  - protection of structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest;
  - preservation of the character of architectural conservation areas;
  - development and renewal of areas in need of regeneration; and
  - provision, or facilitation of the provision, of services for the community including, in particular, schools, crèches and other education and childcare facilities.
- 3.48. The development plan must also contain information on the likely significant effects on the environment of implementing the plan (Strategic Environmental Assessment and Appropriate Assessment).
- 3.49. Examples of current development plans are the *Galway City Development Plan 2011 – 2017*<sup>15</sup>, which covers the small city of Galway and its largely urban hinterland, and the *Cork County Development Plan 2009*<sup>16</sup>, which addresses a large predominantly rural

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<sup>15</sup> [Galway City Development Plan 2011 – 2017](#)

<sup>16</sup> [Cork County Development Plan 2009](#)

area on the southern coast of Ireland.

### ***Assessment of Spatial Plans***

- 3.50. The development plan (and local area plans) must be subject to Strategic Environmental Assessment<sup>17</sup>, and to Appropriate Assessment, where they are likely to have a significant effect on a site governed by the Habitats Directive (92/43/EEC).

### ***Process of Making Amendments to the Spatial Plan***

- 3.51. A planning authority may at any time, and for stated reasons, make a variation of its development plan. The authority is required to notify the Minister for the Environment, the relevant regional authority, any adjoining planning authority and regional authority, where appropriate, the statutory bodies, and any other entities which the planning authority considers appropriate. The planning authority must also publish notice of the proposed variation in one or more local newspaper.
- 3.52. Details of the proposed variation to the development plan must be put on public display for a period of not less than four weeks, and written representations with respect to the proposed variation can be submitted within this period, and must be taken into consideration before the making of the variation.
- 3.53. Not later than eight weeks after giving notice of the intention to make a variation, the planning authority must submit a report on any representations received to the members of the authority (the Council) for their consideration. This report must list the persons / bodies who made representations, summarise the issues raised, and give the response of the Manager of the planning authority to the issues raised.
- 3.54. The Council is required to consider the proposed variation and the Manager's report on representations not later than six weeks after the submission of the Manager's report. The Council may decide to make the variation, with or without modifications, or refuse to make it.

## **IMPLEMENTATION OF A SPATIAL PLAN**

### **Process of Issuing Planning Permission for Building and Construction**

- 3.55. In Ireland, all development, with the exception of permitted development<sup>18</sup>, requires planning permission. Through this process, all development proposals can be checked against the policies and objectives specified in the development plan, to ensure that the proposal conforms to the aims and intentions set out in the plan.

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<sup>17</sup> SEA Directive (2001/42/EC), which took effect in Ireland in 2004

<sup>18</sup> A definition of what qualifies as permitted development is available in *Development and Planning Act 2000*, Section 4(1)-  
<http://www.irishstatutebook.ie/pdf/2000/en.act.2000.0030.pdf>

### ***Form of a Planning Application***

- 3.56. In Ireland, a planning application can take one of three forms:
- application for Outline Planning Permission for development, which is used to find out, at an early stage, whether or not a proposal is acceptable in principle and likely to be approved by the planning authority (before any substantial costs are incurred). An outline planning permission does not entitle an applicant to undertake the development: outline permission is granted subject to subsequent approval of detailed reserved matters;
  - application for Full Planning Permission for development; which addresses the full detail of the development, with no reserved matters, but which may be subject to certain pre-development conditions; and
  - application for permission for retention of development, in the case where the development has already taken place and permission is being sought retrospectively.
- 3.57. All planning applications are vetted on submission, in respect of the required submission requirements, and invalid applications are returned to the applicant.

### ***Consultation on a Planning Application***

- 3.58. All valid planning applications are publically advertised. In Ireland, the onus is on the applicant to advertise the application (overseen by the planning authority). The applicant is required within the period of two weeks before the submission of the application to:
- give notice of the intention to make the application in a local newspaper (Newspaper Notice); and
  - give notice of the intention to make the application by fixing a Site Notice on the site to which the development relates. The Site Notice must be displayed on site for a period of five weeks from the date of receipt of the planning application by the planning authority.
- 3.59. The planning authority is required to publish a list of planning applications received by the authority during that week, to be put on display at the offices of the planning authority, and in each public library in the locality, as well as to be made available electronically. This list must be published not later than the third working day following a particular week and must be available for inspection for a period of not less than eight weeks beginning on the day on which it is made available.
- 3.60. There is special provision for the planning authority to consult certain prescribed statutory bodies in the case of certain planning applications (see **Table 4**):



**Table 4: Consultation with Prescribed Statutory Bodies in the Republic of Ireland**

Type of planning application	Prescribed bodies to be consulted
Where the development involves the carrying out of works to a Protected Structure, or to a proposed Protected Structure, or to the exterior of a structure located within an Architectural Conservation Area or a proposed Architectural Conservation Area	<ul style="list-style-type: none"> <li>• Department of Environment, Heritage and Local Government</li> <li>• National Trust (An Taisce)</li> <li>• Tourism Authority (Bord Fáilte Éireann)</li> <li>• Heritage Council (Chomhairle Oidhreachta)</li> <li>• Arts Council (An Chomhairle Ealaíon)</li> </ul>
Where the development involves the carrying out of works to, or that may materially affect, a National Monument, or a historic monument or archaeological area listed in the Register of Historic Monuments	
Where the development involves the carrying out of works that may materially affect a site, feature or other object of archaeological, geological, scientific, ecological or historical interest	
Where the development might have significant effects in relation to nature conservation	
Where the site is an area of special amenity, or where the development might obstruct any view or prospect of special amenity value or special interest	<ul style="list-style-type: none"> <li>• Department of Arts, Heritage and the Gaeltacht</li> <li>• National Trust (An Taisce)</li> <li>• Tourism Authority (Bord Fáilte Éireann)</li> <li>• Heritage Council (Chomhairle Oidhreachta)</li> <li>• Arts Council (An Chomhairle Ealaíon)</li> </ul>
Where the development consists of, or comprises the formation, laying out or material widening of, an access to a National Road, or the development might give rise to a significant increase in the volume of traffic using a National Road	<ul style="list-style-type: none"> <li>• National Roads Authority</li> </ul>
Where the development might endanger or interfere with the safety of, or the safe and efficient navigation of, aircraft	<ul style="list-style-type: none"> <li>• Irish Aviation Authority</li> </ul>
Where the development might cause the significant abstraction or addition of water either to or from surface or ground waters, whether naturally occurring or artificial	<ul style="list-style-type: none"> <li>• Department of the Marine and Natural Resources</li> <li>• Waterways Ireland</li> <li>• Regional Fisheries Board</li> </ul>
Where the development might give rise to significant discharges of polluting matters or other materials to such waters or be likely to cause serious water pollution or the danger of such pollution	
Where the development would involve the carrying out of works in, over, along or adjacent to the banks of such waters, or to any structure in, over or along the banks of such waters, which might materially affect the waters	

Type of planning application	Prescribed bodies to be consulted
Where the development comprises or is for the purposes of an activity requiring an integrated pollution control license or a waste license	<ul style="list-style-type: none"> <li>• Environmental Protection Agency</li> </ul>
Where the development is in the vicinity of an explosives factory, storage magazine or local authority explosives store	<ul style="list-style-type: none"> <li>• Department of Justice, Equality and Law Reform</li> </ul>
Where the development might have significant effects on public health	<ul style="list-style-type: none"> <li>• Relevant Regional Health Board</li> </ul>
Where the development involves the extraction of minerals within the meaning of the <i>Minerals Development Act 1940-1995</i>	<ul style="list-style-type: none"> <li>• Department of the Marine and Natural Resources</li> </ul>
Where the development is for the purposes of initial afforestation or the replacement of broadleaf high forest by conifer species	<ul style="list-style-type: none"> <li>• Department of the Marine and Natural Resources</li> <li>• Heritage Council (Chomhairle Oidhreachta)</li> <li>• National Trust (An Taisce)</li> </ul>
Where the development might impact on the foreshore	<ul style="list-style-type: none"> <li>• Department of the Marine and Natural Resources</li> </ul>
Where the development relates to an electricity transmission system, or is for the provision of, or extension to, an electricity generating station	<ul style="list-style-type: none"> <li>• Commission for Electricity Regulation</li> </ul>
Where the development might contravene the Regional Planning Guidelines	<ul style="list-style-type: none"> <li>• Relevant Regional Authority</li> </ul>

- 3.61. Any member of the public has the right to make a representation in relation to a planning application. Representations must be made in writing within the period of five weeks from the date of receipt of the application. In making any representation, a person is required to give his / her name and address, and telephone number and e-mail address (if any). The fee for submitting a representation is €20. Importantly, a planning authority cannot determine a planning application until after five weeks from the receipt of an application, in order to allow for representations from the public.
- 3.62. Where further information or revised plans is / are requested, the authority must notify any person who made a representation following initial receipt of the application of the submission of further information / revised plans. Those persons may then make further representations, in writing, within a specified time period of not less than two weeks. There is no further fee payable.
- 3.63. Furthermore, where the planning authority considers that the further information / revised plans supplied contains significant additional information, the authority can instruct the applicant to advertise the submission of the further information / revised plans in the newspaper (Newspaper Notice) and on site (Site Notice). The authority can at this stage accept representations from persons other than those who made a representation following the initial receipt of the application.
- 3.64. The planning authority must also advise all relevant statutory bodies that significant further information has been submitted.
- 3.65. Any person who has made a representation in relation to a planning application is formally notified of the decision by a planning authority in respect of the planning application, and has a right to appeal the decision of the authority (see **Appealing a Planning Decision** below).

### ***Determination of a Planning Application***

- 3.66. In Ireland, the planning authority generally must determine a planning application within eight weeks of the date of receipt of the application. This timeframe is extended in circumstances where the authority considers it necessary to request further information or revised plans to enable it to deal with the application. Further information or revised plans must be supplied within six months of the date of the request, and where the further information is not supplied within this period, the application is deemed to have been withdrawn by the applicant.
- 3.67. In deciding planning applications, the planning authority is restricted to considering the “*proper planning and sustainable development of the area*” concerned.
- 3.68. Certain developments must be assessed for likely environmental effects (EIA) before planning permission can be granted. When submitting a planning application for such a development, the applicant must also submit an Environmental Impact Statement (EIS).
- 3.69. Planning permission can be granted unconditionally or, as in most cases, with condition (including with pre-development conditions which must be complied with prior to the commencement of the development). Where permission is granted with

conditions, the planning authority is required to give its reasons for the decision. Similarly, where planning permission is refused, the authority must also give its reason for the decision.

- 3.70. As in Malta, a planning permission in Ireland is generally granted in perpetuity, but may be granted for a limited period in certain circumstances where it is considered necessary by the planning authority either that the development be temporary or in order to allow the authority to monitor the impact of the development. In all cases, the permission ceases to have effect if the development has not been completed within five years of the issue of the permission, provided that an application to extend the effective period of the permission hasn't been submitted. An applicant can apply to extend the permission within one year before the expiration of the permission.

### ***Planning Applications for Strategic Infrastructure Development***

- 3.71. In Ireland, the Planning Appeals Board (An Bord Pleanála) is responsible for determining planning applications for strategic infrastructure development - development which is of strategic economic or social importance to the State or a region, which will contribute significantly to the fulfilment of any of the objectives of the National Spatial Strategy or any regional planning guidelines for an area, or which would have a significant effect on the area of more than one planning authority.
- 3.72. Such applications must be advertised, and there is a period of not less than six weeks within which any person can make a representation on the application. A fee of €50 is payable to the Board for the making of a representation in relation to an application for strategic infrastructure development.
- 3.73. Within 10 weeks from the making of the application to the Board, the relevant planning authority must prepare and submit to the Board a report setting out the views of the authority on the proposed development. Before submitting this report, the Manager of the planning authority must have consulted with the members of the authority (the Council). The members may, by resolution, decide to attach recommendations to the report of the authority.
- 3.74. The Board has the authority to request further information from the applicant, the planning authority, or any other interested party or body, as considered necessary to enable the Board to determine the application. Where the Board considers that the further information contains significant additional information, it can require the applicant to advertise the submission of the further information. No additional fee is payable for the making of a second representation. The Board must also advise all relevant statutory bodies that significant further information has been submitted.
- 3.75. The Board must generally determine the application within 18 weeks, but can extend the determination period as deemed necessary. The decision of the Planning Appeals Board is final and cannot be appealed.

### ***Appealing a Planning Decision***

- 3.76. Decisions of the planning authorities can, for the most part, be appealed to the Planning Appeals Board (An Bord Pleanála).
- 3.77. The applicant, or any person who made a representation in relation to the planning application, can appeal to the Appeals Board, within four weeks of the date of the decision.
- 3.78. In an appeal, the planning application is considered anew by the Appeals Board, which examines all relevant issues independently. The Board must, among other things, consider the proper planning and development of the planning authority's area and any submissions or observations received. The Appeals Board must generally determine the appeal within 18 weeks, but does have the authority to extend the determination period as deemed necessary.
- 3.79. In Ireland, the majority of appeals are dealt with through written representation. Any party to the appeal may request the Board to hold a meeting in public (oral hearing). The Board itself has absolute discretion to hold an oral hearing, with or without a request, and will generally only hold one in the case of a particularly complex development application, or where significant national or local issues are involved.

### **Public Participation in the Determination of a Planning Application**

- 3.80. As mentioned, all applications for planning permission are widely publicised and any member of the public can make a representation in relation to any application. In Ireland, the entire planning file (and the appeal file) is open to public inspection.
- 3.81. As in the case of Malta, Ireland is one of the few countries in Europe with an independent third-party planning appeals system. Third parties who made a representation on the planning application can appeal a decision if they feel aggrieved.

### **Cost of Issuing Planning Permission for Building and Construction**

- 3.82. In general, a fee is payable (Development Application Fee) when making a planning application, and this fee is paid to the planning authority at the time of the submission of the application. The Development Application Fees are set nationally and are applicable to all planning authorities equally. In addition, most development is also subject to a Development Contribution Fee, which is payable at the end of the process. This fee is also paid to the planning authority, and the fee payable is set by the planning authority within a general regulation.
- 3.83. There are certain exemptions in the case of both the Development Application Fee and the Development Contribution Fee. The fees are not applied in the case of:
- where the development is proposed to be carried out by, or on behalf of, a voluntary organisation and is designed or intended to be used for social, recreational, educational or religious purposes by the inhabitants of the locality, or by people of a particular group or religious denomination, and is not to be used mainly for profit or gain, or is designed or intended to be used as a work-

shop, training facility, hostel or other accommodation for persons with disabilities and is not to be used mainly for profit or gain.

- where the development is for the provision of social housing, or development ancillary to social housing, and is not to be used mainly for profit or gain.
- 3.84. The Development Application Fees payable in respect of an application for Full Development Permission are shown in **Table 5**. The fee payable in respect of an application for permission for the retention of unauthorised development is higher than the normal fee, a penalty being applied (these are also shown **Table 5**).
- 3.85. The fee payable in respect of an application for Outline Development Permission is three quarters (75%) of the amount payable in respect of an application for Full Development Permission (see **Table 5**).
- 3.86. The typical Development Contribution Fees payable in the Republic of Ireland are shown in **Table 6**.
- 3.87. The planning authority is required to refund a fee in cases where a planning application for Full Development Permission is withdrawn by the applicant before a decision is taken by the planning authority, in which case three quarters (75%) of the fee is refunded.
- 3.88. A standard fee of €20 is payable for making a representation in respect of a planning application (€50 in the case of applications for strategic infrastructure development). As mentioned above, an additional fee is not applied in the case of the submission of any subsequent representations on the same planning application.
- 3.89. The fees payable for an appeal in the Republic of Ireland are shown in **Table 7**.

**Table 5: Development Application Fees in the Republic of Ireland**

Development Type	Fee	Fee for Retention Permission
Residential unit	€65	€195, or €2.50 per m <sup>2</sup> of gross floor space, whichever is the greater
Carrying out of maintenance, improvement or other alteration of an existing house (including any extension or the conversion for use as part of the house of any garage, store, shed or other structure)	€34	€102, or €2.50 per m <sup>2</sup> of gross floor space, whichever is the greater
Any other works, including the erection, construction or alteration of structures, within or bounding the curtilage of an existing house, for purposes ancillary to the enjoyment of the house	€34	€102, or €2.50 per m <sup>2</sup> of gross floor space, whichever is the greater
Provision of buildings or other structures for the purposes of agriculture or the keeping of greyhounds	(i) In the case of buildings, €80 for each building, or €1 per m <sup>2</sup> of gross floor space to be provided in excess of 50m <sup>2</sup> in the case of a building for the keeping of greyhounds or 200m <sup>2</sup> in any other case, whichever is the greater	(i) In the case of buildings, €240 for each building, or €3 per m <sup>2</sup> of gross floor space to be provided in excess of 50m <sup>2</sup> in the case of a building for the keeping of greyhounds or 200m <sup>2</sup> in any other case, whichever is the greater
	(ii) in the case of any other structures, €80 for each structure,	(ii) in the case of any other structures, €240 for each structure
Use of uncultivated land or semi-natural areas for intensive agricultural purposes	€5 for each hectare of site area.	€15 for each hectare of site area
Initial afforestation	€5 for each hectare of site area.	€15 for each hectare of site area
Peat extraction	€5 for each hectare of site area.	€15 for each hectare of site area
Use of land for— (a) the winning and working of minerals, (b) the deposit of refuse or waste	€500, or €50 for each 0.1 hectare of site area, whichever is the greater	€1500, or €150 for each 0.1 hectare of site area, whichever is the greater

Development Type	Fee	Fee for Retention Permission
Use of land for— (a) the keeping or placing of any tents, campervans, caravans or other structures (whether or not movable or collapsible) for the purpose of caravanning or camping or the sale of goods, (b) the parking of motor vehicles, (c) the open storage of motor vehicles or other objects or substances	€80, or €50 for each 0.1 hectare of site area, whichever is the greater	€240, or €150 for each 0.1 hectare of site area, whichever is the greater
Provision on, in over or under land of plant or machinery, or of tanks or other structures (other than buildings) for storage purposes	€200, or €50 for each 0.1 hectare of site area, whichever is the greater	€600, or €150 for each 0.1 hectare of site area, whichever is the greater
Provision of an advertisement structure or the use of an existing structure or other land for the exhibition of advertisements	€80, or €20 for m <sup>2</sup> , or part thereof, of advertising space to be provided, whichever is the greater	€240, or €60 for each m <sup>2</sup> , or part thereof, of advertising space to be provided, whichever is the greater
Provision of overhead transmission or distribution lines for conducting electricity, or overhead telecommunications lines	€80, or €50 for each 1,000m length, or part thereof, whichever is the greater	€240, or €150 for each 1,000m length, or part thereof, whichever is the greater
Use of land as a golf course or a pitch and putt course	€50 for each hectare of site area	€150 for each hectare of site area
Use of land as a burial ground	€200, or €50 for each hectare of site area, whichever is the greater	€600, or €150 for each hectare of site area, whichever is the greater
Development not coming within any of the foregoing classes	€80, or €10 for each 0.1 hectare of site area, whichever is the greater	€240, or €30 for each 0.1 hectare of site area, whichever is the greater
<p>1. Maximum fee payable by an applicant in respect of an outline application shall be €28,500.</p> <p>2. Maximum fee payable by an applicant in respect of an application for permission for retention of unauthorised development applies shall be €125,000.</p> <p>5. Minimum fee payable by an applicant in respect of a planning application shall be €34 and, in any case where the planning authority makes a refund in respect of a planning application, the refund shall not be such as to reduce the balance of the fee to less than €34.</p>		



**Table 6: Development Contribution Fees in the Republic of Ireland**

Type of Development	Fee
Residential	
- unit sizes <73m <sup>2</sup>	€13,190 per residential unit
- unit sizes between 73m <sup>2</sup> - 125m <sup>2</sup>	€14,869 per residential unit
- unit sizes >125m <sup>2</sup>	€16,536 per residential unit
Commercial	
Shops, restaurants, nightclubs and public houses	€63m <sup>2</sup>
Offices, leisure uses, medical and allied professions, hotels and guesthouses	€43m <sup>2</sup>
Retail warehouse / bulky goods	€31m <sup>2</sup>
Distribution warehouse, industry	€11m <sup>2</sup>

**Table 7: Fees Payable for a Planning Appeal in the Republic of Ireland**

Type of Appeal	Fee
1 <sup>st</sup> party appeal relating to commercial development	€1,500 (or €3,000 if an EIS is involved)
1 <sup>st</sup> party appeal relating to commercial development where the application included the retention of development	€4500 (or €9,000 if an EIS is included)
1 <sup>st</sup> party appeal relating to non-commercial development where the application included the retention of development.	€660
Any appeal other than that referred to above	€220

### Planning Statistics

- 3.90. **Table 8** provides a breakdown of the planning applications determined in the Republic of Ireland (all planning authorities) as a whole in the period 2006 – 2009.

**Table 8: Planning Applications Determined in the Republic of Ireland**

Year	Planning Applications Determined	Granted	Refused
2009	38,123	32,577 (85%)	5,546
2008	62,056	51,189 (82%)	10,867
2007	87,626	72,661 (83%)	14,965
2006	80,029	65,076 (81%)	14,953

- 3.91. **Table 9** provides a breakdown of the appeals determined in the Republic of Ireland in the period 2006 – 2009.

**Table 9: Appeals Determined in the Republic of Ireland**

Year	Appeals	Dismissed	Upheld
2009	4,639	3,438 (74%)	1,201
2008	5,189	5,056 (97%)	133
2007	5,891	5,644 (96%)	247
2006	5,508	5,203 (94%)	305

### **Process of Enforcing the Implementation of the Spatial Plan**

- 3.92. In the Republic of Ireland, the enforcement of planning control is the responsibility of the planning authority. The planning authority may take enforcement action where development takes place without planning permission, or where it does not comply with conditions of a planning permission.
- 3.93. The sequential process of planning enforcement in Ireland involves:
- issuing of a Warning Notice;
  - issuing an Enforcement Notice; and
  - Court action.
- 3.94. Additionally, the planning authority, or any individual or group, may seek a High or Circuit Court order against a developer, stopping an unauthorised development or use.
- 3.95. Under the *Planning and Development Act 2000*, planning authorities in Ireland can refuse to grant planning permission, subject to the consent of the High Court, to any developer who has seriously failed to comply with a previous planning permission.

### **MAJOR REFORM AGENDA IN THE FIELD OF SPATIAL PLANNING**

- 3.96. The bringing into force of the *Planning and Development Act 2000* was the most significant reform since the establishment of the modern planning system in 1964. This put in place the mechanisms to pursue strategic spatial planning through the putting in place of a national spatial strategy and regional planning guidance.
- 3.97. The reform was primarily prompted by the significant expansion of the development management system to meet the demands arising from rapid economic growth in Ireland in the 1990s, and reflected concerns in the area of environmental control in particular. A desire on the part of the public for greater transparency in the development management system, and for a statutory and independent planning appeals system in particular, was also a driver in the reform agenda.
- 3.98. As in Malta, the primary and secondary legislation was substantially overhauled as part of the reform, to provide a clearer framework for development management, as well as to consolidate spatial planning through the introduction of a more tiered and

‘plan-led’ system, cascading from the NSS to the RPGs and the local planning frameworks - development plans and local area plans.

- 3.99. The role of the development plan has become significantly enhanced as a result of the reform, and all standing development plans were revised following the adoption of the 2000 Act (review initiated within two years of the bringing into force of the Act).
- 3.100. The focus on spatial planning has moved the emphasis away from planning as a simply regulatory practice, narrowly focused on land use, and carried out by planning authorities with interest in their own locality, to planning as an activity that is both integrated with other local government services and with planning authorities on the regional and national level.
- 3.101. The system of a localised planning function, focussed on local planning authorities, is well established in Ireland. While there is no agenda to reduce the role of the planning authorities in spatial planning, the merger of certain authorities is currently being discussed, if only in respect of their planning functions. This has very much been prompted by the recent economic slowdown in Ireland, and the very significant decrease in the number of planning applications received by the planning authorities as a result. The implications of any mergers for local democracy is an obvious concern and is a major focus in the reform discussion.

**Websites:**

**Planning System:**

Department of the Environment, Community and Local Government – Planning  
<http://www.environ.ie/en/DevelopmentHousing/PlanningDevelopment/>

**Local Government:**

Department of the Environment, Community and Local Government – Local Government  
<http://www.environ.ie/en/LocalGovernment/>



## 4. THE ISLE OF MAN

- 4.1. The Isle of Man is a self-governing Crown Dependency of the United Kingdom (UK), located in the Irish Sea between the Islands of Great Britain and Ireland (see **Figure 10**). Although not part of the UK, the UK Government is responsible for the foreign relations and defense of the Isle of Man.
- 4.2. The Isle of Man has a population of approximately 85,000<sup>19</sup> and a land area of 572km<sup>2</sup>. The population density is approximately 148 persons per km<sup>2</sup>.
- 4.3. The Isle of Man is not a member of the European Union. There is a free trade arrangement in goods within the EU, however there are barriers regarding the movement of capital and services. EU citizens are entitled to travel to and reside, but not to work, on the Island.

**Figure 10: Site Location – Isle of Man**



<sup>19</sup> 2011 Census

## **INSTITUTIONAL AND LEGAL SETTING**

### **Political-administrative Structure of the State**

- 4.4. The government of the Isle of Man is a parliamentary representative democracy. The Island's 1,000 year old Parliament makes its own laws and oversees all internal administration, fiscal and social policies. External issues, such as foreign representation and defence, are administered on the Island's behalf by the UK Government, for which the Island makes an annual payment.
- 4.5. The Parliament (Tynwald) is bicameral, made up of the House of Representatives (House of Keys), which is directly elected by voters every five years, and the Legislative Council (not directly elected). The executive branch of government is the Council of Ministers, which is composed of members of the Parliament, and is headed by the Chief Minister.
- 4.6. The Head of State is the Lieutenant Governor, who represents the Queen or King of the UK. The role of the Lieutenant Governor is largely ceremonial, with discretion to grant Royal Assent in some cases.
- 4.7. On the Isle of Man, most politicians normally contest elections as independents and not as representatives of political parties. Though political parties do exist, they do not generally manage to elect many members to the House of Representatives - currently only four seats out of 24 are representatives of political parties.

### **Local Government**

- 4.8. Local government on the Isle of Man takes three forms: town districts (of which there are four), village districts (of which there are five), and 'parish districts' (of which are 15 areas that do not form part of the town and village districts).
- 4.9. The Department of Infrastructure, which has taken over the responsibilities of the former Department of Local Government and the Environment, has the responsibility for local authorities through the Local Government Unit.
- 4.10. The local authority for each of the districts (with the exception of the Capital, Douglas) is the body of Commissioners elected locally. The Commissioners are a 'body corporate' (a legal person separate from the individual commissioners). The Councils are composed of the Mayor and Councillors.
- 4.11. A number of joint boards comprising the districts of two or more local authorities, consisting of members appointed by the constituent authorities (also body corporates), are responsible for specific functions, primarily refuse collection, civic amenity sites, housing for elderly persons, and the provision of swimming pools.

## Spatial Planning Organisational Structure

### *Planning System*

- 4.12. The current overarching planning legislation on the Isle of Man is the *Town and Country Planning Act 1999*<sup>20</sup>. The secondary legislation under this Act (a number of Planning Orders and Regulations) deal with a variety of factors.
- 4.13. Similar to the case of Malta and the Republic of Ireland, the planning system on the Isle of Man is based on the British planning system.

### *Responsibility for Spatial Planning*

- 4.14. **Figure 11** outlines the organisational responsibility for spatial planning in the Isle of Man.
- 4.15. The Isle of Man has a centralised and single-tiered planning system, with the Planning and Building Control Division of the Department of Infrastructure having responsibility for the making of spatial plans and implementation through the development management and planning application process.
- 4.16. Planning applications are determined by the Planning Committee, which is comprised of lay members appointed by the Council of Ministers and chaired by a political member of the Department of Infrastructure. Decisions on applications for minor developments are delegated to the Planning and Building Control Division. Where the application is being made by the Department, or is one in which the Department has a vested interest, the planning application is determined by the Governor in Council.

## MAKING OF A SPATIAL PLAN

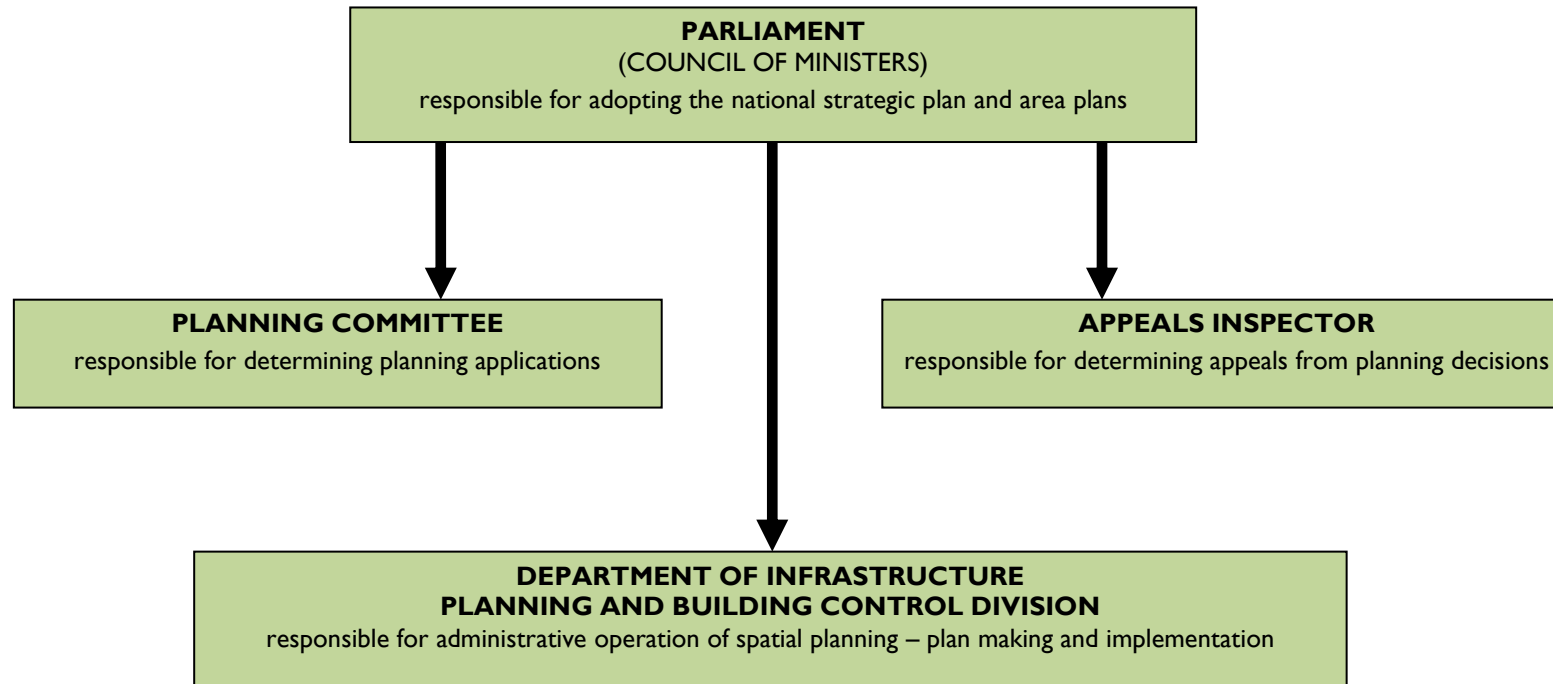
- 4.17. The Department of Infrastructure has a statutory obligation to prepare a national *Island Development Plan* (referred to as the development plan). The development plan consists of a strategic plan and one or more area plans setting out the local development framework.
- 4.18. The current strategic plan was adopted in 2007 and has a plan period up to 2016<sup>21</sup>. The strategic plan is one of the key strategic documents of the Government. It provides the land-use planning framework for the future sustainable development of the Island, including the efficient and effective provision of services and infrastructure and the use of land to meet the community's needs, while preserving, protecting and improving the quality of the environment and heritage.

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<sup>20</sup> <http://www.gov.im/lib/docs/transport/planning/townandcountryplanningact1999.pdf>

<sup>21</sup> see <http://www.gov.im/lib/docs/transport/planning/plan/areaplanopportunitytogetinvol.pdf>

**Figure 11: Organisational Responsibility for Spatial Planning in the Isle of Man**





- 4.19. Four area plans are currently being prepared. These will replace the existing local plans.
- 4.20. The strategic plan and the area plans (currently the local plans) are supported by a range of planning policy statements addressing specific topic areas.

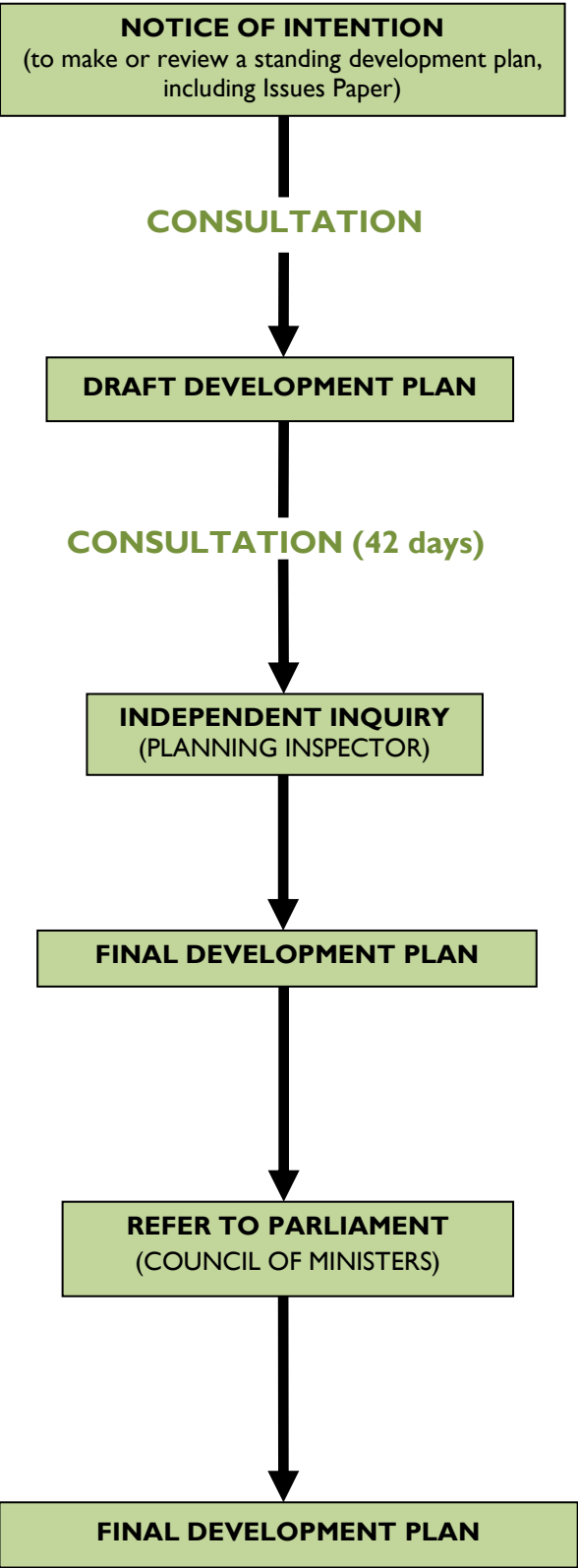
### **Development Plan**

- 4.21. **Figure 12** summarises the process for the making of the development plan.
- 4.22. The development plan may be reviewed “*from time to time*” as deemed necessary, and the making of the plan is a regulated process. The Department of Infrastructure is obligated to “*take such steps as will in its opinion*” ensure that “*adequate publicity is given to the matters with which it intends that the proposals in the plan should deal with*”, and to ensure that there is “*adequate opportunity*” for persons to make representations. In the case of the Island Development Plan adopted in 2007, the Department issued an ‘Issues Paper’ in this initial consultation stage, which framed the matters that would be covered by the plan.
- 4.23. There is no statutory timeframe for consultation at this initial stage of the plan-making process. However, the Draft Development Plan must be published within 12 months of the consultation having been completed.
- 4.24. The Draft Development Plan is also published for consultation, and further representations are invited in relation to the Draft Plan. These representations must be submitted within a specified period of not less than 42 days.
- 4.25. Following this consultation, the Department of Infrastructure must organise for an inquiry to be held, by an independent person(s) appointed by the Lieutenant Governor (Planning Inspector). Any person who has made a representation in relation to the Draft Development Plan is entitled to be heard at this inquiry.
- 4.26. The Planning Inspector must publish a report of the inquiry. After considering this report, the Department of Infrastructure may by order approve the Draft Development Plan, with or without modifications. Where it approves the plan with modifications, the Department must publish a notice explaining the modification(s). Any person may make a representation within a specified period of not less than 21 days.
- 4.27. The Final Development Plan is then referred to the Parliament (Council of Ministers) for consideration and adoption. The Plan must be adopted “*as soon as practicable*” after this.

### **Content of a Development Plan**

- 4.28. The *Town and Country Planning Act 1999* prescribes that the development plan must consist of:
- a strategic plan, in the form of a written statement formulating the Department's general policies in respect of the development and other use of land, together

**Figure 12: Process of the Making of a Development Plan in the Isle of Man**



with a reasoned justification of those policies, and such diagrams, illustrations or other descriptive or explanatory matter in respect of those policies, as appropriate; and

- one or more area plans, as deemed necessary, in the form of a written statement setting out proposals for the development or other use of land in the area and a map showing those proposals on a geographical basis, together with a reasoned justification of those proposals, and such diagrams, illustrations or other descriptive or explanatory matter in respect of those proposals, as appropriate.

## **IMPLEMENTATION OF A SPATIAL PLAN**

### **Process of Issuing Planning Permission for Building and Construction**

- 4.29. All development, with the exception of permitted development<sup>22</sup>, requires planning permission.
- 4.30. The Planning and Building Control Division of the Department of Infrastructure is responsible for assessing planning applications. The majority of decisions on planning applications are taken by the Planning Committee, which is appointed by the Council of Ministers and chaired by a political member of the Department of Infrastructure. Officers of the Planning and Building Control Division have responsibility for determining applications for minor development (overseen by the Planning Committee).
- 4.31. Any application for planning permission made by the Department of Infrastructure, or for the development of land in which the Department has any interest, is determined by the Council of Ministers.

### **Form of a Planning Application**

- 4.32. A planning application in the Isle of Man can take one of five forms:
- application for Outline Planning Permission for development, which is used to find out whether or not a proposal is acceptable in principle and likely to be approved. An outline planning permission does not entitle an applicant to undertake the development: outline permission is granted subject to subsequent approval of detailed reserved matters;
  - application for Full Planning Permission for development, which addresses the full detail of the development, with no reserved matters, but which may be subject to certain pre-development conditions;
  - application for permission for change of use, which addresses the change of

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<sup>22</sup> A definition of what qualifies as permitted development is available in *The Town and Country Planning (Certificates of Lawful Use or Development) Regulations, 2005*  
<http://www.gov.im/transport/planning/plan/publications/welcome.xml>

use(s) of a building where no building work is required;

- application for permission for approval of reserved matters, which addresses matters reserved from a previous application (such an application can only be made if there is a valid approval in principle on the site and the conditions attached to that approval have been met);
- application for variation of a condition, where there is a valid planning permission already in place and where the applicant is seeking to vary a condition of that permission.

4.33. All planning applications are vetted on submission, in respect of the required submission requirements, and invalid applications are returned to the applicant.

#### ***Consultation on a Planning Application***

4.34. The Planning and Building Control Division is responsible for advertising all valid planning applications, by:

- placing a summary description of the application on the Public Register;
- placing a summary description of the application in the local newspaper (Newspaper Notice); and
- fixing a notice of the application on site (Site Notice).

4.35. Any member of the public has the right to make a representation in relation to a planning application. Representations must be made in writing within 21 days from the date of the Newspaper Notice / Site Notice. There is no fee for the submission of a representation.

4.36. Importantly, a planning application cannot be determined until after 21 days of the receipt of the application, in order to allow for public representations.

4.37. Any person who has made a representation in relation to a planning application is formally notified of the decision by the Department of Infrastructure. However, only “interested parties” have a right to appeal the decision. The appeal process, including who constitutes an ‘interested party’, is explained below (see **Appealing a Planning Decision**).

#### ***Determination of a Planning Application***

4.38. The Department of Infrastructure generally must determine a planning application within eight weeks of the date of receipt of the application. This timeframe is extended in circumstances where further information or revised plans are requested by the Planning and Building Control Division.

4.39. Planning permission can be granted unconditionally or, as in most cases, with condition (including with pre-development conditions which must be complied with prior to the commencement of the development). Where permission is granted with conditions, the Department must give its reasons for the decision. Similarly, where

planning permission is refused, the Department must also give its reason for the decision.

- 4.40. As in Malta and the Republic of Ireland, a planning permission in the Isle of Man is generally granted in perpetuity, but may be granted for a limited period in certain circumstances where it is considered necessary either that the development be temporary or in order to allow the Planning and Building Control Division to monitor the impact of the development. In all cases, the permission ceases to have effect if the development has not been completed within four years of the issue of the permission, provided that an application to extend the effective period of the permission hasn't been submitted.

### ***Appealing a Planning Decision***

- 4.41. Decisions on planning applications can, for the most part, be appealed to the Minister for Infrastructure, to be considered by a person appointed for the purpose of the appeal by the Council of Ministers (Appeals Inspector).
- 4.42. The right of appeal is restricted to “*interested parties*”, who are generally taken to be:
- the applicant;
  - the owner and the occupier of the land subject of the application;
  - the Department of Transport;
  - the local authority in whose locality the site is located;
  - persons owning or residing in land or buildings which physically adjoin the site;
  - persons whose privacy would be substantially affected by the development;
  - persons whose outlook from land or buildings in which they have an interest as owners or tenants would be substantially and adversely affected by the development; and
  - persons owning or residing in land or buildings, the legitimate enjoyment of which would be adversely affected by reason of noise, dust, or smell arising from the site as a consequence of the development, or traffic generated by the development.
- 4.43. An appeal must be made within 21 days of the date of the decision.
- 4.44. The majority of appeals are dealt with through written representation. Any party to the appeal may request the Minister to hold a meeting in public (oral hearing). The Minister has absolute discretion to hold an oral hearing, with or without a request, and will generally only hold one in the case of a particularly complex development application, or where significant national or local issues are involved.

### **Cost of Issuing Planning Permission for Building and Construction**

- 4.45. In general, a fee is payable when making a planning application in the Isle of Man, and this fee is paid to the Department of Infrastructure. There are certain exemptions:
- where the application is for a minor amendment;
  - where the application relates solely to the provision of means of access for disabled persons to, or within, a building or premises to which members of the public are admitted, or where the application is for provision of means of access to, or within, a dwelling house where that person is resident in or is proposing to take up residence; and
  - where the application is being made by an institution or body of persons which is established and conducted otherwise than for private gain, and wholly or mainly for charitable purposes, or for purposes consisting of participation in athletic sports or games or cultural activities.
- 4.46. **Table 10** sets out the fees payable for the making of a planning application in the Isle of Man.

**Table 10: Development Application Fees in the Isle of Man**

Development Type		Fee
1	Application for approval in principle	£122
2	Application for approval of building, rebuilding, engineering, mining or other operations (other than approval in principle)	
2a	Estate layout (residential or industrial)	£369
2b	(i) The erection of, or building to, one or more dwellings	£199 per dwelling
	(ii) The conversion of a dwelling house into one or more separate dwellings.	£199 for each additional dwelling to be created
2c	Installation of replacement windows/doors	-
2d	The enlargement, improvement or other alteration of an existing dwelling house (Including the erection of a private garage, whether attached or detached)	Where no floorspace is to be created, or up to 15m <sup>2</sup> of floorspace is created = £61 Where the floorspace exceeds 15m <sup>2</sup> = £158
2e	Alterations and erection of buildings other than buildings in categories 2(b), 2(d), 2(f), 2(i) and 2(j)	Where no floorspace is to be created = £158 For every 20m <sup>2</sup> or part thereof of floor area = £54 up to a maximum of £4,493
2f	(1) The erection, on land used for the purposes of agriculture, of buildings to be used for agriculture purposes.	£116
	(2) Erection of stables.	£67
2g	The use of land for; (i) the disposal of refuse or waste materials or for the deposit of materials remaining after minerals have been extracted from land; (ii) the storage of minerals in the open; or (iii) operations for the winning and working of minerals.	£278 for every 0.2ha of site area, up to maximum £7,781
2h	Installation, alteration or replacement of satellite antennae	-
2i	The erection, alteration or replacement of plant or machinery.	£61
2j	The carrying out of operations (including erection of a building – excluding garages see (d) within the curtilage of an existing dwelling house for the enjoyment of the dwelling house or other means of enclosure along a boundary of the curtilage of an existing dwelling house; or (ii) the construction of car parks, service roads and other means of access on land used for the purposes of a single undertaking, where the development is required for a purpose incidental to the existing use of the land.	£6,112

Development Type		Fee
2k	Any operation not falling within (a) to (j) above	£61
3	Application for change of use of a building or land (other than a material change of use coming within any of the above categories).	£61
4	Application for a certificate of lawful use or development. (i) Existing use and development;	Fee to reflect fee that would be due in respect of an application for planning permission.
	(ii) Proposed use and development.	50% of fee that would have been due had an application for planning permission been made.
5	Advertisements. (i) Advertisements displayed on business premises, on the forecourt of business premises or on other land within the curtilage of business premises, wholly with reference to all or any of the following matters: (a) the nature of the business or other activity carried on the premises; (b) the goods sold or the services provided on the premises; or (c) the name and qualifications of the person carrying on such business or activity or supplying such good or services. (ii) Advertisements for the purpose of directing members of the public to or otherwise drawing attention to the existence of business premises which are in the same locality as the site on which the advertisement is to be displayed but which are not visible from that site.	£9,313
	(iii) All other advertisements	£152
6	Variation or discharge (removal) of condition.	£163



## **Process of Enforcing the Implementation of a Spatial Plan**

- 4.47. The enforcement of planning control is the responsibility of the Department of Infrastructure (Planning and Building Control Division). The Department may take enforcement action where development takes place without planning permission, or where it does not comply with conditions of a planning permission.
- 4.48. The sequential process of planning enforcement in the Isle of Man involves:
- issuing of a Requisition of Information, to formally seek information where there is a suspected breach;
  - issuing an Enforcement Notice, which is the most commonly used power once it has been established that a breach has occurred, and it has not been possible to resolve the matter through negotiation; and
  - Stop Notice, which orders the immediate cessation of the activity on site (used only in exceptional circumstances).
- 4.49. In taking enforcement action, the Department prioritises the level and speed of the investigation according to three types of breach: Type 1, which is given the highest priority, relates to development that could result in irreversible and serious harm; Type 2, which relates mostly to development that is unlikely to receive planning permission without significant modification; and Type 3, which mostly relates to development that only has a localised impact.
- 4.50. Where either a Requisition of Information, Enforcement Notice or Stop Notice is not complied within the a specified period (the period can vary), the offender is deemed to be guilty of an offence and the case is referred to the Court for prosecution. In the Isle of Man, a person may be liable on summary conviction to a fine not exceeding £20,000 (approximately €24,000).

## **MAJOR REFORM AGENDA IN THE FIELD OF SPATIAL PLANNING**

- 4.51. The planning system in the Isle of Man underwent significant change initiated in 2005, with certain of the changes still being taken forward. The reform agenda was prompted by recognition of, and public pressure for, improvement in the quality and effectiveness of the planning service operated by the Department of Infrastructure so as to better support the delivery of economic growth and sustainable development.
- 4.52. The reform saw the amendment of the *Town and Country Planning Act, 1999*, specifically in respect of spatial plans, introducing the concept of the two-tiered Island Development Plan (strategic plan and area plans). Concurrently, the then Minister for Local Government and the Environment (now Minister for Infrastructure) commissioned the Improvement and Development Agency to conduct an

independent review of the planning process<sup>23</sup>.

- 4.53. The Development Plan provides the spatial planning policy framework up to 2016. Its adoption (in 2007) has prompted the review of the current local plans, and the preparation of new area plans, which, together with the national level strategy plan, will provide the framework for development management and the determination of planning applications.
- 4.54. The review of the Improvement and Development Agency highlighted several shortcomings in the planning system: in the consultation arrangements with other departments, the managerial leadership and efficiency by the Planning and Building Control Division, transparency in the decision-making process, the right of appeal from planning decisions, and consumer services by the Department of Infrastructure. In 2010, in reaction to the report by Improvement and Development Agency, the Minister for Infrastructure approved a reform of the planning system<sup>24</sup>. These changes are still being pursued.

#### **Websites:**

##### **Planning System**

<http://www.gov.im/transport/planning/>  
<http://www.gov.im/transport/planning/plan/publications/>  
<http://www.gov.im/transport/planning/allnews.gov>

##### **Local Government:**

<http://www.gov.im/lib/docs/transport/msd/localauthoritieshandbookrevised1.pdf>

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<sup>23</sup> See report at: <http://www.gov.im/lib/docs/transport/planning/plan/pasfinal2.pdf>

<sup>24</sup> Available on line at: <http://www.gov.im/lib/docs/transport/planning/plan/reportonthereviewoftheplanning.pdf>

## **5. COMPARATIVE DISCUSSION OF SPATIAL PLANNING IN THE SMALL STATES**

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### **INSTITUTIONAL AND LEGAL SETTING**

- 5.1. Malta, the Republic of Ireland and the Isle of Man exhibit quite different approaches in respect of the institutional setting and legal setting for spatial planning.
- 5.2. In Malta and the Isle of Man, the administrative function of spatial planning is the responsibility of central government, with decision-making being the responsibility of specially designated boards made up of representatives from government and the civic, community and business sectors. In Malta, the reasons for this relate not least to the relatively recent introduction of local government (in 1993) and of a formal planning system (in 1992). Local government in Malta is not evolved to the extent that devolution of the planning function to elected representatives at local authority level can happen at this stage. However, the size and relatively small population of the State tempers the effect of the centralisation of the spatial planning function on local democracy. The size of the State and the small population accounts for the situation that exists in the Isle of Man.
- 5.3. In the Republic of Ireland, administration of the planning function and decision-making is devolved to local government, and has historically been so. The structures of local government are much more evolved than in the case of Malta. The devolution of spatial planning also makes much more sense in Ireland in view of the size of the State and its population. As discussed, the recent spatial reform agenda in Ireland has been driven by a need to give some strategic perspective to the local-level development frameworks (development plans), through formulation of the national spatial strategy and regional planning guidelines. In effect, the reforms have been designed to introduce a level of centralised control to spatial planning, where in the past the strategic consideration and integration of planning and land use management was lacking.
- 5.4. Good governance in relation to spatial planning is generally understood to be defined by a system whereby decision-making is devolved to the local level wherever possible, and to bodies which are accountable through the democratic process. This is not the case in either Malta or the Isle of Man. However, the spatial planning institutional frameworks in both States clearly reflect the competencies of the frameworks, as well as the relative smallness of the States. In this respect, there are advantages inherent in the centralised administrative and decision-making systems that have been developed in Malta and the Isle of Man. The systems do exhibit shortcomings in respect of local democracy and community involvement. However, this is acknowledged and public participation is a key element in both the plan-making process and in the implementation of the plans.
- 5.5. In Ireland, where there is devolved decision-making by locally elected representatives, there are clearly advantages in respect of local democracy. However, as mentioned, one of the reasons for reform of the spatial planning system in Ireland was the over-dominance of local concerns and the lack of a strategic perspective in the making of

the local-level development frameworks, which has resulted in the setting up of the regional authorities (and the formulation of regional planning guidelines). In a relatively large State, with 88 local planning authorities, the setting up of this middle-tier in the spatial planning instructional framework was necessary to ensure the appropriate cascading of the central government's national strategic objectives.

## **THE MAKING OF A SPATIAL PLAN**

- 5.6. The recent reform agenda in respect of spatial planning in Malta, the Republic of Ireland and the Isle of Man has been to further consolidate a 'plan-led system', and the primacy of spatial plans in the management of planning and land use. In all three cases the reforms have taken place relatively recently.
- 5.7. The Republic of Ireland has a much more regulated process of spatial plan making than Malta and the Isle of Man. In Ireland there is an onus on planning authorities to review the local development framework (the development plan) at least every six years. This ensures the relevance of the spatial policy framework, having regard to the topical national, regional and local spatial issues, and the effectiveness of the development management system as a result.
- 5.8. In Malta and the Isle of Man, the local development framework (the local plan and the area plan, respectively) is reviewed "*as frequently as may be necessary*". However, in both cases the existing frameworks will imminently be reviewed following adoption of the relevant national strategic plans (a process that is more advanced in the case of the Isle of Man).
- 5.9. Importance is placed on public engagement and consultation in the plan-making process and in development management in all three States. In Ireland, with the more regulated process, there is greater opportunity for public engagement in the making of the development plan, specifically in view of the statutory timeframes set out for consultation (16 weeks at the outset of the plan-making process and 10 weeks following publication of the Draft Plan). In Malta and the Isle of Man, there is the opportunity for the public to engage at both the outset of the process and again following publication of the Draft Plan. However, in Malta, the consultation period at both stages can be as limited as six weeks. In the Isle of Man, the post-Draft Plan consultation period can similarly be as little as six weeks, and there is no statutory time period set down for the initial consultation phase. The consultation period is at the discretion of the Department of Infrastructure.

## **THE IMPLEMENTATION OF A SPATIAL PLAN**

- 5.10. With the planning systems in Malta, the Republic of Ireland and in the Isle of Man being broadly based on the British planning system, there are significant similarities between the three States in respect of the development management and planning application system in particular.
- 5.11. The process for determining a planning application is generally similar. However, in Malta, and as established following the recent reform of the planning system, there are different timeframes for the determination of different types of development

(ranging from 12 to 52 weeks). In all cases these are more generous than those in Ireland and in the Isle of Man (8 weeks generally, and 18 weeks in the case of applications for strategic infrastructure developments in Ireland). Longer timeframes are obviously more onerous for the applicant, but in Malta the introduction of different and lengthier timeframes for applications of varying significance has served to considerably simplify a previously more complex and ineffective system for the processing of planning applications which frustrated both applicants and the general public.

- 5.12. Planning reform in Malta, as well as focussing on the introduction of a spatial and plan-led system, has responded to a strong desire from all parties to streamline the development management arrangements, and the process for dealing with planning applications in particular. One measure designed to simplify the planning application process has been the introduction of a rigorous pre-screening of applications, whereby MEPA advises on the submission and gives the applicant the opportunity to supplement the information submitted. This avoids the need to later ask for further information and to delay the assessment process by having to re-advertise the application in the case of significant further information, for example.
- 5.13. Another distinction between Malta and the Republic of Ireland and the Isle of Man is in the different types of planning application. In the recent reforms in Malta, it was decided to omit the opportunity for an applicant to make an application for Outline Development Permission, which allows for the establishment of the principle of a development, and which is often used by applicants to gauge the opinion of the planning authority and avoid unnecessary costs. The decision to remove the opportunity to make an application for Outline Development Permission was in part taken on the basis that the pre-screening exercise would facilitate in determining whether or not the principle of development is acceptable. However, there is no longer in Malta any formal mechanism for applicants to obtain the decision of the planning authority on the principle of a development.
- 5.14. There is a statutory obligation in Malta, the Republic of Ireland and the Isle of Man that all planning applications are advertised - in a local newspaper, by a notice on site, and through the planning register. Despite the similarities with the British planning system, in none of the three States is there a system of 'neighbour notification' - where neighbours in the vicinity of a development site are notified in writing of the receipt of a development application. This system operates in the UK, and has been proven to be the most effective method of public consultation in respect of near neighbours.
- 5.15. In the Republic of Ireland, the public is afforded a period of five weeks in which to make a representation on a planning application. In Malta and in the Isle of Man, the statutory timeframe for submission of representations is less than one month (20 and 21 days, respectively). However, in neither Malta nor the Isle of Man is there a fee payable for submission of a representation. The Republic of Ireland controversially introduced a fee (€20) for the making of a representation in relation to a planning application in 2001.

- 5.16. Malta and the Republic of Ireland are two of the few European countries with an independent third-party planning appeals system. In Ireland, appeals are generally dealt with through written representation, with a meeting in public (oral hearing) only being held in exceptional cases, generally in the case of the more major developments, and at the discretion of the Planning Appeals Board. In Malta, all appeals are dealt with through a hearing of the Appeals Tribunal, and in public. However, the timeframe of determining an appeal in Malta is three months, whilst in Ireland the timeframe is substantially longer (18 weeks).
- 5.17. There is a limited operation of the right of third party appeal in the Isle of Man, with the right of appeal being restricted to “*interested parties*” including the local authority in which the site is located, persons owning or residing in land or buildings which physically adjoin the site, persons whose privacy would be substantially affected by the development, persons whose outlook from land or buildings in which they have an interest would be substantially and adversely affected by the development, and persons owning or residing in land or buildings, the legitimate enjoyment of which would be adversely affected by the development.
- 5.18. There is quite a divergence in the costs involved in obtaining planning permission in Malta, the Republic of Ireland and the Isle of Man. In Ireland, the planning fee for any residential property of 120m<sup>2</sup> is currently €14,933 and the fee for any residential property of 300m<sup>2</sup> is currently €16,600. The fee for alterations to an existing residential property, including extension, is €34. In all cases a penalty fee is applied where the application is for permission to sanction unauthorised development (based on the size in square metres of the unauthorised development).
- 5.19. The planning fees for new build are very significantly lower in Malta - the total fee for a flat / apartment / maisonette / terraced house of 120m<sup>2</sup> is currently €734.40, and the fee for a detached property of 300m<sup>2</sup> is €6,126. However, the fee for any alteration to a residential property, including extension, is €175.00. In Malta, there is no penalty fee in the case of making an application for permission to sanction unauthorised development.
- 5.20. In the Isle of Man, there is a single fee for all new residential new builds of only £369 (approximately €441) per unit. The maximum fee for alteration, including extension to a residential property is £158 (approximately €188). As in Malta, there is no penalty fee in the case of unauthorised development.
- 5.21. In Malta, there are also no exemptions from the planning fees, whilst in Ireland and the Isle of Man exemptions are afforded to ‘not for profit’ developments in both cases, including for the provision of social housing and other social facilities in the case of the Republic of Ireland, and for developments for provision of disabled access to public buildings and residential properties in the case of the Isle of Man.

## 6. FEATURES OF GOOD SPATIAL PLANNING: BENCHMARKING FOR NORTHERN CYPRUS

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6.1. A good spatial planning system is defined by a number of key features:

- Appropriate legal framework
  - *legal basis to properly facilitate the spatial planning process, which allows for the shifting of the focus from physical land-use regulation to an integrative spatial planning approach.*
- Clear definition of roles and responsibilities
  - *Clear assignment and distribution of roles and responsibilities between the different levels of administration, with:*
    - *at the national level - governments being responsible for developing the long-term strategic framework that both initiates and guides the decision-making process and establishes the conditions for the operation of effective planning at regional and local level; and*
    - *at the local level – planning authorities being responsible for preparing local development frameworks, taking into account national and regional policy objectives, with appropriate community engagement, and overseeing the implementation of, and the monitoring of the implementation, of policies and proposals.*
- Good governance
  - *planning decisions taken by bodies which are accountable through the democratic process (elected representatives), taking into account recommendations made by relevant local experts; and*
  - *planning decisions devolved to the local level, wherever possible, and made in a collaborative way with local stakeholders.*
- Community involvement
  - *effective procedures for community involvement in place to ensure the relevance of the policy framework, and the proper consideration of local interests; and*

- *decision-making processes which demonstrate transparency, impartiality and fairness, with all persons having access to information on development proposals, plans and policies, and the appropriate opportunity to comment on and to appeal against planning decisions.*

- 6.2. The comparative evaluation of the spatial planning systems in Malta, the Republic of Ireland and the Isle of Man highlights the stage these States have reached in reforming their planning systems to move towards establishing a spatial planning system. In the case of all three, the spatial planning system is relatively well developed. In the main, Malta, the Republic of Ireland and the Isle of Man exhibit the key features of a good spatial planning system where this is possible, taking account of the stage of the reform and the competencies of their institutional and legal frameworks. The critical distinction in the case of Malta and the Isle of Man is the centralisation and single-tiered nature of the planning function and the lack of devolved decision-making.
- 6.3. The centralised nature of the current planning function in Northern Cyprus, and the relative lack of capacity for planning decision-making at local government level, is reflective of the situation in Malta and the Isle of Man. For the purposes of benchmarking therefore, these States offer the best model for Northern Cyprus in terms of the institutional framework at this stage, having regard to the current institutional set up of the State and the operation of the current planning function.
- 6.4. The reform of the development management system that is required in Northern Cyprus, and the process for dealing with planning applications in particular, will likely place added pressure on the existing organisational structures. Where there is a situation of limited capacity and competency of planning professionals and technicians, as well as of stakeholders, devolution of the planning function to local government isn't likely to be a feasible option at this stage.
- 6.5. The approach to dealing with the relative underdevelopment of the local government structure in Malta, was to set up a specific agency with responsibility for administration of the planning function (MEPA). Malta's approach to institutional reform, and the roles and responsibilities for spatial planning in particular, could potentially offer a good example for Northern Cyprus at this stage.



## **APPENDICES**

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## **APPENDIX I: SUBJECT PLANS IN MALTA**

- Yachting Development Subject Plan, 1997
- Small and Medium Enterprises (SMEs) Micro Enterprises - Site Selection Exercise, 2005
- Minerals Subject Plan, 2002
- 'Space for Waste' the Waste Management Subject Plan, 2001
- Position Paper on Disposal of Waste at Sea, 2001

## **APPENDIX 2: PLANNING POLICY GUIDANCE IN MALTA**

- Planning Guidance for Micro-Wind Turbines, 2010
- Agriculture, Farm Diversification and Stables, 2007
- Development Control Policy and Design Guidance 2007
- Policy & Design Guidance - Billboards & Signs, 2007
- A Planning Policy on the Use and Applicability of the Floor Area Ratio, 2006
- Shooting Ranges, 2006
- Child Day Care Facilities, 2006
- Policy & Design Guidance, 2005
- Open Storage Areas, 2005
- Interim Retail Planning Guidelines, 2004
- Amendment to Commuted Parking Payment Scheme, 2003
- Parking Requirement for Tables and Chairs in Valletta, the Three Cities and Other Urban Areas, 2002
- Guidelines on Trees, Shrubs and Plants for Planting and Landscaping in the Maltese Islands, 2002
- 'Access for all - Design Guidelines' as published by National Commission Persons with Disability, 2001
- Policy & Design Guidance on Fishfarming - Search Area Policy (Amendment), 2001
- Swimming Pools Outside Development Zone, 2000
- New Commuted Parking Payments Scheme for Malta, 1998
- Parking Provisions for Local Shops, Offices and Catering Establishments, 1997
- Policy Paper for Golf Course Development in Malta, 1997
- Traffic Calming Guidelines, 1995
- Development Control in Urban Conservation Areas, 1995
- Development Control Guidance: Development Outside Built-up Areas, 1995

- Development Control Guidance: Kiosks, 1994
- Policy & Design Guidance: Vending Machines, 1993
- Policy & Design Guidance: Shopfronts, 1993
- Code of Practice for Quarry Working and Restoration, 1993
- Traffic Generation, Access & Parking, 1993

## **APPENDIX 3: PLANNING POLICY GUIDANCE IN THE REPUBLIC OF IRELAND**

- Architectural Heritage Protection for Places of Worship
- Best Practice Urban Design Manual
- Childcare Facilities Guidelines
- Design Standards for New Apartments
- Development Contribution Scheme for Planning Authorities
- Development Management Guidelines
- Development Plans Guidelines
- Draft Spatial Planning and National Roads Guidelines
- Funfair Guidance
- Implementing Regional Planning Guidelines - Best Practice Guidance
- Implementation of new Environment Protection Agency Code of Practice on Wastewater Treatment and Disposal Systems Serving Single Houses
- Landscape and Landscape Assessment
- Provision of Schools and the Planning System
- Quarries and Ancillary Activities
- Retail Planning Guidelines
- Rural Housing Policies and Local Need Criteria in Development Plans
- Strategic Environmental Assessment (SEA)
- Sustainable Rural Housing Development Guidelines
- Sustainable Residential Development in Urban Areas
- Telecommunications Antennae and Support Structures
- The Planning System and Flood Risk Management
- Tree Preservation Guidelines
- Wind Energy Development



*Bu rapor KKTC Devleti hde Fonksiyonel ve Kurumsal Gözden Geçirme Projesi" (KKTC-FOKUS) kapsamında hazırlanmıştır.*

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