

Hon. Dr Angelo Farrugia  
Speaker of the House of Representatives  
Parliament of Malta

25<sup>th</sup> February 2021

RE: Building and Construction Authority Bill

Moviment Graffiti is submitting its feedback to the proposed *Building and Construction Authority Bill* as part of its efforts aimed at guaranteeing a better quality of life to residents around Malta.

In addition to our feedback, we draw your attention to "Reforming Planning and Construction in Malta," a reform document with 134 proposals, some of which directly relate to the construction industry and its regulation. The document can be accessed on our website: [www.movimentgraffitti.org/en](http://www.movimentgraffitti.org/en).

Should you require any clarification regarding our feedback, feel free to email us on [info@movimentgraffitti.org](mailto:info@movimentgraffitti.org).

Kind Regards

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CC: Hon. Minister Dr Aaron Farrugia  
Hon. Parliamentary Secretary Chris Agius  
Hon. Dr Ian Castaldi Paris, Chairperson, Consideration of Bills Committee  
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del to the  
Parliamentary  
Committee //

1/3/21  
Speaker  
House of Representatives

## **Feedback on the Building and Construction Authority Bill**

### **Delegation of contractors' register to MDA**

Moviment Graffiti opposes the clause allowing the proposed Building and Construction Authority (BCA) to enter agreements with non-governmental entities so as to facilitate its functioning. This is clearly intended to allow the delegation of the contractors' register and licensing to private interest groups such as the Malta Developers Association.

This clause, which gives such lobbies executive power to carry out regulatory duties that should be carried out by the Authority, is completely unacceptable and should be immediately struck off the Bill.

### **Structure**

The proposed structure of the BCA's Board and its Tribunal leaves much to be desired in terms of transparency, efficiency and independence, pointing out that the Board and Tribunal are being given too much discretion to allow a fair process.

The proceedings of the Board are not regulated, meaning that it can operate in an arbitrary manner. All applications with the Board should be made public at the point of application, while directly interested parties such as neighbours should be notified of the application and the public allowed to make submissions before any decision is taken. All Board meetings should be public, in line with Environment Minister's Aaron Farrugia's own pledge for more transparency.

As for the appointment of members on both entities, Moviment Graffiti opposes the notion of Ministerial appointments since this does not guarantee the necessary independence. In this regard, the appointment of members of the Board and Tribunal should include a Parliamentary process.

### **Building and Construction Codes**

The Authority should follow clear guidelines laid down by the law instead of deciding, at its own discretion, what should be implemented or not. The National Building Code should be part of this Bill, and not introduced at a later stage. A National Construction Code, specifically regulating construction processes, should also be included in this law.

#### **Exemptions, Licensing and Complaints**

The handling of exemptions is highly problematic, presenting massive loopholes that risk nullifying the Bill itself. Moviment Graffiti laments the total absence of clear and stringent criteria for the granting of exemptions. Provisions are also lacking when it comes to the issuing or revocation of licenses, since the Bill does not list the criteria regulating this process.

Moreover, a transparent and efficient system for public complaints and their investigation needs to be formalised.

#### **Building Permits**

The Bill states that the Authority will be issuing building permits, however, what these permits will be issued for and according to which criteria is not clearly stated. The aims, reasons and criteria for such permits must be clearly outlined.

#### **Site Audits and Enforcement**

The Bill states that the Authority can find a person to carry out the auditing of sites or inspections, however, there is nothing in the Bill to guarantee that this will actually be done. Moviment Graffiti states that Authority should have a proactive role in the audit and inspection of construction sites, and not a reactive one. Moreover, persons carrying out auditing and inspections should have the necessary competences and be licensed to do so.

Moviment Graffiti is also disappointed at the wording regarding enforcement, where such measures "may be issued" in case of any infringements. The group believes enforcement is not an option, but a key issue, and the Authority should take, without exception, such measures against non-abiding contractors and developers within a time-limit so that an issue does not drag on to the detriment of the general public.

#### **Public Consultation**

Moviment Graffiti criticises the fact that the text of the draft Bill was not issued for public consultation, giving lobbies more chance to exert their influence in an underhanded manner while denying citizens and civil society the right to contribute to a much-needed reform of a highly problematic sector.

25-2-2021

THE FOLLOW-UP TO THE 7TH OF SEPTEMBER 2019 PROTEST

# Reforming Planning and Construction in Malta

PUBLISHED OCTOBER 2020



The follow-up to the 7th of September 2019 Protest

# **Reforming Planning and Construction in Malta**

October 2020



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# Executive Summary

This document contains a number of researched and legally achievable proposals aimed at **improving the quality of life** of Maltese and foreign citizens residing in the Maltese Islands. This requires the introduction of a set of measures, laws, processes and enforcement parameters to **regulate construction and planning** in Malta. This document also seeks to reform the various policies that, more often than not, operate in a less than desirable manner.

The salient proposals contained in this document include the immediate **revision of a number of policies** including the SPED and the Rural Policy to provide better protection to our **townscapes** and **ODZ areas**. In this regard, we also recommend amendments to the Environment and Development Planning Act (Cap. 504 of the Laws of Malta).

We are also highlighting and proposing the **removal of numerous loopholes** in various policies and annexes such as the Annex 2 of the DC2015 policy, as well as the Height Limitation Adjustment Policy for hotels and old people's homes. A number of proposals suggest holistic **changes to the process of scheduling and descheduling** of historical and landmark buildings, and the removal of the PA boards' discretionary powers.

Another key area of this document highlights the need for an overhaul in **the way the various planning boards are appointed**; there should be a rigorous process which involves parliamentary grilling, while the onus should be shifted onto board members who should be held **personally responsible for decisions** that ignore policies, breach the code of ethics, and go against **public interest**.





Another authority which should be under scrutiny is the **Lands Authority**. Rather than focusing on public well-being and the common good, the political and business interests dominating this authority have resulted in the severe mismanagement of public land with far-reaching negative social, economic and environmental consequences.

Following the tragic house collapses witnessed in summer 2019, followed by a tragic death in March 2020, we are advocating new laws to not only regulate, monitor and introduce **proper enforcement of the construction industry**, but also hold wrongdoers responsible. We believe that residents should not be footing the bill to ensure their own **physical and psychological well-being** from neighbouring development works. There should also be a drive to ensure that illegalities and **unsafe practices**, including the **abuse of workers' rights**, are curbed.

Finally, we are also proposing a series of measures to encourage **the protection of our own habitats and biodiversity**, ranging from the taxation of excavation to the incentivisation of **recycling of construction waste**. As for transportation, we believe that a **free and efficient transport** system can become a means to achieve **common well-being and culture change**, instead of merely being a vehicle for profit.

# Background

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The well-attended *Iż-Żejjed Kollu Żejjed* (Enough is Enough) protest was held in Valletta on the 7th of September 2019, eve of Victory Day, culminating in a series of speeches from activists and residents from all over Malta in front of Parliament.

The choice of bringing people together in front of Parliament on the eve of a public holiday was far from casual: *Iż-Żejjed Kollu Żejjed* provided a much-needed space for many citizens who have grown disillusioned with politicians' will to do something about the tsunami of excessive construction that has drowned our islands. We, together with thousands of citizens, understand that governments prioritise the economy; we feel, however, that any economic model should respect citizens and the environment, without a disproportionate reliance upon a single sector (i.e. construction) which comes at a very high cost to the quality of life of residents, taxpayers and citizens across the islands.

This high cost is quantifiable in pressure on the environment and open spaces, pressure on resources such as space and sunlight, air quality, pressure on the road network and pressure on our biodiversity. But higher costs are being borne by citizens, considering tragedies such as Miriam Pace's death in March 2020, the collapses that left people homeless in the summer of 2019 and the accidents that left many construction workers dead or injured throughout the years. Even worse, these victims have to bear the psychological and financial burden of the ill deeds of the construction lobby.

In addition, the mass of protestors in Valletta was vociferous against the flagrant abuse in construction permitted by porous institutions such as the Planning Authority and the Building Regulation Office, which are often seen as subservient to the Malta Developers Association and its satellites, as well as large business groups and conglomerates who often behave like they rule the island.

The varied and diverse assembly at *Iż-Żejjed Kollu Żejjed* was also making its voice heard because it has had enough of a situation where the country, its institutions and democratically-elected representatives are controlled by these unelected groups.

However, we believe that this protest is not an end in itself or a mere show of force. In the run-up to and in the weeks following the 7th of September, we consulted with other NGOs and resident groups on a set of proposals that can directly improve the quality of life of thousands of Maltese citizens. The proposals in this document are the direct result of those consultations, including technical and legal advice, and of a public forum held in the last week of August whereby we invited citizens to submit their ideas on how to improve the quality of residents' lives.

None of these proposals is a burden on the economy; we believe that the 128 proposals contained in this document will constitute a step forward for both residents and the construction industry, resulting in a cleaner, more transparent and responsible way of doing things.

The Constitution of Malta provides that the "State shall protect and conserve the environment and its resources for the benefit of the present and future generations and shall take measures to address any form of environmental degradation in Malta, including that of air, water and land, and any sort of pollution problem and to promote, nurture and support the right of action in favour of the environment" (Article 9 (2)).

In line with our beliefs, respect for our country and its resources, and in consideration of the benefit of present and future generations, we are thus presenting a set of proposals endorsed by a number of groups who have participated throughout this process.



# The Proposals



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# 1. Policies

## Protest Demand I

Most planning policies are designed around the interests of the few, instead of public well-being and environmental protection. As a consequence of this, our country has been besieged by senseless development which is destroying the natural environment and ruining our quality of life at an alarming rate.

## In this regard, we call for:

### SPED Policy

1. **The commencement of work on a new policy replacing the current SPED, with a long-term view up to 2050, which encompasses Malta's various commitments such as but not limited to the UN Sustainable Development Goals (SDGs), and establish stepped targets on how to achieve these at a spatial level;**
2. The establishment of milestone dates for a phased implementation of the SPED directions with a clear strategy for the future.
3. The closing of a number of loopholes in SPED, including but not limited to the following:
  - i. Re/development in ODZ areas such as the construction of villas under the pretext of agritourism or old people's homes, and the transformation of ODZ areas into Areas of Containment;
  - ii. The promotion of private beach facilities;
  - iii. The creation of additional yacht marinas without restriction in the size and location of such facilities;
  - iv. The basis for mega-projects in Gozo listed under Gozo Objective 1;
  - v. The broad meaning of the term "national importance", which should be narrowed down to public projects that serve a public interest. In the determination of whether a project serves a public interest, Government is to engage in a broad public consultation exercise that goes beyond the collection of online feedback;
  - vi. The removal of point 1 within Urban Objective 3 that may reopen the rationalisation exercise.

### Rural Policy

4. **An immediate revision of Rural Policy 2014, without unnecessary delays, with applications to be decided under this policy frozen until the new policy is introduced.** The new policy should:
  - i. Amend current provisions on redevelopment and change of use of existing buildings in ODZ, in a way that such redevelopment is only allowed if the applicant can prove that the building is covered by a development permit. The



policy should also ensure that the building will be used for genuine agricultural purposes;

- ii. Prohibit any extension to an existing ODZ dwelling;
- iii. Prohibit the construction of swimming pools in ODZ;
- iv. Prohibit new boutique wineries in ODZ;
- v. Prohibit ODZ animal enclosures for research, educational, sport, leisure and exhibition purposes;
- vi. Restrict new dwellings to within the curtilage of farms or around their boundary to a floor space of no more than 150sqm and limited to one dwelling per farm, whilst completely prohibiting development in sensitive sites. The visual impact of these developments must always be considered before such permits are granted;
- vii. Restrict the size of the stores, with respect to the square meterage of actually farmed land, to avoid the construction of excessively large stores whilst always considering their visual impact;
- viii. Restrict construction done under the pretext of agritourism to the upgrade, repair and rehabilitation of existing structures. No new service roads should be built to accommodate redevelopment;
- ix. Define the term “national importance” so that this is limited to wholly public projects which serve a public interest;
- x. Policies regulating the reconstruction of rural buildings should be limited to buildings covered by a legal permit, which have collapsed in the past 5 years, and should be limited to the current footprint and floorspace of the building prior to its collapse, as documented in the most recent aerial photography.

## **Urban Conservation Areas**

5. **Better and irrevocable protection of UCAs, with special regard to vernacular & scheduled buildings;**
6. The extension of the general presumption against demolition of scheduled and vernacular buildings to include buildings of heritage value which contribute to the character of an area;
7. The full protection of gardens located in UCAs and the designation of more green enclaves within village and town centres. The owners of such gardens should be incentivised to open these areas for the enjoyment of the public;
8. The inclusion of a buffer zone to scale developments surrounding a UCA.

## **Development Planning (Health and Sanitary) Regulations**

9. The introduction of new health and sanitary regulations to ensure that building designs lead to decent dwellings and shared spaces. The revised health and sanitary regulations introduced in 2016 have heavily downgraded the minimum standards for building designs that safeguard the people’s well-being in both private as well as shared spaces. This has allowed the approval of development permits of structures that are clearly inadequate to live in and that leave a deleterious impact on their surroundings, such as tall, very narrow buildings in very narrow streets.



## DC2015 Policy

10. The improvement of the “context driven approach”, with reference to the DC2015 policy:
  - i. Extent of Commitment: the definition of legal commitment must be reconsidered such that it only recognises existing legal developments that are in line with current applicable policies. Anything counter to this effectively renders the whole planning system superfluous;
  - ii. Transition Design Solutions: the rewording of this policy to ensure that rules regarding building heights for non-UCA areas bordering UCA areas conform to UCA regulations.
11. Amendments to the transitional design policies section within DC2015, thus removing the possibility of further buildings outside of development zones under the pretext of “transitional solutions”;
12. **The immediate revision of the building heights policy as introduced by Annex 2 of DC2015 to halt the building of additional floors in certain areas that are, or will be, impacted in a negative way after taking into account their social, environmental and heritage context;**
13. Heritage buildings to be considered as such, and not as infill plots, therefore prohibiting their increase in height to the height of adjacent buildings.

## Tall Buildings

14. **The revocation of the Height Limitation Adjustment Policy for Hotels, while applications for the construction of tall buildings should be processed exclusively by the Floor Area Ratio (FAR) policy;**
15. The introduction of a minimum site area for high-rise development in high-rise areas, without exceptions;
16. **The revocation of the Height Limitation Adjustment Policy for old people’s homes and the zoning of areas dedicated to this public purpose;**
17. The removal of any possibility for high-rise developments in medium-rise areas;
18. **Enforcement of FAR policy requirements instead of a piecemeal approach or on a case-by-case basis.**

## Scheduling

19. **The protection, in their entirety, of Grade 2 scheduled buildings without the possibility for developers to demolish protected buildings while retaining the facade.**
20. The removal of the PA’s Executive Council as decision-maker on the scheduling or descheduling of heritage. Scheduling should solely fall under the remit of the Superintendence of Cultural Heritage;
21. Local councils to be given the power to commence the scheduling of buildings in their locality;



22. **The process of the descheduling of properties and other landmarks to be transparent and standardised, published duly on the government gazette, websites and other forms of media forms, whilst allowing the public to make formal representations;**
23. **The inclusion of a buffer zone limiting permissible development around specific sites of particular historical or architectural importance;**
24. A new scheduling procedure to apply to particular landscapes, landmarks (including trees and walls), streetscapes and neighbourhoods which are rooted in collective memories;
25. Malta to fully ratify the European Landscape Convention and commence detailed studies of micro landscapes and streetscapes that require protection, with such a process involving social scientists;
26. Scheduling orders should not be suspended until the decision on an appeal is taken, instead, descheduling should be suspended until the appeal is decided.

### **Enforcement**

27. The removal of the Planning Board or Commission's discretion on whether to dismiss an application when an enforcement notice is present on the site while the applicant has no intention to rectify the illegality; in this case, the application should simply be dismissed. The sanctioning of illegal developments in ODZ areas should also be banned;
28. **The introduction of time-limits within which an enforcement order is to be issued following a complaint and/or dismissal of appeal. There should also be time limits within which direct action for the removal of illegality must be taken;**

### **General Provisions**

29. **The introduction of properly landscaped open spaces in our towns and villages in areas where they are accessible and enjoyable by everyone. Open spaces should be integrated in the new local plans, which should in turn be more detailed through Masterplans and implementation strategies. The consistent disregard for obligations already existing within the current policies regarding open spaces should stop, and these policies should be properly enforced;**
30. The enactment of provisions to protect non-scheduled heritage and vernacular buildings outside the UCA that are routinely destroyed, and similarly, of gardens that serve as essential lungs in urban areas;
31. The removal of terms such as "dilapidated", "derelict" and other common descriptions used in PA applications, so as to avoid deceit in the planning process. Instead applications should refer to professional conservation architect reports and SCH for an assessment on whether demolition is justified;
32. Environmental Impact Assessments (EIAs) and Social Impact Assessments (SIAs) to be mandatorily commissioned by ERA, and not by the developer as in current practice, with the latter remaining responsible for the funding of these studies;
33. The setting up of a public register of consultants, as currently provided by law, responsible for the carrying out of the above-mentioned EIAs and SIAs. Consultants should be independently audited according to the accuracy of their studies, and



those found submitting incorrect or misleading information should be fined and disqualified from drafting similar studies; in situations where conflicts of interest arise, harsh penalties should be applicable;

34. **The introduction of a moratorium on new development in areas earmarked for rationalisation in 2006 until a set of comprehensive Masterplans are in place so as to guarantee quality urban areas;**
35. **The revocation of a clause in the Development Planning Act which states that, when determining whether to approve an application, the Planning Board shall have regard for "surrounding legal commitments." This clause empowers the Planning Board to disregard policies and approve applications in an ad-hoc and arbitrary manner, thus defeating the purpose of the planning system;**
36. The facility for registered objectors to ask for the determination of a permit to be suspended while a policy is being reviewed;
37. A change in praxis whereby a "no reply" from an external consultee should not be construed to mean "no objection";
38. The removal of Outline Development Permits from their status as a binding form of development permission, since this allows planning policy to be circumvented;
39. Stringent provisions to ensure that the rule regarding the restriction of deferrals, before an application is determined, to no more than one, is respected in practice;
40. **The development of policies through meaningful public participation, as stipulated in the Aarhus Convention, which goes way beyond the simple submission of online feedback by the general public;**
41. Any PA permit should only be valid for a maximum of five years. Applications for the renewal of elapsed permits for large-scale projects should not be accepted;
42. The retention of industrial areas for industrial uses to avoid their sprawl in other zones (e.g. residential areas);
43. ODZ policies to apply to the marine area around Malta including the presumption against any residential and commercial developments on reclaimed areas.

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# **2. Authorities**

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## **Protest Demand II:**

The authorities entrusted with safeguarding the environment and planning are run with a blatant lack of transparency, responsibility and independence. It is clear that most of the decisions taken by these authorities - decisions that impact us strongly and directly - have already been taken behind the scenes, away from the public eye. It is unacceptable that certain groups with economic and/or political clout are allowed to ruin our lives and environment by pulling the authorities' strings for their own benefit.

## **In this regard, we call for:**

### **Composition of the Executive Council**

44. The inclusion of a qualified NGO representative, elected by the NGOs, on the PA's Executive Council to ensure transparency and adherence to the Authority's mission statement.

### **Composition of the Planning Board**

45. **The Planning Board is to be comprised of a total of 13 members, subdivided as follows:**
  - i. **One qualified representative nominated by the Government, to ensure that a degree of political responsibility for planning decisions is shouldered;**
  - ii. **One qualified representative nominated by the Opposition, for the above reason;**
  - iii. **Two members from the ERA;**
  - iv. **One representative from the Superintendence of Cultural Heritage;**
  - v. **Two qualified representatives nominated, following an election, by NGOs;**
  - vi. **One representative for each Local Council affected by the application in question;**
  - vii. **Five members appointed following a rigorous process as follows:**



- The inclusion, in the Environment and Development Planning Act, of a set of criteria for the eligibility of these members, including experience in the field and their understanding of policies;
- A consultation process is issued whereby nominations of persons to sit on the Board are received;
- A Parliamentary Committee assesses the nominees and their eligibility in an open sitting;
- The eligible members will be interviewed by a Parliamentary Committee in an open sitting;
- Five candidates will be shortlisted after this Parliamentary interview;
- The shortlist will be submitted to a Parliamentary vote where nominees will require a 2/3 majority to be approved. One of these five members will be nominated as a Chairperson. If Parliament fails to elect the board members via the 2/3 majority method, the whole process will be repeated with a simple majority vote;
- This Board is chosen every four years.

46. The possibility for Authorities and NGOs to send replacement members to Planning Board meetings whenever the corresponding appointee is unable to attend, since it is the entity that should be represented and not the person;
47. **PA Board members to be held personally responsible for their conduct, especially in terms of breaching policies, their own code of ethics, conflict of interest, undue influence and other improper behaviour;**
48. **The general public, including persons who are not registered objectors to any specific application, to have recourse to a legal system where these members can be personally sued for damages caused by their misdeeds;**
49. Decisions relating to conflicts of interest to be taken by an independent Ethics Board appointed by the President of the Republic, and should not be at the discretion of a Minister;
50. Meetings involving Planning Control applications and meetings between the Executive Chairperson and the Planning Board to be open to the public to guarantee transparency in the functioning of the Planning Authority.

### **Composition of the Planning Commissions**

51. **Three Planning Commission members to be appointed on a full-time basis and chosen via the procedure in point 45.vii, including a Parliamentary grilling;**
52. The ERA is to be represented on the Planning Commission by a member for each of the Commission's divisions: one for the regularisation of applications, one for the handling of Development Zone applications, and another for the handling of ODZ applications;
53. The ERA to present a report on all applications presented in ODZ. In the case that the Planning Commission intends to overturn the ERA report, it should postpone taking a decision until the following sitting. Between the sittings, the Planning Commission should give details on why it intends to overturn the ERA report. ERA should be given the opportunity to rebut these arguments. The Superintendence for Cultural Heritage should have similar powers with regards to applications in UCAs or abutting on UCAs;



54. Local Councils to be granted a vote on Energy Performance Certification (EPC) boards whenever they request to participate in proceedings.

## **EPRT Appeals**

55. **Environment and Planning Review Tribunal (EPRT) members to be appointed on a full-time basis and chosen via the procedure in point 45.vii, including a Parliamentary grilling;**
56. The EPRT board to be composed of a mix of people with varied expertise in the field of planning and environmental issues, including knowledge of impact assessment laws and regulations, and not be restricted to a selection of lawyers and architects;
57. The capping of appeal fees at a maximum of €500 for all registered objectors for all projects;
58. The suspension of a permit to be automatic until the appeal is final. Ample time should be given to appellants to prepare and present their legal case in the appeal.

## **Submission of Development Applications**

59. The creation and mandatory use of a standard template for PA application wording to provide more complete details, more clarity and ease of comprehension in the summary application. The summary application should include a brief description of the project, including:
  - i. the number of floors proposed
  - ii. the number of additional floors being proposed
  - iii. whether any demolition and excavation will be required
  - iv. the total number of units/hotel rooms the development will include
  - v. any rerouting of roads, infrastructure or amenities
  - vi. any change in use
  - vii. and in conformity to which policy the development is being proposed;
60. A ban on the practice of splitting a single project into numerous, smaller applications to evade a holistic assessment of the project;
61. The inclusion, upon presentation of fresh development plans during the period between the submission of an application and its hearing, of a description of all the changes carried out by an applicant from the previous set of plans, in a clear manner and using language accessible to everyone. Moreover, as already required by law, fresh plans can only be submitted up to no less than 15 working days before the permit hearing. The public should always, without fail, be allowed to make additional submissions on the final plans during those 15 days;
62. The restriction in the definition of material change in order to avoid abuse through the use of minor amendment procedures so as to treat the following as material changes:
  - i. any change in site configuration
  - ii. any change in the height of the building
  - iii. any change in the volume of the building
  - iv. any change in positioning of the development within the site.



## Information

63. Correspondence, emails, formal and informal meeting minutes and any other information including submitted designs are to be made publicly available at all times, free of charge. These details should include the applicant's details and registered address;
64. Renders and photomontages to become a requirement for all developments within UCAs or which will have some form of visual impact, and these should conform to the PA's Best Practice Guides;
65. **All information related to planning to be easily accessible throughout all stages of the application, including those deemed as "incomplete", from presentation to the final stages.**

## Lands Authority

66. A radical reform of the legal framework establishing the Lands Authority and its management to ensure:
  - i. Independence of the Authority from both political and business influence
  - ii. Transparency and efficiency in the management of public land and property
  - iii. A due and transparent process, as well as public consultation and participation, when public land concessions to private individuals/companies are involved. This should also include the possibility by the public to appeal the Authority's decisions.

## General Provisions

67. The State to ensure that the public has, at all times, the right of access to environmental information and the right to public participation in environmental decision-making, as well as effective access to justice so as to challenge public decisions taken without the respect of these two rights, or any environmental law in general, in accordance with the Aarhus Convention to which Malta is a party;
68. Stringent provisions to ensure the respect of rules determining whether an application should be heard by the Planning Commission or the Planning Board, to prevent such decisions from being taken in an ad-hoc or non-transparent manner;
69. A detailed reason must be given for the refusal, by the Commission or the Board, of ERA objections. The ERA should present a final report on all applications.



Keep  
Malta  
beautiful



**HOW TO SHOW  
YOUR POWER  
BUILD A TOWER**



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# 3. Large-Scale Projects

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## Protest Demand III:

Communities around Malta and Gozo are under attack from proposals for massive developments that have no respect for either residents or the environment. These large projects are having a devastating impact on our quality of life, since they lead to a massive increase in congestion, pollution and noise, as well as usurping the air, light and space from our neighbourhoods. The proliferation of these enormous projects, such as the dB Group's project on the site of the former ITS, is being carried out without a holistic plan or evaluation of the cumulative impact which these towers and globs of building will have on people and the natural environment.

## In this regard, we call for:

### General Provisions

70. The investigation by competent authorities, such as but not limited to, the Financial Intelligence Analysis Unit (FIAU), of the source of wealth of developer/s proposing massive construction projects of a size of and above 2,000 square meters;
71. A moratorium on large-scale projects until both national and localised Masterplans are enacted;
72. **A detailed urban design study or character appraisal of the locations chosen for high-rises;**
73. Provisions for the applicant to bear a minimum of 70% of costs related to the upgrading of services required owing to the project's volume (such as sewage, water supply, electricity demand and road work improvement), based on an independent study identifying these needs;
74. The identification of detailed boundaries or specific areas within the appropriate localities, and an assessment of a maximum capacity limit within these areas;
75. The specification of suitable maximum heights for the different areas;
76. The introduction of mandatory Health Impact Assessments for large-scale projects;
77. **Local Councils affected by major private projects falling under Schedule 1 to have the power to impose a condition on a permit to the effect that the development must be approved by a referendum of citizens registered in a given locality, which is to be held within 30 days of the permit being approved by the Planning Board.**

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# 4. The Regulation of the Construction Industry

## Protest Demand IV

Dust, danger, noise, broken pavements, illegal dumping of waste - this is a daily reality for thousands of people in our country, and all this because of the lack of control over the construction sector. In a few months, we've seen buildings crumble and numerous workers dying in various construction sites. The response to all this has been completely inadequate. Residents are still carrying the responsibility, the psychological and financial burdens (as well as effects on their health) to ensure they will not be buried alive because of construction works next door. This is a ridiculous and unacceptable situation, just like the lack of systematic and persistent lack of enforcement.

## In this regard, we call for:

### Contractors' Registration

78. The creation of a government-run registry of developers' companies and contractors, effectively revoking the agreement between the MDA and the Building Regulation Office (BRO) for the administration of this registry;
79. The introduction of clear criteria for the licensing and classification of each contractor, while legal provisions for developers to enter into a formal contract with building contractors should be stringent and enforced in order to ensure accountability;
80. **The creation of a public complaints system and a register of these complaints and their follow-up that ensures transparency, whereby proven repeated complaints should lead to the blacklisting of contractor/developer by the use of a penalty points system leading to a possible suspension/loss of licence.**

### Issuing of Permits

81. **A limitation on the number of permits executed concurrently in a set area. Where permits involve the use of heavy vehicles and machinery for purposes including, but not limited to, demolition and excavation works, a delay of the commencement of works by a suitable period of time should be imposed so as not to inconvenience residents with an excessive amount of construction work at the same time in their area;**
82. A limit on the number of road closures and parking slots that residents are deprived of.



## Building and Construction Regulations

83. **The introduction of a legal framework that brings all building and construction regulations under one Act, and which introduces both Building Codes and Construction Codes, as proposed by the Kamra tal-Periti (June 2020):**
- i. The Building Code should include regulations covering, at least: structure; fire safety and prevention; site decontamination; waterproofing; toxic materials and substances; sound insulation; ventilation; sanitation, plumbing and hot water; water conservation; drainage; waste management and disposal; combustion appliances and fuel storage; protection from falling, collisions and impact; energy conservation; access; lifts, escalators and travellers; electricity; security; information and communications technology; illumination; and materials, products and workmanship.
  - ii. The Construction Codes should include regulations covering, at least: health and safety in and around construction sites; construction site operations; demolition works; ground investigation; earthworks; construction and alteration works; temporary works; noise abatement; environmental protection; waste reduction and disposal; machinery, plant and equipment; and insurance.

## Health and Safety

84. The imposition of decent standards to safeguard residents' health and safety in areas close to construction sites;
85. Serious enforcement of the laws regulating construction, to give, without exception, protection and dignity to workers and residents alike;
86. The amendment of the law to allow no more than eight hours of construction work during the day, commencing from no earlier than 8am;
87. Increased enforcement to ensure that pavements and roads are immediately rebuilt or repaired at the developer's expense if pavement(s) and/or adjacent road(s) incur damage during construction works;
88. **Costs for accommodation and compensation for the property and contents lost, as well as legal, psychological and logistical support for residents affected by accidents should be paid for from a fund populated by developers' mandatory contributions until responsibility is legally established. Whoever is found to be responsible is then to refund all expenses taken from the fund;**
89. **An ongoing audit of all construction sites in activity. Developers should pay a fee to an independent authority tasked with sending regular inspectors to all construction sites in order to ascertain that all works are in line with permit conditions and safety standards;**
90. Risk assessments to be carried out when handling construction waste so as to minimise particulate matter emissions;
91. Any reasonable costs incurred by residents in ensuring their own safety to be billed to the developer;
92. The mandatory introduction, within three years, of Hydraulic Rock Splitting technology, which is almost silent and does not cause vibrations. Excavation by hydraulic hammers creates noise levels of between 95 and 110 decibels, whereas the WHO warns that exposure to noise over 85 decibels is dangerous to human health.

## **Workers' Rights**

93. **Adequate resources to be provided to authorities responsible for both health and safety, as well as the introduction of stringent employment laws to ensure that construction workers are not exploited. The exploitation of workers should be heavily penalised and contractors who exploit workers should have their licence to operate withdrawn;**
94. **Employers in the construction industry to be legally obliged to pay accident insurance for their workers.** This measure:
  - i. ensures that workers who suffer injuries receive compensation in a speedy manner;
  - ii. puts the responsibility on contractors and developers to uphold health and safety standards, since insurance companies will not accept to pay claim settlements for sites that do not conform with these standards.

## **General Provisions**

95. **All building regulations and control mechanisms to be placed under one authority that acts according to clear laws, policies and standards. This authority should be given sufficient power and resources to operate effectively, whilst being legally and administratively shielded from the influence of developers, contractors and other businesses;**
96. The introduction of a tax on incomplete building projects;
97. The revocation of the agreement of October 2018 between the Malta Developers Association (MDA) and Transport Malta (TM), whereby construction works involving heavy vehicles in secondary roads are allowed to commence at 7.30am;
98. **The strengthening of the resources and enforcement powers of institutions responsible for taking action against illegalities and unsafe practices, and the rights of citizens to have recourse whenever these entities do not act on their complaints.**

**BIL-FLUS  
TAG#MEL**



**TRIQ  
FIR-RABA'**



# 5. Roads and Transportation

## Protest Demand V

Our country is besieged by a frenzy of tree-cutting and the destruction of agricultural land sacrificed to road widening and construction. We have been told these should reduce traffic and travelling distances; however, studies worldwide have shown that road construction and widening do not solve the traffic issue. The studies carried out by the Maltese authorities confirm this clearly: no new road will save the country from gridlock, unless there is a shift to alternative means of transport. In spite of these studies, we face a lack of serious investment in these alternatives, such as efficient public transport and infrastructure for cyclists. In the meantime, millions are being spent on new roads that will not solve the issue.

## In this regard, we call for:

### Public Transport

99. **The introduction of a free and efficient transport system through sustained investment in the public transport service to operate as a service for the common well-being instead of turning a profit;**
100. Shorter and more bus routes, more use of smaller buses, and more frequent bus trips, especially during rush hours, whilst ensuring that no bus trips are missed under any circumstance;
101. The introduction of additional routes and night-time routes all week covering all locations to encourage bus use;
102. The introduction of more bus lanes to ensure that public transportation is not caught in traffic congestion as well as ongoing checks of bus lanes to ensure that these are not used by unauthorised vehicles.

### Commuting

103. The introduction of a Differentiated Car Pooling Strategy for employees of both public and private sector;
104. The provision of pooled transport to staff of private and public sector entities;
105. The introduction of schemes to encourage employee-friendly measures such as flexible hours and teleworking which would reduce commuting, and therefore, pressure on the road network system;
106. Incentives for employers to install bicycle infrastructure and shower facilities that can encourage employees to commute by bike;



107. Enforcement on school transport vans and buses so that children are picked up for school at a decent hour of the day;
108. The removal of road licence fees for motorbikes;
109. The lowering of the minimum age for driving a scooter (max capacity: 150cc) to 16 years of age;
110. Withdrawal of the proposed e-scooter regulations since these disincentivise use of this alternative means of transportation.

## **Streets**

111. The design and implementation of pedestrianised areas and one-way village roads dedicated only to buses, bikes and motorbikes in all towns and villages of Malta and Gozo;
112. **The creation of more bicycle lanes to create a network which can connect all those choosing to commute by bike, and the creation of safe and accessible pavements and spaces for pedestrians;**
113. **The repealing of the Development Notification Procedure allowing Infrastructure Malta to go ahead with the asphaltting and widening of country roads without going through the full standard planning application process.**



Said Talk

PLANNING AUTHORITY

*Destiny*



To Me

**BUT**

This is a bit  
**MUCH**

Roses are Red, Violets are Blue

**MALTA'S POLLUTION**

among

**WORST** in **EU**





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#ForOurTrees

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# **6. Respect for our Planet, our Country, and Ourselves**

## **Protest Demand VI**

Malta's natural resources are considered only in so far as they can turn a profit. With a total of 33% of land becoming fully urbanized, our country is the most built-up nation in the European Union. This puts our natural habitats and biodiversity under immense pressure. Our water and air are polluted without a thought, land is taken up in ever-increasing amounts, ecosystems that flourished for generations are covered in concrete, and wildlife populations are collapsing at an accelerating rate. This short-sightedness is now affecting our health. Close to 600 people die every year due to air pollution. There are 5 new cases of chronic asthma every single day. Our mental health is suffering, with stress and anxiety at record highs. The mantra of "money in your pocket" is ringing hollow as we see loved ones suffer, as we travel further afield to be able to unwind, and as evidence mounts that our actions are causing catastrophic changes to our planet's natural and ecological systems.

## **In this regard, we call for:**

### **Waste**

114. The separation of construction waste so as to facilitate the recycling of such materials;
115. Planning policies aiming to reduce construction waste;
116. The setting up of stone depots to recycle Maltese limestone;
117. **Government incentives to use recycled material in construction, such as recycled concrete and recycled stone. Moreover, government should use recycled materials in its infrastructural projects, hence increasing demands for such materials;**
118. Better enforcement and heavier fines for the illegal dumping of construction waste to protect the national biodiversity;
119. Taxation on the extraction of stone and a significant increase in taxation on the dumping of construction waste, with an end to any form of taxpayers' subsidy of construction waste.

### **Land Reclamation**

120. **An end to proposals for land reclamation projects as a solution for construction waste, particularly in view of the following:**



- i. The protection of Posidonia Oceanica meadows (seagrass) which lie over large tracts of seabed at various depths around the coastline amongst other protected marine habitats;
- ii. Land reclamation will discourage the reuse and recycling of waste;
- iii. Such projects will result in the generation of more construction waste, feeding further into a vicious cycle of demand for these projects.

## Solar Rights

- 121. The compensation of residents for the loss of sunlight in their homes, whereby residents may also be compensated from a national renewable resources fund, funded solely by development contributions;
- 122. The installation of solar systems such as photovoltaic panels and solar water heaters should become mandatory for all new developments.

## General Provisions

- 123. **The immediate halting of the transfer of public land and sea to private interests, giving immediate priority to the return of public land for the creation of public open spaces;**
- 124. The granting of the highest protection to agricultural land so that this may be considered as non-developable under almost any circumstance. This measure would ease pressure on farmers who are being driven out of their lands from landowners who view agricultural land as a means of making a higher profit through development. Farmers should also be given all the social and economic support to continue cultivating this land, in the most feasible and environmentally-friendly way possible, thus preventing the fall into disuse of such agricultural land, which in turn then falls prey to development and speculation;
- 125. The strengthening and enforcement of laws whereby buildings are built in an energy and resource efficient manner. The installation of solar systems (photovoltaic panels, SWH) should be mandatory for new developments, wherever possible;
- 126. **The introduction of a tax on excavation based on volume;**
- 127. The abolition of minimum parking requirements and CPPS to curb excavation. Instead, developments that generate car trips should be made to subsidise public transport so as to promote a much-needed modal shift away from private car use;
- 128. The introduction of environmental wardens;
- 129. A bigger consideration of flora and fauna in the drafting of environmental policies;
- 130. The immediate commissioning of an independent study on air quality, followed by all measures taken to enhance the quality;
- 131. The construction of rainwater storage projects to reduce groundwater and reverse osmosis usage;
- 132. **The prohibiting of tarmacking or concreting or use of any other building material on country lanes and roads so as to preserve biodiversity. Permeable surfaces should be used for these routes;**
- 133. Obligations on developers and businesses to contribute to society, for example via an Environmental Causes Fund to fund environment-related projects;



134. A change in mentality whereby developers should redesign their developments according to green principles such as water management, green infrastructure, and the reduction of greenhouse gases. These standards should be enforced without exception, and substantial fines should be handed out so that penalties act as a deterrent. In this regard, developers committing repeated offences should see their fines increased and run the risk of having their assets frozen and being blacklisted from public contracts. This register of non-conforming developers should be made public.



# Endorsements

This document and its proposals are endorsed by the following groups:

- |  |                                       |                                     |
|--|---------------------------------------|-------------------------------------|
| ACT                                    | Flimkien għal Ambjent Aħjar           | Merill Rural Network                |
| aditus                                 | Forum Komunità Bormliża               | Moviment Graffitti                  |
| Alleanza Kontra l-Faqar                | Friends of the Earth Malta            | Repubblika                          |
| Alliance for Justice, Equality & Peace | Friends of Villa Frere                | SKOP                                |
| Allied Rainbow Communities             | Green House                           | Studenti Farsien Soċjali            |
| Attard Residents                       | Kopin                                 | The Archaeological Society of Malta |
| Environmental Network                  | Kunsill Studenti Universitarji        | The Isles of the Left Magazine      |
| Bicycle Advocacy Group                 | Malta Youth in Agriculture Foundation |                                     |



Friends of Villa Frere



# Conclusion

Drafting a fully comprehensive reform of construction and planning in Malta is no mean feat. As we have discovered during months of planning, drafting and consultation, this is a deeply complex scenario which has been allowed to run unregulated for too many years.

Through our proposals, we are hoping to ensure the sustainability of what is an important industry for the Maltese economy; however, we think it is high time that “sustainability” no longer remains a mere buzzword used to justify profits for the business classes, but it should also become a reality for thousands of citizens and their quality of life.

We believe that the concerned authorities of the State will find the provisions of this document interesting, and act upon them.







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