

19 Malta

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19.1 Local Authorities and Planning System

In Malta, development planning is carried out on a national level. The Development Planning Act, Chapter 552 of the Maltese Legislation, makes provisions for the sustainable planning and management of development. The Strategic Plan for the Environment and Development (SPED), which was approved by Parliament in July 2015, is based on an integrated planning system that regulates the sustainable management of land and sea resources. The plan provides a strategic spatial policy framework for both the environment and development, complementing the Government's social, economic and environmental objectives (Government of Malta, 2015). At the time of writing, the SPED is being reviewed.

In Malta and the sister island of Gozo, there are 68 Local Councils. Local Councils do not regulate development planning in their locality. This is regulated at a national level, through the Planning Authority.

Local government was established in Malta in 1993, through the Local Councils Act. In 2001, the system of local government was entrenched in the Constitution of Malta. So whereas previously all public infrastructure both large-scale and small-scale was carried out on a national level, in the past decades smaller-scale infrastructure is being carried out by the Local Councils.

Local authorities do not develop roads, hospitals or schools. That type of infrastructure is provided on a national level. If the government or a public entity requires land that belongs to the private sector for the construction of roads, schools, hospitals and any other public project, market prices are paid for the acquisition of such land. Public land is managed in line with *Cap. 573: Government Lands Act*.

Local authorities provide smaller-scale infrastructure like public open spaces, gardens and community facilities. Local Councils have limited budgets to carry out infrastructure improvements for their localities.

Seven Local Plans, covering groups of localities, cover the whole archipelago. Development zones and the relevant planning policies applicable for each area are identified in these Local Plans. The first Local Plan, the Marsaxlokk Bay Local Plan, was approved by Parliament in 1995, whilst the subsequent six Local Plans were approved between 2002 and 2006.

In 2006, a rationalization of development zone boundaries was carried out. Although approved by parliament, this extension of boundaries was and is still controversial. Pockets of lands, in some cases considerable in size, mostly at the edge of development zones were turned into developable land. Thus large swathes of land, which previously formed part of the Maltese countryside and located outside development zones (ODZ), became developable through this rationalization exercise.

The Local Plans have for a long time been due for a total review. However, a total review of these plans has not materialized to date. Only partial reviews, which changed zoning in specific areas, were carried out.

When comparisons are made between European countries, such as is being done in this book, one has to keep in my mind that the issue of scale does matter. In general, in Malta most of the development is carried out on individual small-scale plots of circa. 150 m². Larger-scale developments do exist, but these are fewer in number.

The term public value capture (PVC) is not usually referred to in Malta. One can only find limited reference to this term in research. However, PVC tools do exist and are widely used.

19.2 Recurring Forms of public value capture

In Malta, we do not have a property tax, but we have a final withholding tax paid by the seller and a stamp duty paid by the buyer upon the transfer of property.

19.2.1 Recurring Forms (in Case of Sale/Purchase)

19.2.1.1 Final Withholding Tax and Duty on Property Transfer

With effect from 1 January 2015, the previous tax system, which consisted of both a 12% final withholding tax on the transfer value and 35% tax on the profit or gain, was replaced by one final withholding tax rate of 8% on the value of the property transferred (Inland Revenue Department, 2021). The final withholding tax, which is paid by the seller, is regulated by *Cap. 123: Income Tax Act*.

Besides the withholding tax, one finds a 5% Duty on Transfer, which has to be paid by the buyer. The Duty on Transfer is regulated by *Cap. 364: Duty on Documents and Transfers*.

There are several exceptions to the 8% final withholding tax, which, for example, include a reduced tax rate of 5% final withholding tax on the transfer of a property situated in an urban conservation area or scheduled by the Planning Authority, in terms of Article 57 of the Development Planning Act, so as to encourage the regeneration of these areas.

Furthermore, as part of Malta's Economic Recovery Plan, the Duty on Transfer and the Property Transfer Tax have been lowered to 1.5% and 5%, respectively, on the first € 400,000 for specific periods between 2020 and 2022.

The monies collected through duties and property transfer taxes are channeled to the Government's Consolidated Fund. € 89 million and € 148 million were collected in stamp duty on property transfers in the years 2020 and 2019 respectively. In 2018, the revenue from stamp duty on property transfers represented 3.67% of the total tax revenues in Malta (National Statistics Office, 2021).

19.3 Non-recurring Forms of public value capture

The non-recurring forms of public value capture in Malta include the Infrastructure Service Contribution (ISC) and Planning Obligations, both regulated through *Cap. 552: Development Planning Act*.

19.3.1 Non-recurring Forms (Focusing on One Factor of Value Increase)

19.3.1.1 Infrastructure Service Contribution

The state, mainly through the Planning Authority (PA), regulates various aspects of development. Applications for development permission are submitted to the PA.

On submission of an application for Development Permission, the Infrastructure Service Contribution (ISC) is charged.

The ISC is paid by the development applicant towards the cost of infrastructure services and other services or facilities arising from the permission to develop land. The rates per square metre charged take into account the services involved, the areas of development and other material considerations. Rates are stipulated in SL 552.12 Development Planning (Fees) Regulations according to the type of development. As an example, the sewer fee for a residential development is € 2.60/m², whilst the street fee is € 1.70/m². For commercial developments, these fees go up to € 3.00/m² and € 2.00/m², respectively.

Any entity (be it a private or a public entity) that applies for a development permit pays the relevant ISC, where required. Development applicants are thus paying a share for the provision of civil infrastructure, such as sewers and roads, adjacent to their developments. The ISC does not cover the full cost of infrastructure provision.

In order to clarify the level of infrastructure provision, one can classify developments in Malta into

1. Small individual developments normally on 7 m by 21 m plots or combinations thereof;
2. Medium-scale developments, which include private internal roads;
3. Larger developments forming part of the local plan rationalisation exercise of 2006.

In the first case, the developers carry out the initial road formation in front of or adjacent to their property to gain access. The construction of the roads and the necessary utility infrastructure is planned, constructed and provided by a national entity.

In the second case, where developers are creating private internal roads, which are not 'schemed roads', developers carry the full cost of infrastructure provision within the development footprint. Outside the development footprint, the same principles as Case 1 apply.

In the third case, developers first have to apply for and pay for a Planning Control application for the zoning and road alignments to be established. Once the schemed roads are determined, the same principles as Case 1 apply. In such cases, the schemed roads are considered public roads, and thus the developers do not bear the full cost for the construction and provision of road and utility infrastructure.

19.3.2 Non-recurring Forms (Focusing on More Than One Factor of Value Increase)

In addition to the ISC, planning obligations can be placed upon any type of development, and these are normally determined on a case by case basis.

19.3.2.1 Planning Obligations

As regulated by Cap. 552, the (PA's) Planning Board may seek to impose obligations on the applicant, in connection with the grant of development permission. These obligations may be in the form of activities or works on the land in respect of which development permission is being sought; or any other land; or on both. Obligations can also be in the form of payments or benefits. In general, planning obligations are placed on certain large private sector projects.

Payment in respect of Planning Obligations is channeled to the Development Planning Fund. *"This fund promotes improvement and embellishment works in urban areas, such as landscaping, traffic management and other urban projects which are considered beneficial to the wider community."* (Planning Authority, 2021)

In 2020, through *PA Circular 2/20: Revisions to the Development Planning Fund (DPF)*, revisions were made to the DPF to further encourage the use of PA funds for urban greening concepts, Green and Blue Infrastructure (GBI) and furthermore to aid vulnerable sectors within society, including facilities for the disabled.

As an example, in December 2020 a planning obligation was placed upon the redevelopment of a disused hotel in the Southeast of Malta. A contribution of € 25 per m² of GDF had to be made to the Development Planning Fund as a planning gain. The funds had to be allocated towards the costs of the restoration of a historical tower (located adjacent to the hotel), including the rehabilitation of the ditch and the glacis. The developer also had to fund the rehabilitation of the foreshore, including the removal of all concrete accretions.

19.4 Interim Conclusion for Malta

Public Value Capture by Non-recurring forms in Malta (without interim acquisition)

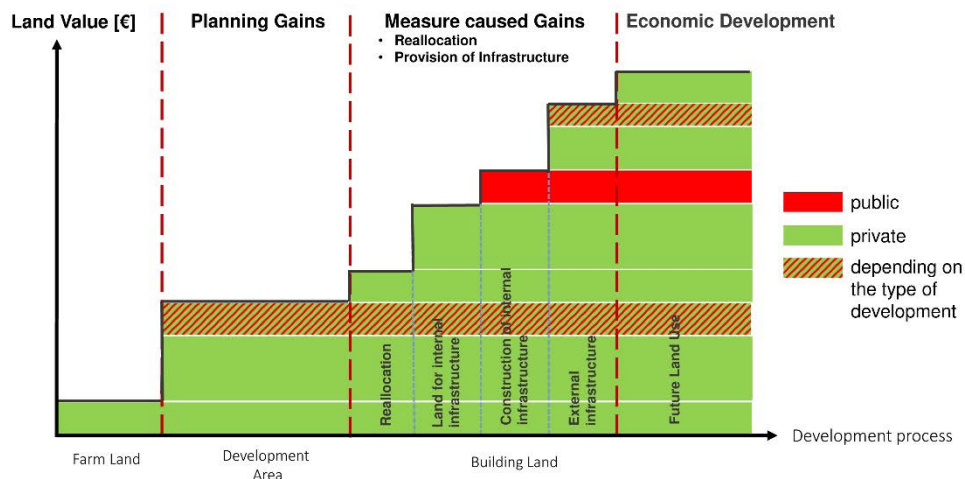


Figure 19.1: Value capture in Malta.

As has been described, in Malta we do not have a property tax, but we have a final withholding tax paid by the seller and a stamp duty paid by the buyer, upon the transfer of property.

Recurring and non-recurring forms of Public Value Capture are limited in Malta. The Development Planning Fund (DPF), which is partly funded from planning obligations, proves to be a good source of funds for community projects.

In general, one finds a good level of public infrastructure in Malta, most of it financed through national government funds as well as through EU funds. The country is on the path to improving the quality of infrastructure and public open spaces by striving for an increase in green and blue infrastructure, which aims to reinforce the drive towards a more sustainable built environment. The extension of the concept of Public Value Capture, embedded in the Planning Obligations framework, may be considered one of the tools to support such a drive. An overhaul of how planning obligations are applied is necessary.

For instance, Malta has long been considering mass rapid transit (MRT) as an alternative to the car-dominated landscape in the country. The financing of such a large infrastructure project has long been debated. The financing of MRT through Public Value Capture is a consideration that should enter this ongoing debate.

Housing Affordability in Malta is another area where Public Value Capture is being discussed. Due to a period of rapid financial growth, gentrification and mass development, which is supported by the financialisation of the housing market, an unprecedented disparity between the average household income level and property prices was created (Ministry

for Social Accommodation, 2020). Thus various models of affordable housing provision and financing including PVC tools are being debated. Such concepts have never been applied in Malta to date.

References/Literature

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Legislation

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- Duty on Documents and Transfers (Chapter 364 of the Laws of Malta).
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