



**GOVERNANCE OF THE COMMONS:
THE CASE OF MALTA'S BUILT HERITAGE**

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Abstract

When such a wide array of actors across the political and social spectrum all lament the continuous loss of Malta's built heritage in unison, one asks why have they not done anything to remedy the situation. What is it that is preventing a solution from being found? It is here that the characteristics of a social dilemma and coordination problem become apparent. One of the foremost thinkers who has addressed the evolution of studies relating to social dilemmas which concern common-pool resources is Elinor Ostrom, whose seminal work *Governing the Commons* from 1990 changed the way that people think about the field of research. Two of her foremost accomplishments were the development of the Institutional Analysis and Development framework, and her 8 Design Principles which are common success factors to commons governance.

The literature around what can be considered a commons has evolved to encompass cultural heritage, though this field of thought is still in its relative infancy. Nonetheless, this presents an opportunity to address Malta's built heritage as a commons, using the aforementioned tools, providing a novel way to study the social dilemma around overdevelopment in Malta, with reference to built heritage, and potentially obtain a better understanding of what threatens the commons, what the consequences are, and what potential policy solutions might be. This may be achieved through qualitative research entailing mapping, case studies and semi-structured elite interviews.

This approach reveals the importance of trust between actors involved to arrive at the common shared goal of a change in economic model from quantity towards quality.

Keywords: Commons, Heritage, Malta, Ostrom, Dilemma,

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Chapter 1: Introduction

At a lecture delivered at the Manoel Theatre in Valletta in 1967, Sir Hugh Casson warned that history had provided "endless examples of Malta, when faced with a real crisis, coping with it courageously and briskly", but that however, "crisis - I must repeat this again - is your situation today" and that the country was on the verge of defeat on its own shores (Din l-Art Helwa, 2015, pp.18-20). Fifty-five years have passed since Sir Casson warned that Malta's built heritage had been plunged into a dire situation. Since that time, the crisis has not abated, but only accelerated and deepened, as shall be evidenced. That the crisis has not ended is an indication of the vastness of the wealth which Malta still possesses in terms of built heritage, in spite of its constant erosion through speculation, and indicates that there is much still that can be saved.

The issue of poor planning and excessive construction is coming increasingly to the forefront of public debate. Surveys increasingly place overdevelopment and the environment as leading concerns in society, with the state of built heritage often considered as merely another dimension of the environmental problem. A government commissioned Environmental Attitudes and Behaviour survey detailed 76% of respondents as expressing concern about land use for buildings, with 80% considering Malta as being overly built up (ERA, 2020, p.15). A unanimous verdict in a members' survey by the Gozo Tourism Association warned that Gozo was seen to be losing its charm and characteristics (Sansone, 2022). Another report indicated that 93% of youths view Malta's environment as getting worse, with 74% viewing overdevelopment as the largest national challenge (EY Malta, 2022). Taken together, these results, as well as the trends in the construction industry over the past decades, tell the story of a country held

hostage by one facet of its economy.

If data continuously points to a shared concern, why is it that rotations of parties in government have successively failed to untangle the policy problem in question over the decades? While the value of Malta's built heritage to the country is difficult to measure, there is an increasing recognition that it is an essential component to quality of life and identity. This was underlined through the launch of an environmental charter by *Flimkien għal Ambjent Aħjar* inside the Malta Chamber of Commerce, Enterprise and Industry, which marked the coming together of the business community and civil society with a common message. The charter asked, "that public policy safeguards heritage and quality of life", with the Chamber stating it was possible to "have successful businesses without exploitation", particularly to ensure a better tourism product and an economic shift towards quality (Arena, 2022).

This dissertation seeks to study and understand Malta's built heritage as a commons, and then provide the outline of potential solutions to what may be framed as a policy problem. Before one may present the beginnings of a policy solution, however, one must acknowledge that policy solutions are in no short supply. They have peppered manifestos, strategic documents, and political pledges, with little to show in terms of outcomes. The indication is that the policy proposals thus far have failed to address a deeper underlying problem. One may attain a preliminary insight into this problem by understanding Malta's built heritage as a resource which benefits all the country's inhabitants, but which is being degraded by their uncoordinated collective behaviour. In other words, it may be understood as a commons.

In the United Kingdom, the commons historically referred to public - or "common" - land, widely understood to be agricultural grazing land, or "wastes" forming part of the

traditional rural economy (Rodgers, C.P. et al., 2011, pp.1-3). Since then, the concept of commons has expanded to include everything from the Internet to culture, as part of a "new commons" (Hess, 2008, pp.1-2). In Malta, the cultural commons may therefore be understood as defined by the Constitution; "the landscape and the historical and artistic patrimony of the Nation", which by definition includes built heritage (Constitution of Malta, 1964, Article 9).

As recently as the 1960s, commons were understood "as an ungoverned open-access regime from which nobody could be excluded" (Fennell, 2011, p.12). This conflated "the notion of common property... with the lawless condition of open access" (ibid). Today, a commons is more generally interpreted as "a particular category of property rights based on collective rather than state or private ownership" (Wall, 2014, p.6), though this may entail certain overlap between the three categories.

Furthermore, even when a commons is privately owned, it may be "open to use by commoners" (ibid) under certain conditions. While the built heritage in Malta of interest is privately owned, the intangible aspect of heritage is open to all through its contribution to a streetscape or context. Built heritage provides various forms of value to a community without any one community member needing to step foot inside of the building. Private property rights relating to built heritage are nonetheless regulated by the state. In this way, there is certainly "overlap between the three categories" (ibid) of ownership, and thus, built heritage in Malta lends itself to a unique analysis via the theoretical lens of theories of collective action. These seek to address social dilemmas, whereby suboptimal outcomes result due to a lack of coordination.

The outline of the problem therefore appears to be a system of incentives and disincentives driving individual behaviour towards degradation of the commons. In its

widest possible context, one might personify these incentives and disincentives as "The Economy", and that "over time, The Economy comes to be seen as a universal, ahistorical, entirely natural phenomenon, a fearsome Moloch that somehow preexists humanity and exists beyond anyone's control" (Bollier and Helfrich, 2012, p22). The challenge, therefore, is to dissect this beast and understand it in more intimate detail, and thus, untangle the problem leading to a collective action problem as regards Malta's built heritage.

1.1 Research Questions

Making sense of this coordination problem in the Maltese context therefore comes to represent the first of three proposed research questions, namely:

What threatens the built heritage commons in Malta?

Understanding the impact of this system of incentives and disincentives leads to asking:

What are the consequences of these threats?

Having answered these first two questions, one may return to the task of prescribing solutions to this problem in a way which offers novelty, granted the litany of previously unrealised policy proposals addressing Malta's construction sector and its influence on the Maltese political theatre. The third research question is therefore:

What are potential policy solutions?

To answer these questions, one immediately turns to Elinor Ostrom's work for guidance. Having won the Nobel Memorial Prize in Economic Sciences for her research on the commons, she presents the foremost break with the narrative that the commons may only be protected either through privatisation or state-domination. In the case of built heritage in Malta, where built heritage is privatised, Ostrom's perspective might offer the fresh insights needed to address the policy problem.

Chapter 2: Literature Review

2.1 Tragedy of the Commons

Elinor Ostrom's theories on the governance of the commons stem from a discussion precipitated by Garrett Hardin's famous article titled "The Tragedy of the Commons" (Hardin, 1968). Hardin's (1968, p.1244) statement that "freedom in a commons brings ruin to all" formed the basis of his arguments regarding this so-called "tragedy of the commons", whereby resources may be diminished when not subject to enclosure. Using the metaphor of a pasture, Hardin warned that, left to their own devices, herdsman would include as many animals in their herd as possible, leading to overgrazing. He justified this by observing that "as a rational being, each herdsman seeks to maximise his gain", and has no individual rationale to limit his herd to the benefit of his neighbour (ibid). Thus, "ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons, and therefore, the only answer to this tragedy is privatisation, or centralised management by the state" (ibid). As a result, "until the 1980s, many scholars had presumed that the users of (common-pool resources) could not self-organise to manage them" (Cox, Arnold and Tomas, 2010, p.38). Hardin's work therefore set the tone of the discussion focused on resolving the tragedy of the commons.

Another major influence upon this tradition of research and discourse proved to be *The Logic of Collective Action*, a book authored by Mancur Olson, published in 1965. Olson studied group behaviour, with particular reference to public goods. Amongst his key conclusions, he emphasises the free-rider problem, as "the very fact that a goal or purpose is common to a group means that no one in the group is excluded from the benefit or satisfaction brought about by its achievement" (Olson, p.15). The consequence is that

individuals benefiting from public goods may lack the incentive to contribute to their development or maintenance. Olson uses one example whereby "the rational individual in the economic system does not curtail his spending to prevent inflation... because he knows that his own efforts would not have a noticeable effect, and... that he would (not) get the benefits of any price stability that others achieved in any case" (ibid, p.166). Olson therefore highlights the importance of selective incentives, which can align individual self-interest with collective action.

The advancement of Game Theory as a way to understand cooperative behaviour was furthered significantly by Axelrod in *The Evolution of Cooperation*, published in 1984. Through the Prisoner's Dilemma, one is able to study behaviour through repeated games, where players fail to arrive at optimal results due to a lack of coordination and communication. In a typical game, both players are incentivised to betray one another, in spite of the fact that cooperation would be the optimal outcome. Axelrod demonstrates that such behaviour is not inevitable when there are repeat games, as trust may be developed, and where there is friendliness, forgiveness and the passage of time, positive reputations may evolve, leading to oft superior "Tit-for-Tat" strategies (1985, p.27). However, he concludes that "for cooperation to prove stable, the future must have a sufficiently large shadow" (ibid, p.174). In the context of governance of resources and institutions, Menaldo states that "generating a larger share of the pie... means creating a larger pie overall, which paradoxically requires elites to limit their own power and discretion" (Menaldo, 2016, p.79). Game Theory has come to form a crucial component of understanding the governance of common resources.

While Axelrod asked the question as to "under what [conditions] will cooperation emerge in a world of egoists without central authority", he did not provide an institutional

framework to accompany it (Axelrod, 1985, pp.2-3). It was Elinor Ostrom's groundbreaking work, *Governing the Commons: The Evolution of Institutions for Collective Action*, which not only argued that Hardin's thinking was incomplete, but provided numerous examples of communities developing their own traditions and institutions to equitably and sustainably manage common-pool resources (Ostrom, 1990).

Ostrom's definition of a common-pool resource (CPR) is one that "refers to a natural or man-made resource system that is sufficiently large as to make it costly (but not impossible) to exclude potential beneficiaries from obtaining benefits from its use" (ibid, p.30). Her impact upon the field of research of the governance of the commons was foundational, as "basic insights, of which several had been asserted in case studies of the commons for long, were stated systematically" in her work and thus became a theoretical point of reference (Agrawal, 2007, p.123). Deleixhe (2018, p.323) writes that prior to Ostrom's work, as regards CPRs, "it was widely admitted that their open access and the rivalrous nature of the goods they contained would lead to a collective action problem". It was Ostrom who showed the potential behind collective solutions beyond state domination or privatisation, offering a new way to think about CPRs in the process.

2.2 Emergence of the New Commons

Within a few years of Ostrom's seminal work, Charlotte Hess (1995) applied the theory of the commons to the Internet. This marked an early radical departure from the stereotypical commons as a natural resource such as a pasture. Just as the global commons marked one direction of evolution for the commons, the expansion of the theory over new categories of resources, including the intangible, would be designated as the "new commons" by Hess (2008, pp.1-2).

Hess (ibid, p.8) identified different types of CPRs, distinguishing not only between those

which are either global or local, but also those which are natural or human-made. Hess (ibid) classified the Internet as being a CPR both locally and globally, and also as a human-made resource. Its exhaustibility as a resource arises from competition for limited bandwidth and strains on finite infrastructure. In the 90s in particular, being in early development, the Internet faced a high subtractability cost, as well as a high exclusion cost, like other CPRs.

Both Ostrom and Hess co-authored a book exploring the concept of knowledge as a commons, defined as "a resource shared by a group of people that is subject to social dilemmas" (2007, pp.2-6). Ostrom further legitimised this innovative conception of a "new commons" through her co-authorship and exploration of knowledge within this context. These examples of the new commons, particularly the ability to view knowledge itself as a commons, begin to demonstrate how the value provided by the intangible dimension of built heritage in Malta might qualify it to be considered as a commons.

2.3 Understanding Heritage as Commons

Studying built heritage as a commons in Malta must not only address its intangible aspect, but also its tangible physical dimension. Fortunately, the “new commons” has already started its expansion to encompass different forms of cultural heritage, which by definition must include its physical composition as well as its intangible value. The particular aspect of the new commons which encompasses heritage is known as the cultural commons.

The cultural commons can be understood as "the cultures expressed and shared by a community", comprising the dimensions" of "culture, space, community" (Bertacchini et al, 2012, p.154). By incorporating the spatial dimension, the cultural commons can address the particular characteristics of built heritage, which combine the tangible with

the intangible. Cultural heritage, after all, is not only the "physical property" in the form of the building envelope, though that bestows it with "intrinsic economic value", but it has additional value derived from "the cultural values" attached to it (ibid).

Cultural heritage tends to follow three management models, those of "private property, state intervention and international regulations", and within these models, the level of excludability and rival/non-rivalrous consumption differ depending on the value system in play (ibid). On the world stage, a claim that a site has universal value, or a claim to being a World Heritage Site, implies that such "cultural resources cross modern-day political boundaries" and that therefore, "numerous nation-states and diaspora groups will be engaged", as is the case through organisations such as UNESCO (Gould and Pyburn, 2016, pp.177-178).

Bertacchini et al view privatisation in relation to built heritage as a positive, given that it offers regeneration through "adaptive reuse and restoration... to consolidate their fabric and structure but also revive cultural significance (2012, pp.164-165). This is because "direct reuse of heritage buildings is the easiest and cheapest" way to protect them, while increasing "quality of life in the form of a better environment and diversified community" (ibid). Nonetheless, Bertacchini et al warn of the danger of "interest groups which may capture the local government and exploit the economic value of cultural heritage at the expense of local community interests", particularly where tourism and real estate are concerned (ibid).

Sources are sparse on the application of Ostrom's theories specifically to privately owned heritage, as it tends to focus on state owned heritage. Gould and Pyburn warn that the "published literature in archaeology and heritage management to date is limited" in the context of commons theory (2016, pp.170-171). Specifically, he points to "a disconnect

in the literature to date between optimism expressed about the applicability of the commons idea and practical exploration of the mechanisms through which the benefits of the commons can be realised", with the mechanism in question being "governance, the institutional rules and structures through which true commons are managed" (ibid). This therefore presents an innovative opportunity to adapt Ostrom's theoretical lens to privately owned Maltese built heritage.

2.4 Ostrom's 8 Principles as Applied to Heritage

Elinor Ostrom first introduced her 8 principles for managing common-pool resources in her seminal book, *Governing the Commons*. The book presents a robust model for understanding the collective management of shared resources and serves as the backbone of Ostrom's Institutional Analysis and Development (IAD) framework (Ostrom, 1990, pp.91-101).

The most prominent case study identified linking Ostrom's principles to built heritage is that of Vigan, a heritage city in the Philippines which was made an "awardee for Best Management Practice amongst all UNESCO World Heritage Sites in 2012" (Vitug, 2017, p.2). While looking at Vigan, she uses Ostrom's principles to explain how the city "became one of the best managed heritage sites in the world" (ibid, p.4). A similar academic exercise is carried out with Lijiang in China, as well as other heritage cities, by Bertacchini et al (2012, pp.171-173). This exercise will use the case study of Vigan, as it entails privately owned heritage homes and community organisation.

Table 1. Ostrom's 8 Principles

Principle	Explanation (Ostrom, 1990, pp.91-101)	Case Study: Vigan (Vitug, 2017, pp.4-7)
1. Clearly defined boundaries	By understanding who has access and where limits to extraction are, conflicts can be reduced, and responsible use can be promoted. (ibid p.91)	Ordinances "delineating the boundaries of the historic core and buffer zones of the World Heritage Site" as well as "cultural mapping project which has identified and documented cultural heritage resources" (ibid, pp.4-5)
2. Match rules governing use of common good to local needs and conditions	The benefits obtained by users from a common resource, as well as the amount of input required, should be proportional to one another. (ibid, p.92)	"Public fora and multi-stakeholder workshops were organised to formulate a vision statement for the City and formulate cultural tourism strategies to uplift the economy and wellbeing of the City" (ibid, p.6)
3. Ensure that those affected by the rule can participate in modifying rules	This principle ensures that most individuals affected by the operational rules can participate in changing them, ensuring they are respected. (ibid, p.93)	"Series of public hearings were held" to allow "stakeholders to voice their opinions regarding the enactment of each of the legislative measures to safeguard and conserve the built heritage of the City" (ibid, p.6)
4. Develop a system, carried out by community members for monitoring members' behaviour	Monitors who actively audit common-pool resource conditions and user behaviour should be accountable to the users or be the users themselves. (ibid, p.94)	"The Vigan Conservation Council that reviews and approves applications for construction, renovation, restoration and other works in the core and buffer zones of the heritage district... is composed of representatives from the local government, the academe, the Homeowners' association, non government organisations and the Church" (ibid, p.7)
5. Use graduated	Users who violate rules should be subjected to sanctions,	"The Vigan Heritage Management Office was

sanctions for rule violators	which are graduated depending on the severity and context of the offence. This principle supports the idea that punishment for breaking rules should be relative to the severity of the infraction. (ibid, p.94)	established to ensure the strict implementation of the legislative Ordinances... the likewise the site constantly patrolled by police officers" (ibid, p.7)
6. Provide accessible, low-cost means for dispute resolution	Mechanisms for resolving conflicts among users or between users and officials should be fast and easy to access. (ibid, p.100)	"All matters pertaining to safeguarding and conservation of the protected zones are brought to the attention of homeowners' association members" and they are provided with a Heritage Homeowners' Manual which standardised how to preserve and easily take care of historic properties in a user-friendly way. (ibid, p6)
7. Minimal recognition of rights to organise	The rights of users to devise their own institutions and rules should not be challenged by external authorities. (ibid, p.101)	"Composed of owners of historic properties... the Save Vigan Ancestral Homeowners Association, Incorporated was organised... to enable their active participation in the conservation programme of the City Government" (ibid, p.6)
8. Build responsibility for the common source in nested tiers from the lowest level to the entire connected system	When local CPRs are part of larger systems, decision-making should occur at multiple, nested levels. This helps to ensure that rules are made and enforced by those with the most local knowledge and also by those who understand the larger system. (ibid, p.102)	"The President of the homeowners' association is a member of the Vigan Conservation Council." "The Vigan Tourism Council composed of various stakeholders from the academe (universities and colleges), craft industries, infrastructure sector (transportation and communication), business sector (association of souvenir shops, furniture makers, hotel and restaurant owners), religious and government sectors" (ibid, pp.6-7)

2.5 Institutional Analysis and Development Framework

The Institutional Analysis and Development (IAD) framework was developed by Elinor Ostrom to be able to address the diversity of institutional arrangements and identify the "universal building blocks used in crafting... structured situations" (Ostrom, 2005, p.5).

McGinnis claims that in Ostrom's earlier works, "the analytical apparatus that provided the foundation for the conclusions she summarises... remain hidden from the reader" due to the need to reach a wider audience (2017, p.89). However, the IAD framework has evolved over time both in depth and to accommodate a broader range of social dilemmas, and not simply the management of natural common-pool resources. Variations of the original framework have advanced accordingly, such as inspiring "more recent work on social-ecological systems" (McGinnis, 2011, p.169). However, the original framework, without the need to consider facets such as ecology, remains the most intriguing to the Maltese context of built heritage.

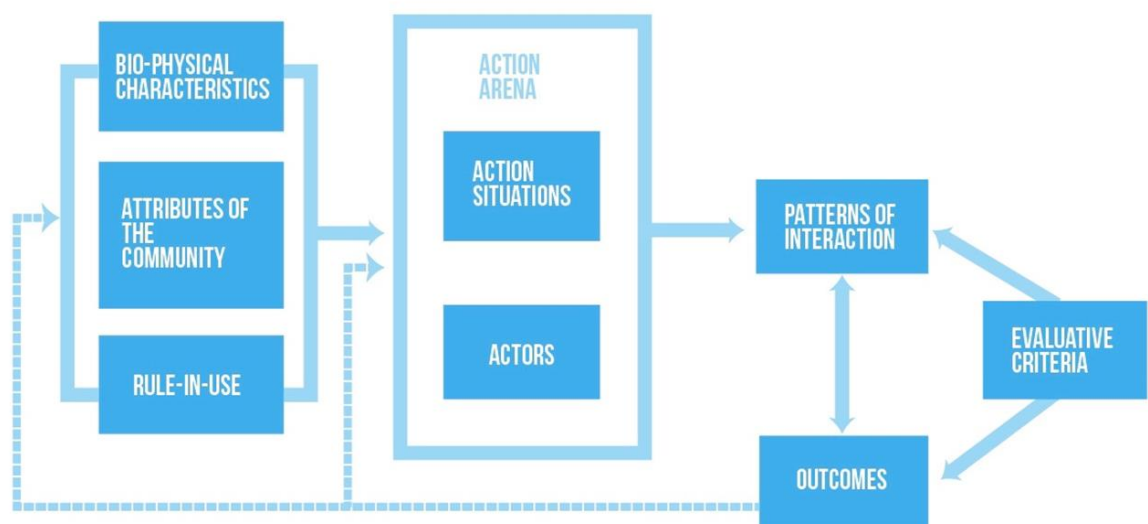


Figure 1. IAD Framework.

Source: <https://ocsdnet.org/about-ocsdnet/about-ocs/iad-framework/> [Accessed on 05/06/2023]

2.6 Property Rights

Hess (2008, p.14) describes the literature surrounding the cultural commons as that which "addresses the privatisation of cultural heritage and commodification of previously unownable cultural objects". A discussion on privately owned heritage entails a discussion of property rights. This is because property rights are limited to the extent a site has cultural value which is reflected in the rules in use. Beukes describes a "tug of war between heritage conservation and property rights" (2009, p.67). Restrictions on what owners may do to their heritage homes, represents the constraining of property rights, "taking into account the long-term benefits for the community" (Bertacchini et al, 2012, p.160).

Woodhead identifies the "right to peaceful enjoyment of one's possessions" (2011, p.53) as a human right, using the laws and traditions of the United Kingdom as a backdrop. However, this right is quickly qualified as coming "with limited justifications for interference, one of which is the protection of cultural heritage" (ibid). Possession of cultural heritage implies certain duties, such as its preservation and "protection from loss to those to whom cultural heritage is significant" and thus certain limitations on private property rights are indicated (ibid, pp.57-58). However, there is subjectivity as regards what constitutes heritage, and in turn, there must be different interpretations of what constitute fairly provisioned property rights. Therefore, "there is no exemplary form of private property", as "property concepts are modified by society as needs change" (Dimery, 2013, p.196).

As Pace states, "the fact that there is no absolute ownership, however, does not imply that there is no ownership" (1999, p.14). While heritage sites are often managed by states, or the "Leviathan", in Ostrom's terms, most sites are privately owned, as is the case in Malta

with townhouses or houses of character. Recognition of their value by institutions leads to a formalisation of legal frameworks determining where private ownership begins and where it ends in relation to these sites. The extent to which a site is protected by institutions helps to determine, in turn, where collective ownership legally begins and ends. The physical site is owned by an individual, but its heritage value stands apart. In this regard, "the subject-matter of cultural heritage has no intrinsic value, capable of objective ascertainment", but rather, "recognition of the subject-matter's contribution to culture, aesthetics, art, religion or history to a wider audience" is what determines the value of heritage within society (Woodhead, 2011, pp.54-55).

Bertacchini et al discuss the concept of cultural value in further detail, dividing its value into two categories; its cultural values and its economic values, with the latter being further subdivided into use and non-use values. Use values might refer to the commercialisation of heritage sites by selling tickets and controlling access. Non-use value represents intangible aspects and "are derived from the public good characteristics of cultural heritage". Furthermore, "cultural heritage has long been recognised as having public good characteristics" because of its "cultural and non-use values" (Bertacchini et al, 2012, p.159). Nonetheless, "unlike a public good, (cultural heritage) may be conceived as a cultural shared resource" in need of proper management in order to avoid "enclosure and social dilemmas" (ibid). Cultural heritage also "has aesthetic value" due to its impact on its surroundings, "spiritual value", which comprises "the cultural identity of the community" (ibid, pp.157-158), as well as social, historical and symbolic value.

Attempts to measure the value of heritage sites, such as the travel cost method and hedonic pricing are fraught with challenges related to subjectivity and may lend themselves better to sites which are not used as private homes. The discussion on property rights, and where

they begin and end, forms the bedrock of the debate on built heritage in Malta. It is here that the central discussion may therefore take place.

2.7 The Maltese Context

Understanding the governance of built heritage in Malta necessitates a succinct overview of its history and legislative context. An analysis of policy instruments which protect heritage and limit private property rights is carried out in the Malta chapter of Baldacchino's *Extreme Heritage Management* (Camilleri et al., 2011). Pace (1999) discusses the conflict between private property rights and heritage protection in the Maltese context. It is pointed out that Malta's legislative and regulatory tradition originates from the United Kingdom (ibid, p.37). Therefore, read alongside Camilleri et al. (2011, p.52) in *Extreme Heritage Management*, one is able to chart the institutional tradition and context behind this fight between the public and the private.

It was under British rule that historical monuments were first protected through the Antiquities Act of 1925, with an Antiquities Board acting as an initial regulator (Camilleri et al., 2011, p.52). As a former colony of the United Kingdom, Malta's philosophy and tradition as regards the protection and governance of heritage initially followed the British model. Pace and Calleja note that the United Kingdom introduced the notion of an Urban Conservation Area in 1967, and Malta duly followed suit with Temporary Planning Schemes within Section 8 of the Building Permits Act in 1988, which first delineated Malta's first Urban Conservation Areas (1991, pp.145-148). These areas were deepened and expanded further in gradual steps through the subsequent Structure Plan and thereafter the Development Planning Act of 1992 which established MEPA (ibid).

Camilleri et al state that the Maltese government developed a national protective inventory, "the majority of which are features of architectural value" and nearly one thousand archaeological sites (2011, p.53). The NPI also includes information on 'Grade E' sites, which are those which previously existed but have now been built over (ibid). The scheduling process further offers an avenue to preserve heritage, its criteria for bestowing protection outlined originally in the Structure Plan, and subsequently in the Development Planning Act. The scheduling process offers different grades of protection, ranging through Grades 1, 2 and 3, from high to lowest levels of protection (ibid, pp.53-54). Furthermore, emergency conservation orders may be used to intervene on threatened buildings or features (ibid).

The peculiarities of Malta's political culture and its shortcomings are captured in the literature. Veenendall observes that the "characteristics of Maltese politics" include "the sharp polarisation between parties, extremely high turnout rates, profound executive dominance, and the incidence of corruption scandals" (2019, p.1034). This polarisation lends itself to an analysis through Game Theory via the Prisoner's Dilemma, and further showcases the relevance of the literature.

A deeper analysis of how and why decisions are made, and how institutions understand themselves, is offered by Murphy Fox-Rogers in their study of the common good in planning in Ireland (2015). Its relevance to the Maltese context and built heritage is evident when one considers the long-running narrative that a balance must be achieved between the environment and development for the sake of the economy. The common good may also be utilised as an accompanying theoretical lens to understand institutional priorities and decision-making when carrying out the task of governing the commons.

The *Bertelsmann Stiftung* observes that Malta's adoption of a Westminster model has also saddled it with an overly powerful Prime Minister, without reflecting modernisations and changes which the United Kingdom has experienced since (Pirota and Calleja, 2019, p.5). As a consequence of Malta's political set-up, the country suffers from challenges related to good governance which relate heavily to clientelism and the free-rider problem. MEPA, which would eventually become the Planning Authority, was set up to regulate the planning process, but has devolved into a rent-seeking institution, whose lack of independence mean that it fails "to objectively make policy and follow professional practice" to the point that a study of ODZ permits given out before an election imply large-scale corruption (Caruana-Galizia and Caruana-Galizia, 2018, p.441).

Pirota and Calleja (ibid, p.54) write that Malta's planning and construction sectors and institutions have "for decades been under scrutiny due to allegations of corruption and other irregularities" and that "this situation is exacerbated by the prevalence of the face-to-face relationships common in small countries". Veenendall concludes that in small island states, "dense social networks, overlapping public and private roles, and constant direct contact produce patron–client networks" (2019, p.1048).

Particularly as clientelism may be viewed as an expression of free-riding, and property rights may be linked to the first of Ostrom's design principles, then the rest of the institutional framework around built heritage lends itself to the rest of the design principles, and Ostrom's IAD framework. These shall therefore be considered in further detail.

While the theory of the commons has not been directly applied to Malta as of yet, attempts were made to integrate it into law and policy through the drafting and development of the

Public Domain Act. Enacted in 2016, the Act was meant to prevent the commercialisation of the foreshore and natural and historic areas of national public value. However, the Act was never actually put into force, with legal deadlines, such as an annual requirement for the Lands Minister to submit a list of nominated sites to Parliament, completely ignored. Sites originally nominated for inclusion instead suffered an increased development drive, with *Partit Demokratiku* stating that the Act had been “intentionally side-lined and thrown in the abyss” (Philip Leone Ganado, 2019). Nonetheless, while presenting a compelling case study for an analysis on the Maltese commons, the Public Domain Act is of secondary interest given that the research concerns privately owned heritage homes, and the Act states that “privately owned land shall be presumed not to be in the public domain” (Act No. XXV of 2016, A928).

2.8 Conclusion

If heritage in Malta is only viewed through the lens of how government policy or institutional capacity may be tweaked to better protect heritage, then one overlooks the aspect of the commons. Such an approach would be to resort to Ostrom's "Leviathan" to protect heritage, which has clearly failed in Malta. Evidently, however, privatisation, which was Hardin's solution to the governance of the commons, is locally often a manifestation of profit-driven speculation, leading to the loss of heritage through overdevelopment. The "Leviathan" that is the state finds itself captured by private interests, and facilitates the destruction of heritage by legitimising it through institutions which carry out the illusion of impartial planning and decision-making. While Bertacchini et al. praise the role of privatisation in the maintenance and upkeep of built heritage, this comes with the caveat that government functions as it should and has not been overtaken by special interests (2012, pp.164-165).

The literature offers a way to analyse Maltese heritage through Ostrom's principles in a way which looks beyond "Leviathan" as a solution, but also beyond private property rights. The value in applying Ostrom's principles lies in this possibility to overtake that usual dichotomy in governance, as applying the theory of the commons allows for behaviour to be accounted for, community dynamics and institutional design.

According to Lekakis, trust in citizens or experts "played a significant role in determining social preferences" when it came to preserving heritage, as the "credibility of central authorities and external private players to manage heritage impacted positively on cooperation" (2020, p.56). Similarly, "groups exhibiting high discrepancies with regards to the credibility of local actors... tended to invest less in heritage commons" (ibid). In conclusion, Lekakis underlines "the decisive role of trust at local level as a condition of cooperation and successful management of heritage by communities themselves" (ibid). With the added dimension of trust at play, as indicated by Game Theory, a synthesis of the literature suggests that the application of Ostrom's principles to Malta offers a path to better stewardship of Malta's heritage, which may be explored via a qualitative methodology. In doing so, the gap in the literature relating to a lack of analysis of any of Malta's commons through the theory of the governance of the commons, will in part be addressed.

Chapter 3: Methodology

3.1 Introduction

This chapter outlines the methodology adopted in assessing Malta's governance of its built heritage as a commons.

Given that the study of built heritage as a commons in Malta is a novel approach, the research must entail a significant exploratory element, whilst applying the various components of Ostrom's theories. Bryman advises that qualitative research lends itself well to exploratory approaches, since "since it is typically associated with the generation rather than the testing of theory" (2012, p.41). With the ultimate objective of the research lies in developing a policy approach through the third research question, the generative element is adequately emphasised through qualitative research which tackles institutional design and its contexts.

Poteete, Janssen, and Ostrom's book titled *Working Together: Collective Action, the Commons, and Multiple Methods in Practice*, presents an overview of various approaches that may be taken to studying the commons, prefacing the work with the observation that "methodological controversies often reflect competition between research traditions" (2010, p.5). In answer, their work offers to anticipate the challenges related to "research on topics for which data (is) scarce, difficult to collect, and not readily comparable" (ibid). Based on the readings, in no small part thanks to Ostrom being one of the authors, the book proves to be one of the most in-depth resources on methodological approaches to the commons.

A qualitative methodology is chosen focusing on institutional design through Ostrom's theoretical lens. The qualitative approaches selected were guided by the aforementioned book.

3.2 Research Design

Having settled on a qualitative research design, a conceptual model was drawn up to attempt to illustrate the process.

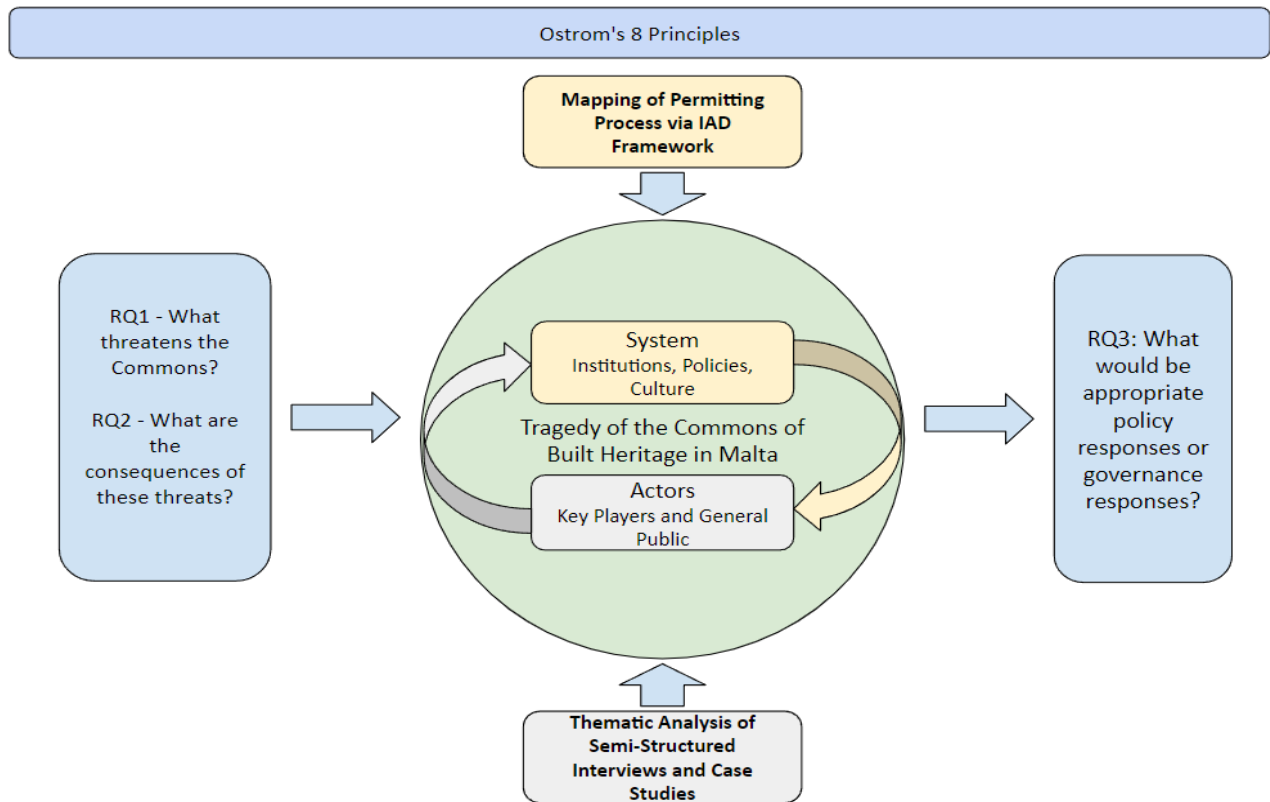


Figure 2. Addressing the Research Problem.

Source: Own Compilation

As the research problem relates to untangling the Tragedy of the Commons relating to built heritage in Malta, through the three research questions, the qualitative research design emphasises three research methods; mapping, case studies and interviews. As per Figure 2, the goal is to explore the Tragedy of the Commons as regards built heritage in Malta as the research problem, and answer the research questions through a cross-pollination of research data.

Asking what threatens the commons, and what the consequences of those threats are, requires an understanding of how the system and actors interface to generate the Tragedy of the Commons. The initial mapping exercise entails desk research into the Development Planning Act, the Cultural Heritage Act and the Environment and Planning Review Tribunal Act, as well as media articles highlighting major hotspots of debate on planning. The mapping exercise will highlight institutional design and therefore pave the way for an understanding of institutional weaknesses. In the Analysis & Discussion chapter, to go beyond a simple narration of facts, and to demonstrate research value, the mapping exercise will be communicated through the application of the IAD framework, which will furthermore integrate the results from the subsequent research methods, to provide a holistic analysis and discussion.

Poteete, Janssen and Ostrom's guidance on qualitative methods proves apt. Their statement that it is necessary to obtain "contextual knowledge... to recognise the phenomenon of interest" lends itself to carrying out semi-structured interviews (2010, p.6). Given that the focus of the research is the application of Ostrom's work as a theoretical lens, and the necessity to organise results across common themes, the interview questions will be inspired by Ostrom's 8 design principles. Dialogue is expected to open with an invitation for the interviewee to freely express their thoughts on the state of built heritage in Malta, to provide their unique experience and perspective.

Nonetheless, it is stated that "official documents and elite interviews" are insufficient to address local issues related to property rights; particularly related to enforcement (ibid, p.51). Therefore, an accompanying strategy must be identified. They furthermore state that case studies recognise informal institutions and are recognised as having the appropriate capacity to cover issues of "enforcement of property rights, informal rights,

and potentially divergent interests related to resource systems that the conventional theory had overlooked entirely"... prompting new insights about property rights and the commons (ibid).

3.3 Semi-Structured Elite Interviews

The carrying out of semi-structured interviews will also be done using Ostrom's 8 principles, allowing for easy coding and identification of themes, and ensuring the research is aligned. Having Ostrom's 8 principles underpin all aspects of the research provides a common theme and ensures that the research will be focused. As the principles are design principles for institutions, it ensures that the research questions will be adequately answered and will culminate in a comprehensive approach to the third research question; offering a policy direction.

3.3.1 Data Collection

A total of 17 interviews were achieved out of 25+ attempted, with the individuals chosen for their relevance to the subject matter and for representing specific interest groups related to built heritage. The stakeholders identified included:

Table 2. Interviewees.

Category	Actors Interviewed
Institutions - Representatives from the key institutions such as the Planning Authority and Superintendence of Cultural Heritage	Martin Camilleri - Chair of the Planning Commission Kurt Farrugia - Superintendent of Cultural Heritage Dr David Mallia - Unit Manager of Heritage Advisory Unit
Business - Representation from the business community	Michael Stivala - President of MDA
Public - those affected by	Marquis Tony Cremona Barbaro - Owner of Villa Barbaro

development	Jamie Buttigieg - Gozitan Activist from Nadur
Academia - Those concerned with the study of built heritage	Dr Shirley Cefai - Senior Lecturer from the Department of Conservation and Built Heritage
Civil Society - Members or leaders of civil society organisations/NGOs	Astrid Vella - Coordinator of FAA Perit Tara Cassar - Architect for Din l-Art Helwa Prof Alex Torpiano - President of Din l-Art Helwa Bjorn Bonello - President of Chamber of Planners Perit Andre Pizzuto - President of Chamber of Architects Perit Simone Vella Lenicker - Former President of Chamber of Architects Prof Kevin Aquilina - Former Dean of the Faculty of Law
Politics - Political representation which includes Local Councils	Hon Clyde Caruana - Minister for Finance, Hon Hon Albert Buttigieg - Former Mayor of St Julians, Current PN MP Perit Carmel Cacopardo - Former Chairman of ADPD

Interviews were scheduled via the author's university email. An interview guide (Appendix 2) was drafted and was informed by Ostrom's 8 Principles, as each principle was mirrored by a corresponding question. Each interview was opened by a general question, challenging the interviewee to speak freely on the topic of built heritage in Malta, and their opinion on its status. This semi-structured approach helped to account for the fact that each actor's unique perspective cannot be fully accounted for by the 8 Principles.

3.3.2 Data Analysis

As Ostrom's 8 Principles underpinned each interview, even where there was significant deviation from the interview guide, then the answers were still successfully coded according to the Principles in table format. Data from each interview did not always fit into each of the 8 Principle categories, and data did not always fit perfectly into one of the categories. However, the Principles provided a sufficient approximation and framework to allow a common language, code and thus enable a clear discussion.

3.4 Case Studies

The case study exercise was carried out in two phases. In the first, desk research of the Environment and Planning Review Tribunal (EPRT) portal was carried out, creating a one-of-kind database of heritage cases between 2016-2023. In the second phase, 5 cases were selected according to the uniqueness of the cases, the insights they offered into the planning system and the wealth of documentation available on the Planning Authority and EPRT portals available for scrutiny. The case studies were then investigated in further detail and coded according to Ostrom's 8 principles.

3.4.1 Data Collection

Identifying case studies began with an extensive desk research exercise through which the Environment and Planning Review Tribunal (EPRT) portal was combed through to identify and create a database of heritage cases related either to context or to outright demolition between the years 2016-2023. The EPRT portal contains PDFs which list all of the appeals submitted each month, with basic information about the case. This information gave hints as to whether a case was relevant to heritage, allowing corresponding, more detailed files to be downloaded for further investigation. If confirmed as being heritage cases, either through demolition or because of the impact on context, the appeal was added to a database with a corresponding PA number. The PA portal was then explored by inputting the PA number, allowing a further in-depth glimpse of the case, and allowing particularly relevant cases to be highlighted.

2016 is the earliest year in which the EPRT maintains a transparent online database of appeals, given that it was established in its current form in that year. This presents a convenient time window of analysis for the years following the new Development Planning Act and the Environment and Planning Review Tribunal Act and the current

SPED, with the impacts of Annex 2 of DC15 which followed. The selection of 5 case studies allows for them to be used to illustrate and discuss research findings with specific reference to permitting situations, while extracting themes with Ostrom's 8 principles.

Once the desk research of EPRT appeals has been concluded, and a database established, five case studies are selected according to the following criteria:

Table 3. Selection of Case Studies.

Case Study Criteria	Case Study Selected	Rationale
Threat arising from demolition: Where there is contestation of the value of built heritage.	Razzet l-Antik - PA/3360/19	A site which allegedly gave Fgura its name, whose heritage value was the prime source of contention, but which was demolished regardless.
Threat to Context: EPRT cases were split into threat via either demolition or impact on context.	Villa Barbaro - OC019	A significant cultural building: Villa Barbaro, a Scheduled 1 site at risk from increased heights.
Diversity of Stakeholders: Offering insight into how institutions, society and NGOs interact.	Villa Frere - PA/8485/20	Villa Frere rallied Heritage Malta as well as the Superintendent, along with NGOs and the public, in a near unprecedented coalition.
Institutional Conflict: To highlight when institutions disagree on built heritage.	Walmarville - PA/0116/21	Superintendent appealed against the PA and made novel arguments including a reference to the Constitution's Article 9.
Legal or Policy Implications: Providing an impactful case study which may influence policy.	Santa Lucija - PA/01432/20	In spite of entailing more recent buildings, the case warranted input from the Superintendent, and led to a landmark legal ruling in favour of context.

3.4.2 Data Analysis

A folder was created for each of the 235+ heritage cases identified from the EPRT portal, which excluded cases in ODZ so as not to overlap with issues related to the Rural Policy and Design Guidance which primarily concerns environmental concerns. The database hosts a minimum of one PDF file in each folder, containing firstly the appeal filed. Based on cursory investigation of the appeal file, it was possible to determine if deeper research was warranted. Where this was the case, the PA numbers behind the appeals were used to explore their permitting cases on the Planning Authority website, specifically through the eApplications portal. The portal allows for the retrieval of objections, case officer reports, comments by the Superintendent and other vital information. These relevant files are stored in PDF format on the eApplications portal. For particularly compelling cases, these files were identified, downloaded and stored on a HardDrive for further examination.

Once this exercise was complete, the case studies were identified, and a more in-depth exploration of their profiles on the eApplications portal was conducted. Thereafter, Ostrom's 8 Principles were used as a code and a lens to extract relevant information from objections, case officer reports, or the Superintendent's comments for further analysis, and to identify themes which might also appear in the interviews.

The original intention of the exercise was to carry out a semi-quantitative analysis using Objections and identifying common themes between a wide dataset of heritage cases. However, due to the fact that engaging with the planning system is challenging for those who are not professionals or who are at least actively engaged with the system, the phenomenon behind Objections is that people copy and paste Objections written by NGOs or professionals. This therefore limits the value of Objection data. Exceptions were

found for cases such as Santa Lucija, where, for example, residents explicitly expressed a rejection of the potential to profit from their land in favour of quality of life. Thus, when the scope of the exercise was adjusted to instead focus on a small number of case studies, the exercise of creating the database allowed for a familiarity with certain themes. However, the value of the exercise primarily lies in follow-up research, subject to fewer resourcing limitations, as discussed under the subsequent section titled 3.6 Limitations.

3.5 Integrating the Results

The results will be placed into tables with the 8 Principles to facilitate categorisation. This will allow for a common thematic analysis. Clarke and Braun state that when used with a qualitative methodology, thematic analysis emphasises flexibility through "an organic approach to coding and theme development and the active role of the researcher in these processes" (2017, p.297).

Given the exploratory approach being taken, the flexibility provided harmonises well with the interpretation of Ostrom's 8 Principles when applied to the various modes of governance at play as regards built heritage in Malta, and the novel approach being taken to study it in the context of the commons. Having selected thematic analysis, Clarke and Braun further advise that transcription should be followed by engagement with the data, a subsequent coding process, and then a grouping of data into themes (Braun and Clarke, 2006, pp.88-94).

3.5.1 Ostrom's IAD Framework – Mapping Exercise

The results which emerge will be discussed initially through the application of Ostrom's Institutional Analysis and Development (IAD) framework. It will be employed within the context of the mapping exercise. The framework broadly allows for the study of institutions by helping to order their "diagnostic, analytical, and prescriptive capabilities"

(Ostrom, 2011, p.9). In practice, the framework centres around action situations, in which actors, affected by external variables, and with varying positions and levels of control, create outcomes. By studying the relationship between variables, actors and the action situations within which the actors find themselves, one is better able to understand institutions and how they interface with the commons, contributing significantly to answering the research questions.

The themes and general results from the case studies and interviews will provide the language and points of reference for the desk research in the mapping exercise to be complemented and strengthened. The IAD framework will in particular provide the groundwork to answer the first two research questions.

3.5.2 Applying Ostrom's 8 Principles

Ostrom's 8 Principles will be referred to throughout the mapping exercise, but will most significantly once more come into play in answer to the final research question, which calls for the provision of policy direction. As design principles for institutions, the 8 Principles will allow for the most significant potential policy remedies to be grouped under each of the principles.

3.6 Limitations

While mixed methods research would have been ideal, and an extensive attempt was made to build a database of quantitative data through two weeks of browsing the EPRT portal for heritage-related appeals, it was concluded that time and resources were insufficient to carry out a scientific, representative analysis of the data in such a way as to contribute to answering the research questions. As over 235 heritage related cases were identified between 2016-2023 on the EPRT portal, there was insufficient time to go into further detail on each of the cases extract comparable data through the eApplications

portal, as it would necessitate reading the case officer reports, objections and Superintendent's comments for each one. However, the exercise allowed for the identification of the case studies according to the the categories outlined under Rationale in Table 3, and provided a familiarity with broad trends. However, the cases which make it to appeals are not sufficient for definitive statements to be made about the broad trends. Instead, the exercise offers a basis and potential for future quantitative research.

Darnton points to attempts to complement economics whereby "theorists... build bridges between economic theory and learnings from psychology" through behavioural economics (2008, p.7). While such studies to assess the phenomenon of free-riding in Maltese society would have been particularly helpful to answer the research question as to what threatens the commons, the ability to obtain a truly representative and scientific sample was the main obstacle. Such a study would require significant resourcing. It was decided that such future potential research should instead be highlighted, and the path towards it paved with this initial qualitative study outlining the theory, its application, and providing deep institutional insights through the lens of the commons.

3.7 Ethical Considerations

As semi-structured and personalised interviews were to be carried out, and furthermore, the data was not to be anonymised, permission was sought from the Faculty Research Ethics Committee. An information letter was approved to share with participants, as well as a consent form outlining their rights, which include the right to withdraw permission for their data to be used, guaranteeing that all recordings would be kept private and deleted after the dissertation, by no later than June 2024.

These documents constituted a strong basis of informed consent for interviewees, providing a necessary "list of... entitlements and a range of information that they can

choose to request from the researchers" (Israel and Hay, 2006, p.61). While "written consent forms can be difficult to follow" (ibid, p.62), those interviewed who were most sensitively positioned furthermore had their consent forms initially received and processed by secretarial staff, who were able to revise the information letters and consent forms and advise their superiors accordingly.

Furthermore, when interviewed, where there was a risk foreseen to participants through their answers to questions which might prove controversial, they were always reminded of their rights, and asked again if they were comfortable being quoted. By signing the consent forms, participants were agreeing to have their answers featured as quotations, views and findings in the dissertation.

Chapter 4: Results

The results chapter showcases how the data was organised according to Ostrom's 8 Principles in Table 4, both across the case studies and the semi-structured elite interviews. After the data was collected and analysed according to the principles of thematic analysis, the emergent themes were also organised according to the 8 Principles in Table 9. The data from the case studies and interviews was then combined with the IAD framework to complete the mapping exercise in Table 10.

Table 4. Case Studies.

Case Studies	Razzet I-Antik - PA/3360/19	Villa Barbaro - OC019	Villa Frere - PA/8485/20	Walmarville - PA/0116/21	Santa Lucija - PA/01432/20
1. Clearly delineated boundaries	Grade 3 protection removed.	The battle concerns boundaries - the establishment/removal of buffer zones, and building heights.	Plans to develop adjacent garden would infringe on context - NGO achieved upgrade of villa from Schedule 2 to Schedule 1.	Site was not Scheduled, nor in UCA, depended on Superintendent's use of Cultural Heritage Act to argue that he has the power to decide what is cultural heritage of value.	In spite of the street not consisting of particularly old houses, the Superintendent recognised the value of the character and context and warned against its ruination.
2. Match rules to local conditions	Value ascribed to it by community/local council not matched by policies. Community does not benefit from the project.	Fight by developers and residents to prevent buffer zones around Schedule 1 property, to protect speculative profits. Comes at expense of context of national heritage. PA considers needs of 11 property owners rather than whole community.	A space made accessible to the public on a monthly basis provided value to community, helping to counterbalance developers' demands. By building broad coalition, offering site to Heritage Malta, broad coalition was built to influence PA's	Value of the site in Balzan was not captured by policies and legislation, required extraordinary situation of Superintendent appealing the PA's decision directly.	The policies ultimately favoured the residents due to the rhythm of the street. One common anonymised objection was that residents were convinced it would be wrong to profit from speculation having freely received the land as part of the Home Ownership

			interpretation of informal and formal rules-in-use.		Scheme.
3. Ensure those affected may modify rules	Community, NGOs, local council overridden and ignored.	Only those with direct private property interest given weight, rather than whole community of Tarxien. Marquis Cremona Barbaro given limited access to documents on reconsideration of buffer zone.	Friends of Villa Frere were able to convince Superintendence to agree to increase levels of protection of location.	EPRT put in unprecedented, awkward situation where it faced Superintendent's arguments which referenced Constitution, and specific brief of powers - EPRT avoided making a land-mark judgement by sending it back to PA.	"As a resident I acknowledge that should this planning application be approved in its current state, it would increase the value of our properties, given the development potential that the site would offer... In light of the sure increase in the urbanisation and population density in the area that this... development would bring to the area should this development be approved, we prefer to forgo the future profit potential and preserve our locality." - Objection
4. A community	Lack of monitoring	Marquis Tony	Collective effort by		Door to door

system to monitor members' behaviour	led to illegal demolition and rock cutting.	Cremona constantly on the look out for new applications - failed to catch one on time during open objection period.	NGO to keep an eye out for planning permits which might threaten the site.		collection of signatures for a petition brought community attention onto the project. COVID-19 made participation in the process much more difficult, however, and IT literacy was raised as a major issue. However, because it was a coherent community, collective action was possible.
5. Use graduated sanctions	Heritage Gain of €100.00 per square metre of illegal demolished structure and rock-cutting imposed.	Residents are incentivised to speculate and try and develop property before buffer zone can be established.			Land was provided under the Home Ownership Scheme, and residents were outraged at the attempt to speculate on the basis of freely received land. However, there are no tangible penalties to developers for breaking informal rules by trying to

					develop the land - they have nothing to lose by applying for the permit.
6. Low-cost means for dispute resolution		Marquis Cremona Barbaro constantly having to pay out of pocket to appeal against permits applied for even before disputes on buffer zone are decided.	Crowdfunding and community support helped build a warchest.	Government at war with itself - paying money to government to contest government decision.	Concern raised in objections about the elderly being able to make their voice heard due to COVID-19. "It is important to note that not everyone is proficient in IT to be able to submit objections through the PA website or other means." "Many people do not have the facility to submit their objection online and there are already hundreds of residents who signed a petition against this development."
7. Ensure local rule-making is respected	Local Council's attempt to argue for an urban green space	Private property regime interpreted in favour of potential	Local rule-making was respected thanks to strength of	Superintendent stepped in to agree with local rule-	PA refused the initial application, but EPRT overturned it

	for public use was ignored.	future speculation.	coalition of actors.	making and change outcome.	and granted the permit, only for it to finally be quashed in Court of Appeals. Consensus is this may set a positive precedent.
8. Govern the commons in nested-tiers	Institutions working against Local Council, NGOs and community.	Heritage Advisory Committee defending buffer zone, PA Chairman ignored advice received.	Involvement of various stakeholders and Heritage Malta counterbalanced influence of developers.	Community and Superintendent worked together against another part of the government.	Superintendent recognised the value of the context of the street, Local Council supported the residents, and PA also refused the permit. Community pressure may have been the deciding factor for interpretation of policies.

Table 5. Interviews Set 1

Interviews	Minister of Finance	Hon Albert Buttigieg	Prof Alex Torpiano	Astrid Vella	Perit Tara Cassar
1. Clearly delineated	Stated there has never	Stated that as Mayor, he	Heritage is not only what	Certain heritage is	The chief fight of NGOs is

boundaries	been a balance between development and environment, an oft mentioned political objective.	viewed projects in relation to how they benefit or harm the community. As former CEO of Housing Authority, he says that not all heritage can be repurposed for modern needs.	is historically important, but it is landmarks which shape a community's identity and their lives. In Malta there is an inability to distinguish between iconic buildings and this wider built context which belongs to the community. Furthermore, planning implies the common good and without it one does not have planning. The basis of planning law is boundaries.	idolised and very well protected - that which relates to the Knights, while British-era heritage is given less importance because of its association with colonialism.	to get the institutions to correctly interpret own policies which do not give people a "right to build", but instead require that context of streetscapes is respected. Maximum allowable height is not a right to build that much.
2. Match rules to local conditions	Wants a move from economy that emphasises	Massive gulf between central government and	The value a community ascribes to a site should be	Rules previously led to extensive dilapidation due	Rules are not interpreted according to local

	quantity to one of quality, and to stop giving developers special treatment and ensure proper enforcement. Calls for party financing reform.	local councils, with local councils and communities ignored, power increasingly centralised, and needs of community ignored in favour of business interests.	taken into consideration. In planning, little consideration is given to how a ruin may contribute to a landscape in the countryside, for example. The PA erroneously attributes value on predominantly economic terms rather than other forms of value.	to the need to track all heirs, sometimes even to Australia, and obtain unanimous consensus.	conditions, but are interpreted in spite of them. A slightly undermined context is used as an excuse to degrade the remaining context.
3. Ensure those affected may modify rules	States there is a lack of sufficient popular will to reform the planning system, but there is gradual change towards it.	Local Councils are completely disempowered and are not given due weight. They should have a veto at the PA.	It is true that developers have been most vociferous up until now, but the voice of those who oppose overdevelopment is growing louder and	While previously, there was a big demand for families to develop so to provide housing for their children, but today, the trend is more so people	NGOs have spent years fighting for the correct interpretation of policy and respect of context, but the fight goes on.

			louder and will do so until politicians can no longer ignore it.	selling land to developers and the developers doing the development - so it is not necessarily a culture of development per se.	
4. A community system to monitor members' behaviour	Desires reforms to ensure better enforcement.	Permits are not always correctly affixed, the planning system is all about "evading the scrutiny of the public". Then community members see neighbours developing property, creating an attitude of "If they can do it, why can't I?"	Defending context depends on trust, as if one person develops higher, it ruins the context of the street and encourages similar behaviour. So long as people trust one another not to sell out, there is a more stable situation.	Scheduling records are not available to the public. Attempts to deschedule Razzet l-Antika in Fgura were refused twice. FAA was denied access to those reports for the refusals. Lack of transparency in the institutions.	As permit applications are published in Government Gazette, only way to keep track is to read it constantly. Din l-Art Helwa has developed a tool to make it easier to collect objections. PA is now no longer showing the appeals information on its portals -

					why the decrease in transparency?
5. Use graduated sanctions	Rule-breakers see penalties as an insufficient hindrance to deter them.	Developers are not intimidated by sanctions. "There is a culture of no enforcement".	"In Malta the problem of legislation is always its abuse."	The government breaks the law, rules and policies related to heritage with impunity, such as carrying out structural works without a permit on San Anton Palace in the early 2000s. More modern examples abound.	
6. Low-cost means for dispute resolution		Local Councils need to pay out of limited funds to hire professionals to fight planning cases, and the Councils pay that money to the government they are	Developers can go straight to politicians to gain the permission they want without consequences.	The Superintendence has been hijacked, its staff who were considered problematic for developers forced out or given work unrelated to	

		fighting.		their skillsets. PA has transferred its institutional culture to Superintendence.	
7. Ensure local rule-making is respected	Feels that local rule-making is being respected, because there is a desire for development.	Government authorities are appointees, not answerable to community. Not only are local authorities ignored, but they do not even get to benefit from the eco-tax they collect.	People fight developments, and the developers anticipate this and carry out their calculations with a smaller volume in mind than what is actually proposed.		Countered the narrative of NIMBYism. "Why shouldn't people take an interest in what happens in their locality and protect their home?"
8. Govern the commons in nested-tiers	Is against adding more layers of bureaucracy due to a lack of human resources nationally.	"The central government reduces local councils to a customer care office."	No doubt there has been political pressure to promote development at all costs to use it to revive the economy, and support	Shift of staff from PA to Superintendence means that the latter's institutional culture has shifted to one which is	The main NGOs try to be national in scope and not work only on certain localities.

			economic model of growing population. Building is being encouraged in Gozo particularly through favourable sales tax.	very development friendly. The institutions work together to undermine built heritage.	
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Table 6 Interviews Set 2

Interviews	Jamie Buttigieg	Dr David Mallia	Perit Carmel Cacopardo	Superintendent of Cultural Heritage	Michael Stivala
1. Clearly delineated boundaries		Citizens fight attempts to Schedule their property, and often fight Heritage Advisory Unit to try Deschedule their property for development.	Boundaries are often revised to favour development.	Whether something is worth protecting is decided on the basis of its historical value, architectural value, social context and research	The value of heritage is not just economic, but its contribution to our identity. Heritage contributes to tourism. It should be restored and

				value as well as context.	empty ones used - "buildings are to be used by people and enjoyed by people."
2. Match rules to local conditions	Many residents employed by developers or dependent on them or the Minister, forcing them to work for an industry changing Gozo in a way they dislike.	Rules and policies are entirely open for interpretation, and it takes 1000 Objections to make boards pay attention to arguments not to develop. Status quo favours those applying for permits.	Rules were initially designed to favour a rigorous planning approach, but watered down over time to favour development; Local Plans and Rationalisation rushed out to evade Strategic Environmental Assessment Directive.	Superintendent thinks that policies and rules are all adequate, and that the rest is merely a question of how they are interpreted.	There is a lack of long-term planning in government - the country should be aiming towards quality. Development towards ever higher volume is required, but if we achieve an economy of quality, less could be built without losing profits. "Once you build, it lasts decades and affects the country for the coming

					decades. PA gives permits supposedly according to the demand of the country. What is the demand? Nobody knows."
3. Ensure those affected may modify rules	Patronage system in Gozo is so strong that Minister has all the power, and he works with developers.	Those who want to develop are most likely to make the strongest cases to develop, as they have most invested. Over time, NGOs have become more professional in their attempts to protect heritage.	When Sliema Local Council carried out a consultation on building heights for the Loca Plan, everyone wanted to build as high as possible on their own land and limit the ability of others to build high, as it would spoil their views.	The Superintendent talked about the lack of documentary evidence for the Razzet l-Antika in Fgura, proving its connection to the Ficura family, as justifying its demolition. This contradicted the social context importance provided by Local Council and community.	There is a struggle to adjust bureaucracy which is driving costs of development up. Previously, PA had fixed timelines and now they are dragging out the permitting process. Same for waiting for clearance from BCA.

4. A community system to monitor members' behaviour	Lucky enough to notice PA permit affixed - but monitoring in general is hindered by omertà.		The planning system has a high barrier to entry for people to engage with it, object, and navigate it.	Superintendent praised how the community sometimes comes forward with new information to help protect sites, and Superintendence always investigates leads offered.	Undue influence on the planning system should be addressed through party financing reform, and the state-funding of political parties.
5. Use graduated sanctions	Developers are fearless, and he was even threatened various times.	People appeal Emergency Conservation Orders to run out the clock on the order, until it expires. The system is currently ineffective.			Commented that the Maltese are not very disciplined.
6. Low-cost means for dispute resolution	Strong suspicion of corruption and conflict of interest in PA and EPRT.	Those with a big financial incentive to develop have deep pockets to fight out the process, and simply re-			There is a struggle to adjust bureaucracy which is driving costs of development up.

		apply if they are refused.			Previously, PA had fixed timelines and now they are dragging out the permitting process. Same for waiting for clearance from BCA, as compliance certificates are taking months.
7. Ensure local rule-making is respected	Gozitan Mayors had unanimously demanded change, were ignored, and some are compromised by relationships to developers.	Malta is subject to extensive NIMBYism and therefore the planning system is merely a reflection of local rule-making which favours development.		The mention of social context means that the Superintendent considers people's identity, collective memory and stories about a place. In Gozo, the home of Nicholas Montserrat was protected.	"One of our proposals is about air spaces. If currently there is a street where Local Plan allows 5 floors, and government wants to change the policy... You sell airspace to developers, passed into areas where towers are

					allowed. 25 floors, to 30, floors. If you have a row with 2 floors and it is maintained you have a very positive effect. The owners of those houses will not lose the right to build."
8. Govern the commons in nested-tiers	The true wishes of the community and Local Councils are ignored.	PA and Superintendent work well together due to transfer of staff.	Institutions lack autonomy - during time as Investigator for MEPA's Audit Office, he noted Minister leaving no written records to show complete control of PA Chairman, but control and impact was obvious.	Superintendent claims a very strong working relationship with other institutions, and says powers have never had to be used that he is aware of to contradict a Planning Authority decision, in spite of appealing	

				Walmartville.	
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Table 7 Interviews Set 3

Interviews	Martin Camilleri	Perit Andre Pizzuto	Perit Simone Vella Lenicker	Dr Shirley Cefai	Prof Kevin Aquilina
1. Clearly delineated boundaries	People do not have a "right to build", as evidenced by the Santa Lucija case. In the case of Rationalisation, it does mean they can build something, but there is no right to building anything specific. Context is crucial to value.	Heritage given most importance is that of the Knights as British era architecture is associated with colonialism. Sliema architecture, for example, might be seen in Chelsea or Fulham, but with Maltese features.	The "right to build" argument, whereby Local Plans delineating maximum heights entitling to build to that height, is a line of argument called "vested interest", pushed by Dr Robert Musumeci. Theory implies people could sue government for changing	Protecting heritage requires people to recognise its value.	Attempts to delineate boundaries, such as restrictions on heights, seem to have been replaced by the "law of the jungle".

			policy.		
2. Match rules to local conditions	PA tries to uphold common good, but the number of representations / objections is not in itself evidence of the common good. Policies strive to be non-discriminatory and impartial.	The <i>forma mentis</i> of Maltese planning laws and policies is not to address how appropriate they are to local conditions and characteristics, the point is merely to stimulate economic activity.	SPED and many policies are written so vaguely that they could be interpreted in any way that is convenient. Right now what is also being ignored is the mental health of people affected by overdevelopment.	People forget Malta is a small island, and foreign rules and best practices are copy pasted onto the small-island context inappropriately. Things are, however, improving overall on policy front as there is more awareness.	The PA does not carry out any planning, therefore rules are written for the sake of development. "There is no plan except cacophony".
3. Ensure those affected may modify rules	Planning is an evolving and dynamic process. Rules change depending on factors such as the economy, level of public support, environmental impact, etc.	The Kamra tal-Periti has very little influence on policy. A variety of approaches have been tried - from hostile to friendly - with few results. Similarly, public opinion	"Decision-maker decides on what becomes policy based on how it can garner support from developers/business community."	Peer pressure is important - but we have to be clever how to do it. In any battle, you have to let the other side feel they are winning as well. You have to be careful, not to be too	Rules are modified as per the needs of developers, given that they donate to the political parties and therefore unduly influence them. An analogy was made to the political

		is interpreted by politicians in the most favourable way to the.		aggressive as people become defensive.	dependence on the hunting lobby.
4. A community system to monitor members' behaviour	The PA feels the pressure of public scrutiny and social media, and there is an emphasis on institutional transparency.	The Kamra has set up a new permanent committee a few months ago to draft guidelines on conservation and restoration standards and benchmarks to be able to monitor members' behaviour.	Disciplining developers relies on people reporting and if nobody reports nobody is enforcing. There are also institutional resourcing issues, especially with the Superintendent.	It is a positive that people are beginning to protest and make their voices heard, and awareness is increasing.	NIMBYism implies people mostly pay attention to what is in their backyard but do not care to monitor what goes on elsewhere.
5. Use graduated sanctions		New Periti Act has just come into force, with an EU Directive & Commission Delegated Decision, obliging periti "to protect national,	The periti code of conduct has been in force since 1920s, only discussing topics related to conflict of interest. New Periti Act, however, puts onus on the	Hunters had once vandalised Mnajdra to make a political point - there should be more emphasis on working together in Malta,	Illegalities are handled by letting the quantity of them build up, then regularising everything and collecting the money from regularisation.

		cultural, social and environmental heritage. Clearly, failing to do all of that constitutes a need to discipline a member but it is very broad and undefined but that is why we need these guidelines to be published. They give a framework and a benchmark upon which to take a decision."	periti to safeguard heritage. Therefore, theoretically, and it remains to be seen, that a perit "could be brought up before a Disciplinary Board for blatant breach of these principles." A perit has a warrant because their work does not only impact their client, but society.	identifying parallel uses to avoid problems in the first place.	Illegalities are handled by turning what is illegal into the legal. Exceptions become the rule. When NGOs or public challenge government decisions, the odds are also stacked against them because of government's wealth of resources - David vs Goliath.
6. Low-cost means for dispute resolution	PA tries to be as transparent and accessible as possible.	The scope for dispute resolution will be extended by the Periti Act, but how to interpret the	The scope for dispute resolution will be extended by the Periti Act, but how to interpret the	In the past, speaking out against certain projects or interventions could get one blacklisted in the	Decisions seem to be made based on unequal power structures because "the more money you

		rules is vague.	rules is vague.	profession.	have, the more floors", for example.
7. Ensure local rule-making is respected	PA feels it needs to go beyond NIMBYism, and certain public complaints about certain projects, such as sale of government land, have nothing to do with the PA.	Kamra tal-Periti feel completely ignored, as evidenced by the new rules at the time of the interview on land valuation of agricultural land.	Periti are currently discussing how decisions like the Santa Lucija case affect property values and how periti should advise clients on such issues.	Local architects resist aesthetics policies which might restrict their designs and egos. Local pressures towards rule-making may contradict each other and therefore limit results.	There seems to be a pro-development culture, and NIMBYism, which means rules are enacted accordingly. An analogy in terms of free-riding was drawn with unions, as even those who are not members of a union benefit from the efforts of unions.
8. Govern the commons in nested-tiers	To function most effectively, PA requires adequate resourcing from government, and there is	The Planning Authority is not really an authority in that it has no independence - and no	The trend of facadism and other actions show a disregard for heritage principles and	Superintendence needs to grow to become as big as the PA. It lacks manpower to properly vet the	The system and its institutional culture is "in favour of development and against the environment.

	currently a shortage of human resources, as pay is not competitive and there are many new staff members who lack experience. Certain level of public support is also ideal. PA has complex IT requirements.	Maltese authorities are truly authorities in this regard. Even in the 90s, there was no genuine independence. Institutions lack the technocratic and skilled repertoire of professionals.	international best practices - which can be interpreted as Malta not working in nested tiers to heritage on an international level.	permitting process and it should not merely be a consultant. Local Councils can help with heritage protection - the problem is trying to get them to work together. Gozo deserves its own subset of policies and governance.	The Planning Authority is interested in the development side of development planning."
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Table 8 Interviews Set 4

Interviews	Bjorn Bonello
1. Clearly delineated boundaries	The current socio-economic system is designed to exploit migrant workers and does not consider them as having a right to expropriate or benefit from many communal resources. They are practically forced towards ghettoisation and as they are not integrated they might be disconnected from the cultural value of built heritage.
2. Match rules to local conditions	Rules are written or revised, like Annex 2 of DC15, to not only require a certain level of technical knowledge not previously

	required, but so that they may be open to interpretation. Letter of the law may be ignored, let alone the spirit of the law. Malta currently has "zero" planning.
3. Ensure those affected may modify rules	Chamber of Planners not endorsing the environmental protest of 27th May because it is too radical in its call for scrapping policies, many of which tick all the right boxes but are interpreted badly. What is needed is not a fresh start.
4. A community system to monitor members' behaviour	The new height limitations of Annex 2 of DC15 make it very hard to understand how many floors are going to go up, making it hard for average people to keep track of what is going on. Before floors and heights were more easily understood.
5. Use graduated sanctions	Migrants lack the protections needed and are ruthlessly exploited - so there is an access to justice issue, which could backfire as the lower classes fight themselves.
6. Low-cost means for dispute resolution	"Most people do not have the resources, the time and the strength to pursue appeals and reach the Court of Appeals, and that is in itself discriminatory because a person should have the serenity that if there is something that is causing him harm, he can easily express his views and not be ignored." We need meaningful consultation and community participation, not biased judgements from PA and EPRT.
7. Ensure local rule-making is respected	Chamber of Planners established for 30 years, fruitlessly trying to convince politicians to change course and find political will for reform.
8. Govern the commons in nested-tiers	There is no element of planning in the Planning Authority. We do development control. Political will needed for good policies

	and strategies into reality.
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Table 9. Themes and Interpretation.

Ostrom's 8 Principles	Emerging Themes	Initial Interpretation of Data
1. Clearly delineated boundaries	Unclear Heritage Value: Determining the value of a building is key to the delineation of boundaries. Where there is potential profit, there tends to be a fight over interpretation of heritage value, as actors regularly fight to Deschedule buildings, or resist having them Scheduled in the first place, while others try to obtain protection via Scheduling. A lack of Scheduling does not imply a lack of value, it merely alters the rules of the game. Similarly, context, or whether a building is in the UCA, still leave plenty of room for interpretation about what is permissible. Top-Down vs Bottom-Up: At times, interpretation of where boundaries begin and end may represent a fight between interest groups of elites against communities.	Unlike in Vigan, the lack of clear delineation of boundaries serves as the primary battleground between speculators and the wider community. This is because the openness to interpretation of policy seems to be a feature rather than a design flaw. So long as heritage value is open for interpretation, it means that the value may be repeatedly contested by speculators until obtaining a favourable outcome, as was the case of the Descheduling of <i>Razzet l-Antik</i>, or the removal of the protective buffer zone of Villa Barbaro on Church Street. The only difference between the infringement on the context of Villa Barbaro and Villa Frere is the coalition which Villa Frere built, and alliances with institutions. This shows the arbitrary nature of the boundaries which are ultimately established, as ultimately, they do not depend on heritage value when certain personal interests are concerned, but rather on economic, political or private considerations. Heritage value is judged more objectively when there is no major business interest

		behind its destruction.
2. Match rules to local conditions	Dissatisfaction with Policy: There is wide dissatisfaction with how the policies are being interpreted by those without a direct financial interest in their application. There is also dissatisfaction with the policies more generally, as there is a sense they are not serving the community, but rather, speculation. Quality vs Quantity: The current economic model is based on quantity rather than quality, but there is a belief that a sustained push needs to be made to change course towards quality. Rulemaking should therefore reflect this need. Dilapidation: Rules as previously written led to extensive dilapidation, which threatened built heritage. Acquiescence: People are economically dependent on a system which they know is harming them, but which they depend on, and which encourages their silence. The rules are not servicing their long-term wellbeing.	As Ostrom states, "self-organised governance systems need to match the rules that impose costs in a rough proportion to the likely positive payoffs that appropriators are likely to obtain over time" (2005, p.234). While Vigan's UNESCO status serves as a prime focus of its economic development with an engaged community, Malta's economic model instead incentivises individuals to seek short-term gain at the expense of the built heritage commons, and this tension manifests itself around the narrative of the "right to build", described by Perit Vella Lenicker. She calls it the theory of vested interest. The Kamra tal-Periti is calling for this interpretation to be rejected, and for architects not to value properties based on the maximum developable potential. Most actors recognize the need to realign the economy, incentives and disincentives towards quality, but the problem is agreeing on how to get there and who takes responsibility.
3. Ensure those affected may modify rules	Emphasis on Private Property Rights: The private property rights of individuals are weighed much more favourably than the interests of the community, with policies interpreted to favour speculation. All others wield comparatively little influence. Therefore, rule making is designed around preserving existing private property rights.	People's right to speculate is given more importance than people's right to live in peace, or even to benefit from their investment. The result is that while people may invest in a view or a certain context, and their own property value results from those factors, other people can undermine their investment with their own investments.

	Right to Live in Peace: There is a sense that the rulemaking potential of those against excessive development is growing louder. Furthermore, there is a sense amongst this cohort that money is not everything, and higher value may be attributed to quality of life.	The negative externalities are passed on. Speculators have the most influence over rule making, even for unrealised gains such as building high. Villa Barbaro's privacy would be infringed by those who build high and obtain garden views of the Schedule 1 property, ruining its context. But their speculation is given more value than the context of the heritage or even the privacy of the owner While in Vigan, stakeholders felt their voices were heard, in Malta the interviewees, especially the Kamra tal-Periti, feel they are ignored or not influential on policy.
4. A community system to monitor members' behaviour	Growing Public Awareness: The general public is growing increasingly concerned about heritage and environmental issues, and an increasing amount of pressure is being applied to politicians and institutions. Blindspot to Illegalities: Free-riders are able to act with impunity, solidifying an advantage and breaking the rules before they can be detected or stopped, or else, are immune to scrutiny. Disproportionate Energy Required: Monitoring the commons by the general public, to be able to object in a timely manner or catch offensive permit applications, is tremendously resource intensive and gives an advantage to those applying for the permits. People can simply re-apply for	Government monitoring is under-resourced, encouraging illegalities as institutions cannot act on time - this is of course coupled with the fifth principle on inadequate sanctioning. Vigan's Conservation Council instead directly involves the community, and thus benefits from that diffusion of expertise and efforts. The need for NGOs, Local Councils and communities to actively monitor the built heritage commons, either taking note of planning applications stuck to a wall, or else by reading the Government Gazette, or coming across a media story, showcases that the interests of the community are not adequately catered for by current monitoring mechanisms,

	permits in perpetuity until they are granted one, which keeps pressure. Furthermore, many residents may not be IT savvy enough to monitor or participate in the planning process, lodge objections, or attend hearings online. Lack of Transparency: In spite of PA claiming to strive for transparency, crucial documents are not always available such as decisions on Scheduling, and certain documents are removed or changes made which make things made more inconvenient - such as the removal of appeals from PA portal, so one has to go to EPRT portal instead to search for the documents in a much more time consuming way. Furthermore, the Government Gazette lumps all applications together, not even by UCA or ODZ, so they must be vetted individually for problematic cases.	especially when coupled with a lack of transparency. Marquis Tony Cremona Barbaro complained of one permit going through which may infringe on his property's context simply because he was not aware of it during the Objection time-window. The system heavily favours the speculator over the community, which has such a limited time to Object, which in itself is not straightforward to do effectively.
5. Use graduated sanctions	Impunity: Free-riders feel at liberty to carry out illegalities, as sanctions are not graduated, and enforcement is weak for formal rules. Informal Rules-In-Use: There are very low consequences for breaking informal rules-in-use and being a free-rider.	The incentives and disincentives heavily favour rule-breaking. Prof Kevin Aquilina stated that "what is illegal is made legal" through regularisation. There are also no matching social consequences for free-riders for the breaking of norms or informal rules. The formal rules are already inadequate.
6. Low-cost means for dispute resolution	Inequality: Developers are far more incentivised to dig deep into deeper pockets to fight to obtain permits, where they already have an advantage in obtaining them, against NGOs and individuals who are stretched thin. Furthermore, PA and EPRT decisions are biased in favour of development.	Past reforms have made the EPRT more accessible, and a major change was the introduction for third parties to be able to appeal on planning permits. However, the applicants are still far more

	Privileged Access: Developers can bypass the entire planning system by going straight to politicians, placing them outside of the impartial and objective dispute resolution system unless they arrive at the Court of Appeals.	incentivised to fight for their permits than objectors, as applicants have more to lose and more to gain. The system therefore favours speculation through the resulting impact on the incentives / disincentives. The Santa Lucija case draws a parallel to the Vigan homeowners' association, both showcasing successful arrangements whereby communities can pool resources to ensure favourable institutional outcomes for the community's common context.
7. Ensure local rule-making is respected	NIMBYism: One popular narrative is that the general public's appetite for development means that "this is what people actually want" and therefore, the system is not a perversion but rather a reflection of actual popular will. Alternatively, people simply do not care. This was challenged by saying it is natural and understandable that people care about their homes and want to protect them. Social Context: In spite of popular will against certain developments which are then approved, there is still an emphasis on the importance of social context helping to determine whether something should be preserved or not. There is a gap between theory and practice. Politicisation: There is a sense that the institutions only listen to politicians, not even, ultimately, to the developers and neither the communities. If anyone gets favourable treatment, it is because the politicians give the go ahead. Decisions are never made without a political dimension.	Growing desire for reform runs against inertia and path dependence. Menaldo states how politicians face a “restricted set of possible moves consigned by preexisting moves” and “the relative stickiness of institutions across time seriously impinges upon their ability to” enact changes (2016 p.79). Furthermore, “actors embedded in cursed institutions develop a stake in perpetuating pathologies” (ibid), resulting that attempts at community organisation to protect the built heritage commons still run afoul of precedent. Dr David Mallia mentions how one of the most common arguments made for applicants to get their permits is to argue based on precedent - if others have already managed to free-ride through a certain interpretation of policy, why should they not also? This inter party conflict stands at odds with Vigan's

		homeowners' association which contributes to local rulemaking and leaves no room for free-riding, as the rules are rigid and community driven. The precedent is positive.
8. Govern the commons in nested-tiers	Resourcing: There is a sense that protecting heritage requires more resourcing, such as a larger Superintendence, or addressing human resource shortages at the Planning Authority. There is even a sense from the Minister of Finance that the country lacks the creative thinking or resources to increase bureaucracy. There is a sense that nested-tiers face limitations. Perit Cacopardo stated that the UCAs were shrunk and that the country does not have the resources to protect all heritage. Lack of Autonomy: Amidst increasing centralisation, most nested-tiers of governance are considered compromised, captured or politicised, and those who are not are at odds with the entire system. Where institutions work closely together can just as easily be seen as a negative, if they work together closely on the wrong principles. Contradictory Decisions: Certain institutions seem to be working actively against their brief, contradicting themselves or adopting perspectives beyond their remit - revealing other agendas beyond their brief.	It is unsurprising that when institutions work together with civil society and communities, they are able to better share the efforts and the costs to provide heritage with the necessary protection and carry out the necessary research. This was evidenced by Villa Frere, but also matches a statement by the Superintendent that the public plays an important role by bringing information about heritage buildings to his attention, and they always investigate such leads. However, the lack of institutional autonomy means that decisions are potentially not made based on genuine heritage value, but on economic or political considerations. Different levels of governance do not work harmoniously - Local Councils find themselves at odds with the Superintendent regularly as the Superintendent gives the go-ahead for projects to progress, for example. Despite the case of Walmarville, where the Superintendent appealed against the Planning Authority, he says otherwise he works well with other institutions - but to what end? In contrast, in Vigan, institutions ensure broad representation and thus interests are networked and complementary.

The focus of the data extracted was what could primarily be appropriately paired with Ostrom's 8 Principles. The case study of Villa Barbaro and the interview with Marquis Tony Cremona Barbaro are the most complementary set of results, to the extent that they were not analysed separately, given his ownership of the property. Rather, the case study allowed for an analysis of documentation, while the interview provided insights from the experience and institutional politicking, for example, and the data is listed under the same column.

The initial mapping exercise was carried out through first reading the Development Planning Act, the Cultural Heritage Act, and the Environment and Planning Review Tribunal Act. Thereafter, the data arising from case studies and semi-structured interviews was also incorporated. The data was organised into the IAD framework according to the advice of McGinnis. McGinnis advises that in applying the framework, one examines first actors in position, then rules-in-use, followed by the attributes of relevant communities, types of goods/biophysical dynamics, evaluative criteria and then finally, feedback loops (2017, p.93).

Table 10. Mapping via IAD Framework.

IAD Framework	Interpretation
Actors In Positions	Actors in the Action Arena: Executive Council Planning Boards Planning Commissions Actors in Adjacent Action Situations: Superintendent of Cultural Heritage, ERA, Ombudsman's Office, Parliament, Government Executive, Political Parties
Rules-in-Use	Formal Rules: Development Planning Act, Cultural Heritage Act, Environment and Planning Review Tribunal Act, SPED, Local Plans, PA Circulars Informal Rules: Institutional Culture of Planning

	Authority and Superintendence, Openness to Interpretation of Planning Policies
Attributes of Relevant Communities	Data which emerges from the case studies and interviews, implying a certain amount of NIMBYism, or alternatively, a difficulty to coordinate grassroots support across localities with the exception of a few chief NGOs. The free-rider problem is felt through a potential "development culture" as stated by Prof Kevin Aquilina, where there is resistance to attempts to limit speculation.
Material Conditions / Biophysical Dynamics	The economic model, the cost of materials and the pressure to maximise profits lead to non-naesthetic designs, demolition of heritage and abandonment of limestone as a material in spite of its value to context.
Evaluative Criteria / Outcomes	Aside from the formal rules-in-use outlined in the forms of direct policies, the Superintendent stated that the value of heritage, and thus permits, are decided according to "the architecture of the building, its historical importance, its social value, research value and its context". He also observed that the economic feasibility of restoring a building factors in - in other words, its state of dilapidation.
Feedback Loops	Precedents are set, context eroded and communities disintegrated, creating a feedback loop which favours the current economic model and establishes path dependence.

While Table 10 was designed after research into the formal rules, Table 1 was used to populate aspects such as the informal rules and evaluative criteria which are not self-evident from desk research.

Chapter 5: Analysis & Findings

5.1 Introduction

The themes which emerged from the research, as well as more general insights from the various interviews and case studies, are initially discussed in the context of the mapping exercise. The mapping exercise, conducted via the IAD framework, allows for another layer of analysis and discussion, providing yet another opportunity for insights to emerge. This is achieved by integrating all the results obtained so far, as well as the desk research, into the IAD framework and discussing and analysing the results. Before the IAD framework can be applied to the permitting process, which was chosen as the key action arena, a brief institutional history extracted from the results is provided to offer context.

5.2 Institutional Background

Through the semi-structured interview process, themes emerged introducing the overall picture of built heritage as a commons in Malta through an unwritten history to contextualise how the threat to the commons emerged. Speaking from their position as critics of the current planning system who had formerly operated within it, Prof Kevin Aquilina, Prof Alex Torpiano, Perit Carmel Cacopardo and Bjorn Bonello stated in their interviews that the Planning Authority at its inception had been a stricter and more meritocratic institution in 1992. Prof Aquilina, as a former Chairperson of the Planning Appeals Board, stated that the Planning Authority had been established as a relatively autonomous and independent institution, but which was gradually politicised and placed under political control over the subsequent decades.

Perit Cacopardo, who between 2003-2006 was the Investigator in MEPA's Audit Office, states that between 1992-1996, the Planning Authority's staff was exceedingly competent compared to the rest of the public service at the time, and that those were its best years,

relatively free from interference. Prof Torpiano, who formed a part of the first appeals board when the Authority was set up, similarly attested that planning was "exceedingly strict" in its beginnings in the early 90s. Bjorn Bonello, President of the Chamber of Planners, stated that while currently the Planning Authority is only concerned with development control, in the 90s it gave importance to forward planning. Nonetheless, Perit Andre Pizzuto, President of the *Kamra tal-Periti* thinks that even in the 90s, the Planning Authority lacked the autonomy to be truly considered an authority, which by definition, should be fully independent.

Perit Cacopardo attributes the decline of the Planning Authority to the change in government in 1996. He sees the change of government, in part, as resulting from political pressures arising from a new Planning Authority which refused to dish out permits to whoever wanted them, with the Labour Party opposed to the new Authority's stringency. While Labour may have begun to relax planning regulations, it "increased the utilities tariffs to reflect and recover water production costs and introduced a sewage tax in 1997" and "also started a scheme registering boreholes for the very first time" (Cleavon, 2017, p.107).

The resulting disgruntlement was a contributing factor to the return of the Nationalist Party to power in 1998, which immediately went about introducing "additional social rebates" (ibid) and diluting some of the costs which Labour had placed on utilities. This set in motion a vicious cycle whereby interest groups were able to apply whatever political pressure was necessary to prevent meaningful action to protect Malta's limited water resources and prevented any government from implementing a coherent long-term water strategy (ibid, p.139).

The relevance and interest of this parallel commons is that it showcases an institutional trend and reinforces the results arising from the research carried out into Malta's built heritage commons, as the two commons have suffered a similar fate in parallel and arising from similar pressures. It also reinforces the applicability of the commons concept to built heritage and offers the opportunity for common solutions to a deeper underlying problem common to both wicked problems. Evidently, what emerges is a Prisoner's Dilemma situation between the two remaining political parties in Parliament, with players unable to cooperate for fear of the other taking political advantage of the situation. The possibility to protect the commons is therefore lost through a race to the bottom, with both parties catering to free-riders and arriving at suboptimal outcomes.

Perit Cacopardo implies that in terms of MEPA's institutional history, a critical point was reached in 2006, when as a member state of the European Union, Malta was set to be subject to the new Strategic Environment Assessment Directive. In an act of what Perit Cacopardo describes as bad faith, the authorities released the full set of Local Plans and carried out the Rationalisation exercise which would add land to the development zones during the transition period of the Directive, concluding these exercises shortly before the Directive came into force. This was to ensure that both exercises were friendly to development, as had they waited until after the Directive, it would have significantly limited what was possible, against the interests of development.

Strictly in terms of built heritage, Perit Cacopardo states that UCAs were originally more extensive, but in 2006 were reduced in size, which is evident with a quick side by side comparison with the Temporary Provisions Plans. He states that this, however, was not necessarily a negative, as treating certain heritage the exact same in a standard format can

be impractical, as some heritage has more value, and in his opinion, the country lacks the resources to adequately monitor and protect everything. This ties to Dr Shirley Cefai's statement that the Superintendence should have grown on par with the Planning Authority, such that today, it would be an institution of similar size and strength, and could adequately protect the country's heritage on the whole.

With an eventual change in government in 2013, Prof Kevin Aquilina describes the new administration's decision to split MEPA back into the PA and ERA and roll out new rules and procedures would undermine the institution's autonomy further and lead to a greater deficit in good governance (Aquilina, 2015). When interviewed, commenting on his article from 8 years prior, Prof Aquilina took the longer view that ultimately, the reforms fundamentally had changed nothing at all, as autonomy had long since been lost, and the trend in favour of development had not abated.

The brief institutional history covered thus far sets the stage for a deeper analysis of the built heritage commons. That fundamental similarities may be drawn with the groundwater commons demonstrates that the chief challenge facing Malta is institutional failure to address a free-rider problem. In other words, the tragedy of the commons has not been held in check. Worse still, institutions not only fail to prevent free-riding, but the preliminary implication is that they are complicit, and act as "an instrument for the government to extract rents from the private sector" (Caruana-Galizia and Caruana-Galizia, 2018, p.422).

A subsequent analysis will be carried out by applying Ostrom's Institutional Analysis and Development Framework (IAD). Ostrom introduces the IAD by stating that "to understand institutions one needs to know what they are, how and why they are crafted and sustained, and what consequences they generate in diverse settings" (Ostrom, 2005,

p.4). By discussing the themes arising from the case studies and semi-structured interviews through the lens of the IAD, the research questions may better be answered, particularly with a view to considering the consequences of the threats to the built heritage commons, and ultimately, solutions. The order of discussion follows Table 10.

5.3 Institutional Analysis and Development Framework

In applying the IAD, McGinnis recommends first deciding if the scope is an intention to either solve a puzzle or conduct a policy analysis relating to hypothetical policy scenarios (McGinnis, 2017, p.87). In this scenario, the IAD framework will take on a hybrid nature, limited not just to policy solutions, as per the third research question, but trying to understand the outcomes and processes of the permitting process in greater detail. In this manner, one shall be able to understand exactly what threatens the commons, its consequences, and allows for a subsequent discussion on policy to answer the third research question.

5.3.1 Action Situations

The basis of applying the IAD framework begins with identifying an action situation and the arena within which it occurs. Ostrom describes an action situation as "the social space where participants with diverse preferences interact", with a view to arriving at certain outcomes (Ostrom, 2005, p.14). The epicentre of Malta's planning system is the Planning Authority based in Floriana, and is established by the Development Planning Act. Hearings for planning applications, which are predominantly taken before the Planning Commissions, constitute the chief action situation of interest.

Action situations must result in outcomes. Outcomes result from the engagement of "participants and an action situation... affected by exogenous variables" such as biophysical characteristics, community attributes and the rules-in-use (Ostrom, 2005,

p.13). The inevitable outcome of the permitting process, whether or not appeals are involved, is the approval or rejection of a permit depending on interpretation of policy.

5.3.2 Adjacent Action Situations

McGinnis advises an analysis with the IAD must begin by identifying a "focal action situation", but also tasks the identification of "adjacent action situations" which further influence the context and influence of the arena under study (McGinnis, 2017, p.88). The outcomes of hearings in the Planning Authority depend upon interactions, decisions and other action situations taking place in parallel within other institutions. These institutions include the Superintendence of Cultural Heritage, established by the Cultural Heritage Act. Research conducted within the Superintendent's office is communicated to the Planning Authority during the planning process, and must be taken into account.

Similarly, other key institutions of interest include the Ministry whose portfolio includes planning at any given time, Parliament, ERA, Local Councils and the country's political parties. Other actors engaged in the planning process indirectly include economic players such as the developers, businessmen, warranted professionals and tradesmen, some of whom lobby or donate to the political parties. The role of the general public, particularly as objectors, lies not only in the strength of arguments made before the Planning Commissions, but as shall be seen, but in the political pressure brought to bear through the scale of potential lost votes.

While the action situation predominantly takes place within the Planning Authority itself, should a decision made by the Planning Board be appealed, then the case is brought to the Environment and Planning Review Tribunal responsible for deciding the appeal. In turn, if the decision of the Tribunal is itself thereafter appealed, the case is then taken to the Court of Appeals for a final decision to be made (Environment and Planning Review

Tribunal Act, 2016). Jamie Buttigieg, fighting on behalf of Nadur, stated that his impression was that justice might only be found at the level of the Court of Appeals, suspecting all intermediaries until then of foul play, with the exception of lone institutional actors acting in good faith.

5.3.3 Actors in Positions

Ostrom defines positions as "anonymous slots", which may be occupied and vacated by participants and exist independently of them, and may include official positions, households, and other fixed stations depending on the structure of the action arena (Ostrom 2005, p.40). In the case of the permitting process, these positions may be interpreted as the board members hearing applications, as well as the position of applicant and including the formal objectors.

As per Table 10, according to Article 38(1) of the Development Planning Act, the Planning Authority is governed by the Executive Council and its Chairman, predominantly appointed by the Minister (Development Planning Act, 2016, p.21). In terms of built heritage, the primary role of the Executive Council, as attested by Martin Camilleri, is the approval or rejection of Scheduling requests. This responsibility seems to extend to areas such as buffer zones, as Marquis Tony Cremona Barbaro noted that in the reconsideration of the buffer zone which was awarded to Villa Barbaro, it was the Executive Council which voted to repeal it.

It is the Planning Commission, however, which ultimately votes on planning permits. It is composed of four persons, including its Chairperson, who are all appointed by the Minister. According to Article 65 (2) of the Development Planning Act, the members "shall be chosen from persons of known integrity and who shall have knowledge of, and experience in, matters relating to sustainable development". (Development Planning Act,

2016, p.41). Members of the EPRT are likewise chosen by the President on the advice of the Prime Minister (Environment and Planning Review Tribunal Act, 2016, p.2).

Prof Aquilina describes the criteria for an appointment to a board position in the Planning Authority as "ignorance of planning, and how willing one is to obey instructions from above". The sense of absent political autonomy was reiterated by Perit Cacopardo, who during his time working for the Planning Authority stated that the Executive Chair was constantly being directed by the Minister, while leaving no written record of that influence, in a fashion which was irregular.

An immediate concern from this lack of autonomy in the appointment of positions emerges through Ostrom's sixth principle; that easy, accessible and low-cost means of dispute resolution are available. The implication is prefaced with the expectation of impartiality, which under such circumstances, cannot be guaranteed, as it depends then on the agenda of the political class, who are likely to influence the incentives and disincentives in the planning process in favour of their desired outcomes. The lack of autonomy of institutions was one of the most common observations which emerged, as per Table 9.

5.3.4 Rules-in-use

The rules-in-use which determine the outcome of the action situation in question may be divided into both formal and informal rules. The formal rules may be divided between acts of Parliament and policies. The acts are chiefly those revised at the time of the demerger of MEPA into the PA and ERA. As per Table 10, these are the Development Planning Act, the Cultural Heritage Act and the Environment and Planning Review Tribunal Act. While each of these acts delineates the responsibilities, structure and power of the institutions of concern, it is the policies which serve as subjects of chief interest.

The Development Planning Act, Chapter 552, establishes the policy hierarchy to be followed by the decision-making bodies when deciding whether a policy should be granted or not. Article 52 of the Act states that "where multiple plans and policies apply to the same matter or area and there is a material conflict between any of them", that precedence should be interpreted as "the Spatial Strategy over the subject plan, the subject plan over the local plan, the local plan over the action plan or management plan, the action plan... over the development brief and the development brief over other policies" (Development Planning Act, 2016, p.30).

Interviewing Dr Shirley Cefai from the Department of Conservation & Built Heritage, she states that local policies are written and take inspiration from policies abroad. However, they do not pay enough attention to Malta's particularities as a small-island state, and this is even more so the case for Gozo. In this regard, there is a clear neglect of Ostrom's second principle, namely, that rules need to be written according to local conditions.

When challenged on where policies might be improved, the Superintendent stated that aside from refining the meaning of policies, that the policies in place are fit for purpose. Rather, responsibility lies in interpreting the policies. It is this ambiguity of interpretation which is consistent with Ostrom's statement that "the same set of rules may yield entirely different types of action situations depending upon the types of events in the world being acted upon by participants" (Ostrom, 2005, p.22).

Interpretation of policy, and therefore the informal rules-in-use, represent the primary battleground in the permitting system. Perit Vella Lenicker states of SPED that it was written so vaguely as to be able to justify anything. This reflects the first of Ostrom's

design principles for institutions to successfully govern the commons; the clear delineation of boundaries. In the context of built heritage, this principle may be interpreted as relating to the fundamental question of where private property rights begin and end, and what is therefore permissible to demolish or build.

Perit Tara Cassar underlined that the primary fight of NGOs all of these years is to ensure that planning applications are interpreted according to their context, as the predominant trend is to award permits according to the maximum potential built height. Perit Vella Lenicker refers to this concept as "vested interest", and reflects a misconception that people have a "right to build", as per the theme of private property rights which emerges in Table 9.

That the formal rules-in-use are subject to major variations in interpretation is further reinforced by a statement from Prof Kevin Aquilina when interviewed for this dissertation. He points out that Maltese law does not follow the doctrine of precedent. Therefore, a decision made by the Court of Appeals on a planning case is not binding for other judges or court cases. Therefore, similar or near identical cases must be reinterpreted all over again, and in theory, different conclusions may be reached each time depending on the judges. Nonetheless, the Courts, the EPRT or Planning Commissions may draw inspiration and guidance from a ruling such as that of Santa Lucija. However, Dr David Mallia emphasised the importance of precedent when the Planning Commissions hear cases, where limited time and resources are available to gather information, and where applicants generally use precedent in their favour as an excuse to push for permits to be granted.

Even when a permit is refused, the applicant has nothing stopping them from making some cosmetic changes to the application and restarting the entire process. Prof Aquilina

expressed frustration that when, as Chairman of the Planning Review Tribunal, he would see permits refused by MEPA, refused also by himself, and denied all the way up to the Court of Appeals, only for the applicant to apply again a few months later and have MEPA approve the permit based on a minor amendment. Therefore, while cases like Santa Lucija may serve as inspiration for future refusals, they do not even prevent applications being resubmitted for the same plots of land.

Even when left to work autonomously, Dr Mallia states that board members are not technocrats or scientists, and decisions are ultimately made with an emotive element also, and unless NGOs are able to gather 1000 Objections, it is likely that the most pressure will be felt from architects conducting a focused marketing campaign before the Commission. Granted that the Commission has little time and few resources to challenge assertions put before them, Dr Mallia states that public pressure is required for the Commission to pay greater attention to counter arguments. Therefore, decisions are not simply scientific, as policies and their interpretation are open-ended, and thus the permitting process is ultimately also a reflection of popular or private demand.

In turn, because the politicians are engaged in an unending political battle with the opposing major party in Parliament, what results is a Prisoner's Dilemma type situation where both entrenched political parties are heavily dependent on the monetary donations of developers to attempt to build and maintain a competitive edge in the political arena (Caruana-Galizia and Caruana-Galizia, 2018, p.441). The major developers, in turn, are able to indirectly pressure the Planning Authority to grant them the permits they desire. This analysis is supported by the interview in this dissertation with the Minister for Finance, who stated that this reality is evidenced by the fact that developers outright boast about their influence. Similarly, MDA President Michael Stivala acknowledges such

influence as the reason the MDA wants party financing reform.

Ostrom further describes "rules, in the instruction sense... as the strategies adopted by participants within ongoing situations (Ostrom, 2005, p.17). In this sense, developers have identified certain policy interpretations and loopholes as preferred strategies to approve developments. The Commissioner for Planning and Environment in the office of the Ombudsman writes that the amalgamation of planning policies "can easily be circumvented through commitments or relaxation policies - leading to absurd contradicting decisions" (Parliamentary Ombudsman Malta, 2021, p. 70). Dr David Mallia states that in his unit's role responsible for fighting against Descheduling attempts or reconsiderations by developers, loopholes have been found to render the effort of protecting heritage more difficult. In particular, when an Emergency Conservation Order or Conservation Order is issued, it is possible for developers to appeal them, holding up the process during which the Planning Authority would have been able to carry out emergency works. As the appeals inevitably last longer than the duration of the orders, they are rendered ineffective.

When asked why such loopholes are not closed, Dr Mallia claimed that it would require an amendment of the Development Planning Act itself, which would be too significant and large-scale a challenge, implying a lack of political will or capital. The lack of will for the Planning Authority to act on insufficiencies in policy or law is reflected by comments by former PA Executive Chairperson, Martin Saliba. In 2020, in an interview with The Malta Independent on Sunday, Martin Saliba defended the consistent interpretation of the Planning Commissions in favour of pencil developments, by stating that the Planning Authority had no "legal basis to stop such development if plans and policies allow it" (The Malta Independent on Sunday, 2020). However, the Santa Lucija

case study proves otherwise, proving that there is no "legitimate expectation to be granted a permit" and thus no right to build, and various court cases decided against the EPRT prove that policy is being interpreted incorrectly (The Malta Independent on Sunday, 2023).

The web of informal rules may be better understood through a consideration of institutional culture. Prof Aquilina claims that the Planning Authority's prevailing institutional culture is one of development, rather than planning. One may extrapolate that it is up to the objector to prove why something should not be built, rather than the developer proving why something should be built. Given the severe resource shortages which entail proper research on built heritage by the institutions, and in particular the Superintendent's impossible workload, the handwaving of demolition or distortion of context may become habit. Here, habit is understood as "a heuristic or shortcut, minimising the cognitive load required to make frequently repeating decisions" (Darnton, 2008, p.23).

Over time, one may understand the institutional culture as developing its own norms and group values, which are "what make habits stick", and which bypass "deliberative processes" (ibid, p.24) at the necessary depth. When interviewed, the Superintendent stated that it would be ideal to revise a far vaster amount of heritage for Scheduling, but it is not feasible. Dr David Mallia stated that as the Planning Commissions are not composed of "scientists" taking scientific decisions, but are rather also emotionally influenced, then one can understand the failure to address overdevelopment as "the three emotional strategies of denial, delegation and distancing as... means of avoiding taking action" (ibid, p.26).

The ramifications of this institutional culture extend to enforcement. Prof Aquilina states

that when significant contraventions and illegalities accumulate, the modus operandi of institutions is to regularise and come to arrangements to render what is illegal into something legal. This leads to a perverse system, whereby "Instead of taking action... they issue a scheme and you pay a small fine... what is supposed to be illegal all of a sudden becomes law... that is how planning law functions."

This is substantiated by the Commissioner for Planning and Environment, who writes that "illegalities have to be acted upon and not used as a pretext to justify a development", and that "inconsistencies in reporting and decision-making by the Planning Executive and Planning Boards... only lead to raise certain doubts and to discriminatory situations" (Parliamentary Ombudsman Malta, 2021, p. 70). A notable strategy which developers execute entails going ahead with a project once receiving a permit, in spite of any ongoing appeals. This problem is persistent, destructive and pervasive to the point that the Prime Minister has acknowledged it and promised a reform specifically on this issue (MaltaToday, 2023). One may thus conclude that Ostrom's fifth principle, graduated sanctions for rule-breakers, is lacking to the point that the consequences of free-riding are merely seen as the cost of doing business. The lack of enforcement as well as the informal rules-in-use favouring policies being interpreted in favour of development thus further weigh the incentives and disincentives against the retention and preservation of built heritage.

As a result of the Planning Authority's institutional culture, which, as Astrid Vella states, has likely spread to the Superintendence due to a significant transfer of staff there, then the planning and permitting system may be understood to have two versions of itself. One is the facade which purportedly follows all the correct procedures impartially and interprets the policies according to both the spirit and the letter of the law. This version

of the Planning Authority, however, is an illusory one imitated to provide legitimacy to the permitting process.

In reality, there is a Potemkin Village scenario at play, whereby the Planning Authority functions according to politically directed informal rules-in-use, operating according to the principle which Perit Vella Lenicker described as the principle of "vested interest". This implies that people have a "right to build" according to maximum height. Martin Camilleri explicitly rejected that people have a "right to build" when interviewed, and pointed to the Santa Lucija case, which was rejected by the Planning Authority. However, the majority of planning cases imply otherwise, and the Villa Barbaro case study presents this reality clearly, where its buffer zone on Church Street was stripped by a vote by the Executive Council to preserve the private right of 11 residents to build to the maximum allowable height. Therefore, the Potemkin Village is on display, contrasting what is advertised with what is commonplace on the ground.

As all those interviewed unanimously pointed to the level of political influence over the permitting process, one can better understand the permitting action arena not only by considering equally captured action arenas and situations, such as the Superintendence or ERA, but also by travelling further up the chain, at what Ostrom calls "linked action situations" (Ostrom, 2005, p.58). The hearings before the Planning Commission would be subject to "operational rules" which "directly affect day-to-day decisions made by the participants", such as attempts to grant or refuse permits (ibid). However, the linked action situation above would be subject to "collective-choice rules", which "affect operational activities and results through their effects in determining who is eligible to be a participant and the specific rules to be used in changing operational rules" (ibid). This implies the context of policy making, both in the institutions themselves and in other

arenas such as Parliament.

Finally, there is the arena of "constitutional choice rules", which determine the rules used to craft collective-choice rules (ibid). However, since Article 9 of the Constitution is not justiciable, it offers no safeguards. The Superintendent referenced it when appealing against the Planning Authority, to save Walmarville from demolition, as a reason that the building should be saved. What likely convinced the EPRT not to accept the demolition, however, was more likely the institutional discomfort of having the unique case of the Superintendent directly appealing against the Planning Authority.

5.3.5 Attributes of Community

Ostrom notes that "culture is frequently applied to the values shared within a community", and that it "affects the mental models that participants in a situation may share" (Ostrom, 2005, p.27). Consequently, "when all participants share a common set of values and interact with one another in a multiplex set of arrangements within a small community, the probabilities of their developing adequate rules and norms to govern repetitive relationships are much greater" (ibid).

Having already discussed the institutional culture of the Planning Authority, it is pertinent to consider the culture of non-state actors participating in the permitting process. When interviewed, Prof Aquilina made the pertinent point that when one speaks of developers and objectors, it is important to recognise that these roles are interchangeable. Most developers may be individuals without a business who wish to develop an inherited property, for example. They may at the same time object to a similar development within their own street in other circumstances. This points to a common theme of "NIMBYism" raised in various interviews for this dissertation, as Prof Aquilina, the Minister for Finance, Dr Shirley Cefai, Dr David Mallia and the Superintendent all raised the point.

This phenomenon in Malta is similarly noted in other research as being a problem which impacts heritage (Formosa, 2019, pp.27-109).

When asked how the free-rider problem might be addressed in terms of people selling off their inherited homes for development, Dr Cefai states that positive change is visible. She uses the example that restrictions on building heights have been introduced, and previously there was no protection at all for context in this regard. She therefore seems to indicate that advancement of policy may be interpreted as a reflection of the general level of education in society, as well as popular will, indirectly. Therefore, she acknowledges the problem, but is optimistic for the future.

The Minister for Finance states that while attitudes to development are changing, that there is not yet enough pressure put on politicians to enact reforms. Prof Aquilina makes the general observation that he believes the overall population is more on the side of being pro-development than pro-environment. Dr David Mallia states in his interview that there is pressure from the general public to strip protection from heritage buildings and that the planning system is a reflection of society. Dr Cefai states that heritage conservation requires greater interest and support from the general public, and that education and the education system must cater to this accordingly. The indication from most interviews seems to be that Maltese society is a major part of the problem, but that politics and public administration cater to the free-rider problem rather than reining it in.

A study of permits issued before election time provides evidence of clientelism at work on a mass scale through the granting of permits as political favours (Caruana-Galizia and Caruana-Galizia, 2018, p.440). Though the study used ODZ permits as the subject of interest, the institutional pattern is clear, presenting MEPA as "a government rent-collection instrument" due to the "exchange of permits for political party support" (ibid,

p.441). This study, which also highlights when case officer recommendations are ignored, incidentally shows the scale of the free-rider problem when it comes to land-use and the threat to built heritage in Malta, given the insight it sheds on behaviour, culture and the impact upon incentives and disincentives at play.

When asked to provide his perspective on this study, Dr Mallia commented that it is no secret that around election time, instructions are given, or pressures are felt, to process applications in a timelier manner. This admission, however, comes with the excuse that there is no pressure regarding how applications are to be decided by the Commissions, or that permits should be granted. The instruction is simply that the applications are processed quickly. This leads to the spike in granted permits, but presumably could, Dr Mallia implies, also lead to a large number of rejected permits.

This argument is put into question when one considers the Superintendent's comments that it takes time to ascertain the true value of heritage, which is why Scheduling is not carried out more often, granted that the Superintendent claims that a shortage of resources is already a problem to deal with a significant number of applications. Dr Cefai claims that the Superintendence should have grown in size and capacity to reflect the PA's growth, one can easily speculate that increased pressure to process applications faster likely comes at the expense of heritage protection, which requires research to justify its protection given the current rules-in-use. Therefore, increased pressure to process applications must surely lead to an increased threat to heritage.

To prove this, however, a follow-up study would be required considering whether the increase in applications granted significantly outpaces the number of applications rejected. In any case, that government sees electoral benefit in speeding up the permitting process at election time speaks for itself in terms of providing insight into the free-riding

phenomenon and how the political parties benefit from it. A feedback loop is created where free-riding is normalised to the point that it forms a part of the political machinery even on the level of the individual citizen.

Furthermore, differences of behaviour may have regional variation or emphasis. The Mayor of Xagħra in Gozo stated that his poor electoral performance resulted from his anti-development stance, as there was a fear mongering campaign on the ground warning that his approach would damage the local economy (Times of Malta, 2023). Nonetheless, in spite of claims of NIMBYism, it must be acknowledged that when there is a "tyranny of small decisions" leading to such a degraded heritage context, even those responsible for the destruction tend to be left regretful of an outcome which is "at odds with what people collectively want" (Darnton 2008, p.6).

Mobilising action against free-riders and against the state-captured Leviathan, civil society and NGOs present the other side of the coin and showcase a different set of community attributes. While there are smaller NGOs with region-specific interests, not least in Gozo, the largest organisations such as *Moviment Graffiti* and *Din l-Art Helwa* are able to mobilise support and resources across localities to protect the common patrimony. Their impact and ability to rally communities is evident throughout the case studies selected for this dissertation. They are often effective in building coalitions with local actors, including Local Councils. At times, they support the conclusions of the Superintendent of Cultural Heritage, and at others, oppose the findings of the office. In all cases, as Prof Kevin Aquilina observes, they face a significant disadvantage in terms of funds, resources and manpower, and are at their most effective when able to threaten political fallout by publicising a project. Their political equivalents, such as the former *Alternattiva Demokratika* and *Partit Demoraticu*, have faced similar challenges while

representing an overlapping community niche and challenge to the state-captured Leviathan.

5.3.6 Material Conditions

Ostrom describes the biophysical and material conditions of an action situation as the conditions which determine "what actions are physically possible, what outcomes can be produced, how actions are linked to outcomes, and what is contained in the actors' information sets" (Ostrom, 2005, p.22). In the context of the permitting process, the material conditions therefore describe the context in which hearings are held and by what means, but equally, the economic factors such as the cost of building materials, directly influencing decisions and outcomes.

In terms of the physical constraints of the action arena, the material conditions refer to the hearings held at the Planning Authority. These conference-style hearings, while transparent on paper, have high barriers to entry for members of the general public to learn how the system works, gain access to hearings, file objections to permits on time, and write objections in technical language. The Superintendent of Cultural Heritage, when asked, stated it plainly - that objections should be listened to, but only when they have a good reason behind them. In other words, one may interpret the statement as referring to objections which have valuable technical content. It is for this reason, when carrying out desk research across the hundreds of heritage-related appeals on the EPRT portal and Planning Authority e-apps system, that one finds the necessity for NGOs to take the lead and produce technical objections which members of the general public copy paste en masse.

Furthermore, the NGOs must provide instructions on how to submit the objections themselves, the process itself posing a barrier to entry. While carrying out the research,

some instances were found of scanned, hand-written objections sent in by post, it is clear that the planning system lends itself to digitally fluent individuals. This was particularly the case during COVID-19, when hearings were held online. Objectors to the Santa Lucija case complained that the pandemic would result in many residents not being heard due to unfamiliarity with technology.

Ostrom's principle on easy, low-cost access to dispute resolution stands out as a major challenge for Malta's planning process, which already lends itself to favour the financially powerful, when it comes to the levels of bureaucracy and technical knowledge which must be contended with to participate in the process and make one's voice heard. Hon Albert Buttigieg made this plain as an issue facing Local Councils, which must pay money to the institutions, and hire architects and lawyers, to be able to fight back against developers and government alike.

In terms of the wider material conditions at play in an action arena, one can consider economic factors and how they interface with aesthetics. Building materials form part of a building's "fingerprint", as "fabrics are factual statements in the history of buildings" (Bianco, 2018, p.291). In Malta, limestone is the fabric of which broadly "all cultural heritage buildings are constructed" (ibid). The overall character of Maltese houses, aside from materials, relates also to features such as the traditional Maltese balcony (Cassar, 2009, p.18). Taken all together, Maltese built heritage is not limited to a fixed set of characteristics, certain features, but boasts a recognisable grammar. While imitating certain features outright without respecting the building methods may be viewed as a pastiche with limited heritage value, the integration of limestone into contemporary building materials is a way to bridge past with present (ibid, p.45).

Protecting the heritage commons in Malta therefore depends not only upon preservation

of already built buildings, but the manner in which new buildings are built, in what styles, and using what materials. This is a question, therefore, of building with respect to context, and the Planning Authority respecting context in its decisions. The developer is pressured by the profit incentive to violate context, if not through outright demolition, then through offensive accretions, additional floors which jar in design, or through blank party walls. The objective of the free-rider is to convince the Planning Authority to interpret policy as loosely as possible, avoid the oversight of the Design Advisory Committee, and to be able to obtain a permit for the maximum possible volume and height, with the cheapest possible materials.

These incentives and disincentives are universal to "planning systems worldwide that have been subject to heavy neoliberalisation" and are thus attested to in the wider literature, (Murphy and Fox-Rogers, 2015, p.232). What is surprising is that the Superintendent of Cultural Heritage, when interviewed, stated that in the case study of the Fgura Razzett l-Antik, its state of dilapidation was a key reason that the go-ahead was given for its demolition. This was because when deciding whether a building is worth saving or not, the economic case for its preservation is taken into account.

When interviewed on the subject of dilapidation, Dr David Mallia highlighted how one of the main instruments at the government's disposal to protect heritage at risk are Emergency Conservation Orders. These, however, are undermined by the fact that such orders may be appealed, and the appeals process takes longer than the duration of the conservation order itself. Dilapidation is in turn used as a primary argument by developers to justify why an old building in a poor state should be demolished, and Dr Mallia attests that these can be effective arguments, even from a legal perspective. Developers also fall back on precedent to win their case, that similar permits for demolition are given

constantly, to justify obtaining their permit.

Taken together with the Superintendent's position, one is able to observe a reality beyond the rules-in-use, at the economic forces and ideology which serve as "a spectre haunting the planning system Murphy and Fox-Rogers, 2015, p.239". After all, why is it the Superintendent's concern to worry about the profitability of developers' projects? Why is dilapidation given so much importance in the planning system to grant permits, when the legal and policy instruments are already in existence to deal with the issue to the benefit of heritage and the community, rather than the individual property owner or investor? The very existence of a 'heritage gain' in the Maltese planning system speaks of the idea that heritage can be demolished if money is paid to the authority in compensation. A €7,000 'heritage gain' was imposed not to re-use the stone of *Razzet l-Antik* when it was demolished, but the site was no better for it.

The aspect of material conditions thus presents the objector within the action arena with the weight of having to contend with the developer's profitability, which becomes an argument in the developer's favour. Just as there is a "right to build" implied within the informal rules-in-use, so too do factors such as the cost of labour and materials factor in as realities which the objector, permit applicant and presiding officials contend with as determining factors relevant to the potential outcome. These evaluative criteria evidently trend towards a presumption in favour of granting the permit.

5.3.7 Outcomes

Ostrom summarises the path to an outcome as "the biophysical world and the attributes of a community work together with rules to constitute action situations that enhance or reduce the likelihood of individuals reaching better outcomes" (Ostrom, 2005, p.132).

The themes which emerged during the case studies and interviews were explored

throughout the IAD mapping process. Exploring the appointment of positions highlighted the theme of the lack of autonomy of the actors responsible for deciding permits or determining the heritage value of buildings. This lack of autonomy then fed directly into the findings for the rules-in-use, given that the formal rules-in-use are very much open to interpretation. Their interpretation is thus determined by the informal rules-in-use, which are subject to institutional culture. Through the interviews, it was evident that the informal rules-in-use are shaped by a permitting culture, and one which does not punish illegalities, but rather regularises them, skewing the incentives and disincentives further towards speculation.

To illustrate the point further, one may note a study commissioned by the Malta Hotels and Restaurants Association showed that in order to match the occupancy rate of tourist accommodation in 2019, were all new accommodation applicants approved, the country would need to attract 4.7 million tourists over the coming years and that there was a serious risk of oversupply (MHRA, 2022, p.79). This led MHRA President Tony Zahra to state that the country lacks an authority for planning, and instead has a "Permitting Authority" (MaltaToday, 2022). Following the IAD exercise, that statement appears to accurately describe the findings.

The attributes of community referenced the theme of NIMBYism which was omnipresent throughout the interview process. Free-riding was demonstrated as being a commanding feature of the economic model and of the political system both. In this fashion, the Planning Authority lets down the common good, as it uses the pretext of popular will, precedent and pressure to allow for speculation, rather than manage the incentives and disincentives towards a vision of quality.

The theme of quality vs quantity re-emerged most strongly in the discussion over material

conditions, as this concerned the overall economic incentives and disincentives. Here, it became even more apparent that the current economic model is the path of least resistance, but there is a strong preference to grow past it, towards value-added. However, what is lacking is a concerted effort by the responsible actors in power, which requires further exploration.

Thus, the outcomes of the permitting process evidently threaten the built heritage commons by predominantly favouring speculation. Furthermore, the planning process is a mirage which conceals the political games played in parallel action situations, and which have significant influence in determining the outcomes of permitting. Thus, real power does not reside within the action arena being studied, and the real evaluative criteria arise from clientelism in party politics. Therefore, the closing argument for the outcomes returns to the theme of a lack of autonomy.

5.3.8 Feedback Loops

McGinnis recommends that an IAD exercise should conclude with a consideration of feedback loops (2017, p.93).

Wade observes that the smaller a community is, the more likely it is to successfully manage a common-pool resource (1987, p.104). If, as the Superintendent stated in his interview, heritage includes its social context, then the population growth-oriented economic model and the disintegration of communities in Malta may combine to present the outline of a feedback loop which presents a threat to heritage. Bjorn Bonello observed this trend, warning that economic migrants are being ruthlessly exploited to fuel the speculative cause of this vicious cycle.

Chapter 6: Answering the Research Questions

6.1 What threatens the commons?

Following from the IAD framework analysis, a deeper understanding of the permitting process and its challenges has become clear. Therefore, it becomes possible to holistically answer the research questions, with an emphasis on institutional design and an understanding of how the adjacent action situations impact the permitting process.

6.1.1 *Potemkin Village Institutions*

The IAD framework exercise revealed that the informal rules-in-use are subject to influence from adjacent action situations, and that the lack of autonomy of the Planning Authority means that the evaluative criteria for outcomes are therefore politically influenced. However, there is a difference between how the Planning Authority views itself, and how it is perceived by other interviewees. The problem as regards built heritage in Malta lies not necessarily in a lack of professionalism, but rather, as Perit Andre Pizzuto stated, that the *forma mentis* of Maltese planning laws and policies is to stimulate economic activity.

Prof Kevin Aquilina stated that it would be better for the institutions to be directly politically controlled, rather than the farcical situation present today, as the current one allows politicians to hide their hand, blame the policies, and escape culpability or consequences for planning decisions taken with their covert direction. Therefore, there is an evident gap between how the Planning Authority views itself, and the function it serves. This was discussed in the IAD framework through the Potemkin Village concept. The findings of the IAD framework will now be synthesised with the overall results to answer the question as to what it is that threatens the commons.

Table 11. Institutional Image vs Reality.

Ostrom's 8 Principles	How the Institutions Present Themselves	Potemkin Institutions in Practice
1. Clearly delineated boundaries	The policies are up to standard according to the institutions. The Superintendent stated that the value of built heritage is fairly determined by looking at "the architecture of the building, its historical importance, its social value, research value and its context".	While heritage value is determined by a combination of formal rules-in-use, aka Scheduled or not, UCA, Design Priority Area, etc, even these are open for interpretation. When heritage depends only on its context or intrinsic heritage value for protection, and it depends on an ad hoc reading of its heritage value, then the likelihood of an outcome which respects the building's heritage value rather than the applicant's "right to build" is slim, given the institutional culture discussed in the IAD framework exercise, and given the pressure of precedent to grant permits.
2. Match rules to local conditions	Martin Camilleri stated that the common good is not determined by the number or strength of Objections alone, but also according to environmental factors, policies and economic requirements.	The IAD framework revealed that the evaluative criteria are heavily skewed by political pressure. Bjorn Bonello and the Superintendent were in agreement that the policies themselves are adequate, and therefore put the onus on their interpretation rather than radical reform. Perit Andre Pizzuto, on the other hand, states that the very <i>forma mentis</i> of Maltese planning laws and policies is merely to stimulate economic activity, and Perit Simone Vella Lenicker similarly points to the vagueness of SPED resulting in it potentially justifying anything, depending on how it is read. While the policies may, on a purely technical level, be adequate if interpreted correctly, they are evidently not matched to local conditions, as per Ostrom's second principle. This is in spite of an overall improvement in terms of respect and appreciation for heritage, which was mentioned by Dr Shirley Cefai.

3. Ensure those affected may modify rules	The Planning Authority stated in the interviewing process that it carries out public consultations when it comes to changing policies. It sees planning as an interactive, dynamic process which requires input from all stakeholders.	Uneven distribution of power results that Ostrom's third principle is also weak, as policy is directed by the Ministry and interviewees stated that policy is written with outcomes in mind, rather than scientifically. Perit Pizzuto and Perit Vella Lenicker were in agreement with the Chamber of Planners and the NGOs interviewed, in that the government or institutions pay little heed to policy proposals presented to them. Perit Vella Lenicker described it thus, that the "decision-maker decides on what becomes policy based on how it can garner support from developers / business community." However, MDA President Michael Stivala stated that the MDA's policy recommendations were also being rejected, such as a proposal for residents to sell their airspace to developers to build higher in less sensitive areas, or party financing reform. This points to the Tragedy of the Commons at work, where actors are aware of potential higher outcomes available, but are unable to coordinate or trust one another to reach them. The IAD framework exercise demonstrated that real decision-making power occurs in parallel action situations linked to politics, and the lack of institutional autonomy means that rule-making is determined by free-riders.
4. A community system to monitor members' behaviour	Through interviews, it is evident the Planning Authority sees itself, and may try to be, as transparent as possible, dedicating significant resources to maintaining its IT infrastructure and making documents available online, maintaining the Geoserver, etc.	Perit Tara Cassar pointed out that previously, appeals were available on the eApplications portal, but they were removed in the not so recent past so that one now has to go to the EPRT portal to find the necessary documentation. There is a tug of war around transparency and a lack of trust between stakeholders and the Planning Authority. The difficulty of NGOs and residents to monitor planning applications has also been discussed, representing an access to justice issue.

5. Use graduated sanctions	Heritage Planning gains and regularisations are used to fund restoration schemes.	The IAD framework analysis reveals that politically directed institutions, subservient to the economic model, enable the continuous degradation and exploitation of the built heritage commons by free-riders. In the context of built heritage, free-riding can be understood as obtaining, granting or influencing permits which run contrary to either the spirit or the letter of the law or policy. It also accounts for instructions given or pressure provided by politicians or institutional actors towards the design of policy itself. Therefore, free-riding takes place in institutions both from the applicants seeking a permit, and from the actors who indirectly benefit from the permit being given, either because the party in government receives votes or donations, or appointed actors in positions get to maintain or further their careers. Free-riding thus becomes a feature of the system, rather than a departure from it.
6. Low-cost means for dispute resolution	Dr David Mallia pointed out how the authorities themselves struggle to protect heritage because of people appealing Scheduling and applying to Deschedule buildings. Emergency Conservation Orders are rendered ineffective by a loophole whereby they can be appealed, and reforming this would be too onerous in his opinion as it would require an amendment to the Development Planning Act.	The IAD framework demonstrates that access to impartial justice is only to be found in the Court of Appeals, and arriving there requires traversing resource-intensive bureaucracy. Those with the most to gain financially are the most incentivised to repeatedly test the rules. They are more likely to have more financial resources to test the system to its extreme. While individuals and families may sell their land to speculators, nowadays, it is predominantly the developers applying for permits to build. Being businesspeople, these developers are more likely to have deep pockets to fight to obtain their permits through the institutions. Bjorn Bonello, President of the Chamber of Planners said it thus, "that most people do not have the resources, the time and the strength to pursue appeals until the Court of Appeals, and that is in itself discriminatory, because a person should have the serenity that if there is something that is causing him harm, he can easily express his views and not be ignored". From this statement, and the corroborating evidence, Ostrom's sixth principle regarding the community having low-cost means for dispute resolution, is not in play. The system is weighed heavily against the community, against NGOs and against

		local councils, as attested to in the interview with Albert Buttigieg, former Mayor of St Julians. Local Councils have limited resources, and if they resist an application, they need to fork out money to obtain external expertise. If a permit is granted, the money the Local Councils pay for the appeals themselves go to funding the very central government and its institutions they are fighting against. The odds are heavily stacked against them in terms of resourcing, and it is a case of one level of government at odds with a higher one. The principle of nested-enterprises, raised by Ostrom, is therefore absent in this regard.
7. Ensure local rule-making is respected	The institutions emphasise the importance of social context.	The institutional instruments favouring speculation inadvertently fuel a feedback loop which damages social context, and therefore, further fuels speculation in a feedback loop, as described by the application of the IAD framework.
8. Govern the commons in nested-tiers	The Superintendence outlined the strength of the relationship with the Planning Authority, and Dr David Mallia outlined the same. The impression is given of a system working as intended, particularly as when asking the Superintendent if there is anything that requires improvement, the answer was that the policies are fine, and the Superintendence will be recruiting some further staff to keep up with demands.	The IAD framework showed how there is dissonance between levels of organisation, given that the Planning Authority's lack of autonomy means it is not free to develop policy or take decisions in genuine dialogue with Local Councils or other actors. Harmony is achieved with the Superintendence by ensuring that the Superintendence is in line with the government's economic paradigm. It is for this reason that when interviewed, the Superintendent spoke about economic considerations when considering if something can be demolished, even though it is not the role of the Superintendence to assess the feasibility of construction projects. Even with recognition of higher potential outcomes available from coordination, no adjustment of strategies yields results. Perit Pizzuto stated thusly, that irrespective of what strategy the Kamra tal-Periti has attempted to gain the ear of government, they have largely been ignored, in spite of the Kamra Tal-Periti's official advisory role.

6.1.2 Ostrom's First Principle and Case Studies

As the politicians are receiving direction from the elites who profit most from the institutions being captured, institutional cultures emerge which favour development at the expense of the commons. Through the IAD and the application of Ostrom's principles in Table 11, the lack of clearly delineated boundaries emerged as the prime vulnerability within the permitting process. This will therefore be discussed in further detail with reference to the case studies.

In the case of Walmarville, in Balzan, that the modernist house was not Scheduled, was not in a Design Priority Area and was not in a UCA were all reasons which the Planning Authority gave to allow the total demolition of the building. The Superintendent's appeal stated that he had the power to decide if something was built heritage, even in spite of those conditions. This case study provided a unique insight into the question of delineation of boundaries, as two institutions were locked in a deep conflict over interpretation of cultural value. The EPRT avoided taking a controversial decision on this issue, which might have set a precedent, by sending the case back to the Planning Authority, where tensions might be defused through a revision, rather than a final decision. The case showcases that just because the policies do not protect built heritage it does not mean that it does not have cultural value deserving of protection.

In the case of *Razzet l-Antika* in Fgura, however, where the Local Council wished to protect the building by drawing a link to the name of the town itself, and the potential ownership of the farmhouse by the Ficura family, the Superintendent instead took the developers' side. The building was descheduled from Grade 3, and the Superintendent stated that the site had no heritage value. One of the hallmarks of heritage value, as stated both by Prof Torpiano and the Superintendent himself, however, is social context and the

value bestowed upon it by the community. In this case, however, the lack of documentary evidence for the farmhouse's history, in spite of its age, as well as its lack of heritage features, were all factors which led to its destruction. Here, once again, the delineation of boundaries was the key issue, given the disagreement between NGOs and Local Councils with the institutions on the value of the site, and who should benefit from it. While the Local Council wanted to renovate the site and turn it into a park, developers exercised their private property rights in communion with the institutions to win out against the community's interest. FAA Coordinator Astrid Vella stated that the judgement was rushed through, in spite of two previous refusals to deschedule the building, to appease a Labour aligned developer.

Villa Barbaro presents another interesting case study, given that its primary battle concerns the establishment of buffer zones around the Schedule 1 property, to prevent buildings being constructed to maximum height, which would eliminate the site's visual context as well as the owner's privacy. In spite of a strong defence by the Heritage Advisory Unit in favour of retaining the buffer zone in Church Street, the Executive Council stripped this protection at a reconsideration hearing, and the Superintendent stood by. The reconsideration was brought about by 11 property owners on Church Street who wanted to protect their potential profits from developing to their maximum height, reflecting the planning philosophy of "vested interest" which Perit Vella Lenicker stated is the operating principle of the Planning Authority. It implies that the maximum allowable height is the extent to which a developer may profit. Perit Tara Cassar underlined the fight of the collective NGO movement as the push that heritage is interpreted according to its context, which might limit building heights.

That the Santa Lucija case might change precedent was acknowledged by Martin

Camilleri, Chair of the Planning Commission concerned with UCAs and ODZ. He denied that citizens have a "right to build" and referenced that case as one which sets that example in stone. Camilleri's comments either showcase a change in attitude in the Planning Authority following the ruling, or perhaps demonstrate the rift between idealised operating principles, and trends on the ground, as the "right to build" logic appears to operate across case studies, such as with the removal of the Villa Barbaro buffer zone across Church Street to protect that imagined speculative right, as in Table 9.

Villa Frere appears to have achieved a favourable outcome against a hotel which would have encroached over its context because of the coalition of stakeholders brought together, which included Heritage Malta. It is that coalition, and having institutional stakeholders develop so-called skin in the game, by offering the site to Heritage Malta, which sets the case of Villa Frere apart from Villa Barbaro. Villa Barbaro represents a Scheduled 1 site in retreat, with a sense that institutional actors are colluding against favourable outcomes, as stated by Marquis Tony Cremona Barbaro when interviewed. In contrast, Villa Frere was a site without equal protection which instead obtained Schedule 1 protection and achieved institutions calling for protection and refusing a permit which would have infringed upon the house's context. The case study may represent guidance in later answering the third research question, aside from providing insight on how easily boundaries are shifted according to the interests in play.

The case studies demonstrate the fluidity of heritage or cultural value to the openness to interpretation of policies. They therefore underline the threat posed, while indicating the need for significantly clearer delineated boundaries, and where these might come about.

6.1.3 Economic Model Setting the Incentives & Disincentives

Table 11, coupled with prior findings, reveals that to answer the question as to what

threatens the commons, one must address the incentives and disincentives at the highest level. This leads to a discussion on the economic model which underpins Malta's destruction of the built heritage commons.

One of the recurrent themes in the interviews was that of Quality vs Quantity. The Minister for Finance referred to the need to shift away from an economic model of quantity to one of quality, and this was echoed by MDA President Michael Stivala. The Minister stated that the construction lobby should no longer receive preferential treatment from politicians, and policies must be updated accordingly in terms of party financing and enforcement, to remove donations to political parties from interest groups, creating a dependence on those funds. In turn, Michael Stivala blamed the lack of quality in the industry on the political class and the bureaucracy of government, stating that politicians only plan short-term. By quality, both meant value-added and reduced numbers in tourism and imported labour. These would be substituted by a more skilled workforce, higher-paying tourists and higher overall wealth amongst the population to afford the increased prices which would theoretically result from higher industry standards and a greater emphasis on leveraging built heritage.

NGOs interviewed blamed the state of planning and built heritage degradation in Malta on the political class and developers alike, sharing the blame between them. What most of those interviewed agreed upon, particularly the institutional actors, is that there is an element of NIMBYism in the population and a drive to speculate on the level of the individual, whether it is by selling to developers or developing oneself. Here, NGOs point to the duty of institutions to plan for the common good. Bjorn Bonello defines the common good as forecasting the impact which a development will have on the future, and "maximising the winners, while reducing the losers". Prof Torpiano describes the

common good as the duty of planning to constrain what can be built, in the collective interest, to promote optimal outcomes. Therefore, while planning has an inbuilt solution to the Tragedy of the Commons within its very definition, it is not this definition of planning which operates in Malta. This concept will later be explored through Perit Vella Lenicker's description of the theory of vested interest.

The common thread which emerges therefore seems to be a recognition that the economic model is the primary threat to the built heritage commons. Therefore, like planning systems across the world, Malta's own "has been gradually neoliberalised" in that "its governance arrangements and associated planning practice has been moulded and shaped in such a way as to be highly facilitative of market rather than societal interests" (Murphy and Fox-Rogers, 2015, p.239). The system of incentives and disincentives, including opportunity cost, therefore heavily favours speculation.

Built heritage in Malta considers not merely tangible aspects of heritage, but also intangible elements such as the resulting context. Community behaviour, and whether one individual sells their land or speculates, significantly impacts the value of built heritage in the surrounding area. Therefore, built heritage in Malta is governed not only by the state, as "Leviathan", but also by private property owners, and also on the level of the community. All three facets of governance interface, but all face the underlying incentives related to the value of land in a land-hungry and land-scarce small-island state. All three elements of commons governance encounter one another in the permitting process. Rather than commandeer the construction industry as an economic sector, the political class has become beholden to it, which leads one to the issue of institutional design tackled by the application of the IAD framework to the permitting process.

6.2 What are the consequences of these threats?

The destruction of built heritage in Malta is, amongst other factors, primarily the consequence of the economic model, which sets the incentives and disincentives to make free-riding irresistible. This is compounded by weak institutions and state capture, as the supposed objective of planning is to limit what can be built, and direct what can be built, according to the common good. As there is little planning, and instead there is development, the consequence is not only built heritage, but also a vicious cycle wherein communities are eroded, trust is undermined, and the country becomes increasingly dependent on the economic status quo.

6.2.1 Impact on Public Health

Of all EU member-states, Malta has been ranked worst in terms of having the highest percentage of “pollution, grime or other environmental problems (European Commission, 2019).” Excessive development in Malta is tied to an economy dedicated to quantity over quality, signifying, amongst other things, ever higher tourist numbers, cars and apartments. The inevitable consequence is an impact upon the quality of life of the people living in the country. When economic arguments are made in favour of development, these do not factor in the increased burden upon the healthcare system, which must not only account for physical health, but also mental health. A study by Mind Matters states that according to conservative measurements, they "estimate the total cost of poor mental health to employers across Europe to be between €378-€469 billion each year" (2021, p.10).

When interviewed, Perit Vella Lenicker expressed great concern for her clients, as many are impacted in a significantly negative way by overdevelopment impacting their quality of life, context and their mental health. The deterioration of Malta's urban fabric and built heritage signify the destruction of identifiers of identity, collective memory and thus,

cultural and heritage value which can be enjoyed and benefited from.

6.2.2 Breakdown of Motivation

Darnton observes that "in the context of pro-environmental behavioural change", agency may be defined "in terms of a person's belief they can take meaningful action", and that their action "will be effective in creating positive outcomes" (2008, p.19). Jamie Buttigieg mentioned that the Mayors of Gozo had all raised their voices in unison to ask for policy change to protect Gozo, but not only were they ignored, but he stated that many of them are beholden to developers, and it was therefore all for show. The fear of the community he encountered, and people advising him to give up, indicate that there is a defeatist attitude brought about by the power dynamics at play, and a sense of futility around resisting unwanted change.

As per Table 11, Dr David Mallia expressed frustration regarding the system around Emergency Conservation Orders being broken, as individuals can appeal them "until the clock runs out" and the Orders fall. This prevents action being taken by the institutions to effectively remedy threats to heritage. As reforming those rules would require a revision of the Development Planning Act in Parliament, a tangible sense of institutional defeatism was suspected, where certain actors may wish for certain reforms, but not view them as feasible. As the system is broken, and the Planning Authority faces so much pressure to develop, and "those who want to develop are most likely to make the strongest cases to develop", even when institutional actors may wish for change, they do not appear empowered to fight for it.

6.2.3 Breakdown of Trust

Trust plays a "significant role in determining social preferences" when it comes to conserving the heritage commons (Lekakis, 2020, p.56). Ostrom states that policies which try to attain collective action and overcome social dilemmas "must enhance the level of

trust by participants that others are complying with the policy or else many will seek ways of avoiding compliance (2014, pp.104).

As per Table 6, a key outcome of the permitting process is the ongoing erosion of communities, context and trust itself, in a vicious cycle. Prof Alex Torpiano furthermore stated that community behaviour is negatively impacted when people sell-out for development, as it incentivises neighbours to do the same. All it takes for the context of one street to be ruined is for one planning application to make it through which increases the heights significantly, creating blank party walls, which serve as an excuse for the rest of the street to follow suit.

The Santa Lucija case saw a victory for the street and its 2-storey houses in no small part due to the efforts of a united community. While many actors lodged a range of objections, one common objection shared between residents stated that "the approval of this development would set a precedent and would be the start of the urbanisation of the locality. In light of the sure increase in the urbanisation and population density in the area that this and future similar developments would bring to the area should this development be approved, we prefer to forgo the future profit potential and preserve our locality."

This objection presents evidence that the incentives and disincentives may be skewed even against the forces of speculation in the presence of a sufficiently strong community, with enough trust that the community and its context may be retained through a collective effort, that it becomes worth fighting back. Residents expressed their desire to forego short-term economic benefit in favour of retaining their way of life and its quality, explicitly rejecting potential profits. Given that communities in Malta were stronger and more consistent in the past, that this resistance to development was not present in the past also reflects an evolution in attitudes and values, which was pointed out by Dr Shirley

Cefai. Appreciation for heritage and education have improved, and continued support for planning reform is necessary to affect change, as stated by the Minister for Finance. However, the question becomes, given that the erosion of communities is an ongoing side-effect of development, can the trend be stopped, given how much has already been lost?

Jamie Buttigieg pointed out how a Gozitan population which wants to preserve its way of life is still overall too intimidated and dependent on a clientelist system to actually try and oppose the pillaging of Gozo. Without a sufficient surge from below to stop the trend at the eleventh hour, however, those core values which seek to maintain the Gozitan way of life, and more generally, the typical Maltese character throughout the country, run the risk of being diluted along with community spirit and identity.

As Bjorn Bonello indicated, the economic model is designed to import and exploit significant numbers of foreign workers. These are then crammed "10 to an apartment" to maximise the rents which might be collected, which has the added effect of driving up rental prices and pressuring vulnerable Maltese, as well as ghettoising migrants and preventing integration. Therefore, the system of incentives and disincentives destroys built heritage to not only accommodate property speculation but to collect rents, and house a growing underclass divorced from the context and value of built heritage as a common resource linked to identity and quality of life. This exploitation and lack of integration have a compound effect on the breakdown in communal values and trust, and the link to built heritage as a hallmark of identity, and thus, its cultural value.

Amongst those interviewed, that there was a unanimous desire to preserve the built heritage commons, and shared objective to arrive at quality, clearly indicated the notion of a Tragedy of the Commons in action. Actors had a shared vision of how the country

might ideally look like in the long-term, but no shared plan or understanding of how to arrive there. As a coordination problem, there was an element of blame shifting amongst those interviewed who possessed significant power and who had a stake in the game. As has been mentioned, the MDA blamed the government, while other elements blamed the developers, or both.

The lack of trust was also mentioned by the Minister for Finance as a factor as to why planning reform might only be achieved through a bi-partisan consensus. This was also reminiscent of the Prisoner's Dilemma, given the lack of trust between players as the factor which leads to suboptimal outcomes. In other words, the divisions in Maltese society politically prevent coordination to resolve the problem, as it renders society particularly vulnerable to free-riding. The consequences of the threat to the built heritage commons therefore provides further evidence of a self-reinforcing trend. Breaking from precedent, which is used as an excuse by developers to justify further destructive permits, and a reform of the planning system, increasingly becomes a radical idea the more the economic model entrenches the status quo.

6.3 What are potential policy solutions?

There have been no shortage of policy proposals over the past years which would address the various shortcomings of the planning system, and which would significantly contribute towards the protection of built heritage in Malta and drive the economy towards a model of quality over quantity. However, while the government itself has at times made major promises for reform, all attempts seem to have fallen short.

Ostrom defines level-shifting strategies as actors contemplating "how to change any of the constraints on an operational situation (or, on a collective-choice situation) that are potentially under the control of the participants in that situation (2005, p.62). However,

Ostrom notes that "the transaction costs of shifting levels and transforming an ongoing situation may be very high.... in such cases, participants at one level may continue to rely for long periods on rules that produce suboptimal outcomes at that level because the expected costs of changing rules are higher than the benefits they could derive from a better set of rules" (ibid, p.63). Therefore, this high cost explains the failure to implement effective policies given the lack of political will, resulting from the economic model and clientelist political system which already negatively impact the ratio of incentives and disincentives.

Nonetheless, the application of Ostrom's design principles to obtain results allows a preliminary guide towards improved institutional design in Malta. The need for deeper reform will otherwise be discussed, to take the transaction costs into account which are currently preventing effective policy from being implemented.

6.3.1 Policy Solutions through Ostrom's 8 Principles

Ostrom asked eight questions to mirror her design principles, to assist with "improving the sustainability of a common-pool resource system" (2005, pp.270-271). The questions will be reproduced below and answered with the outcomes of the results, analysis and discussion.

Table 12. Applying Ostrom's 8 Principles to Malta's Built Heritage.

Ostrom's 8 Principles	Policy Direction
1. How can we better define the boundaries of this resource, and of the individuals who are using it, so as to make clear who is authorised to harvest and where harvesting is authorised? (Ostrom, 2005, pp.270-271)	Unclear boundaries as to what denotes cultural heritage worth protecting, and openness to interpretation of policy, constitute the primary weakness of built heritage. Dr Shirley Cefai stated it would be a best practice to have an obligatory Statement of Significance at the beginning of the permitting stage, outlining the site's heritage value. Going beyond her statement, to ease pressures on Superintendence which cannot help up with the workload, it is proposed that this research should be paid for by the permit applicant, and the work carried out by private specialist heritage experts, thus creating a market and ensuring supply of skills. A proactive effort should also be conducted to Schedule buildings rather than the current more reactive one. An aesthetics policy, as recommended by Dr Shirley Cefai, would limit what designs can be built, and help to protect context, rhythm and harmony.
2. How can we clarify the relationship between the benefits received and the contributions to the costs of sustaining this system? (ibid)	While social value is stated to be a determining factor in deciding if something is of heritage value, the results show this is predominantly only given lip service, as case studies like <i>Razzet l-Antika</i> show that the value to the community is given secondary importance to purported private property rights. Furthermore, people's private property rights are anyway violated if someone builds to destroy their context or their view. The Minister for Finance suggested that as would be the case with solar rights, if a development lowers the value of the properties of those affected by the development, they should be appropriately compensated by the investor. This would help to address negative externalities and protect heritage outside of UCAs.
3. How can we enhance the participation of those involved in making key decisions about this system? (ibid)	At present, policy is held hostage by financial interests, acknowledged by most interviewed. Especially problematic is the non-functioning Financing of Political Parties Act. This must be reformed to prevent companies donating to political parties, and strict enforcement enabled. Freed from vested interests, then the voices of citizens, NGOs and communities will be comparatively louder without having to compete against questionable donations. Party financing reform is therefore essential.
4. Who is monitoring this system and do they face appropriate incentives given the challenge of	As stated by Perit Tara Cassar, monitoring new applications requires rigorously reading the Government Gazette, or as Perit Andre Pizzuto said, depending on people reporting the permit applications. The Gazette does not even distinguish between what is inside a UCA or not, forcing those

monitoring? (ibid)	monitoring for problematic applications to investigate each PA number to check. If permits slip past notice, the Objection period may quickly close, preventing access to justice. These windows should be lengthened, and residents informed in a user-friendly fashion of projects in their locality. Furthermore, the barrier to entry to object and participate in the process should be reduced, firstly by restoring the importance of social context as a criterion when deciding on planning applications, bringing the discussion to the people, rather than forcing them to jump through hoops to engage.
5. What are the sanctions we are authorising and can they be adjusted so that someone who makes an error or a small rule infraction is sufficiently warned so as to ensure longer-term compliance without our trying to impose unrealistic sanctions? (ibid)	At present, the problem is that sanctions are not graduated, rather, they are practically meaningless as they are viewed as the "cost of doing business". Furthermore, heritage destruction is allowed in exchange for a "Heritage Gain", which creates a false equivalence between economic value and heritage value. Penalties should be proportionate to the financial wealth of developers, and they should not be able to buy their way into heritage destruction.
6. What local and regional mechanisms exist to resolve conflicts arising over the use of this resource? (ibid)	At present, the Planning Commissions and EPRT do not give the impression of justice being done or being seen to be done, as Jamie Buttigieg who was interviewed conveyed a wider sense of concerns about corruption. Justice is only sometimes expected if one reaches the Court of Appeals, however, it is incredibly expensive and the developer is at a financial advantage compared to NGOs or Local Councils or residents. Furthermore, as Prof Kevin Aquilina stated, developers may reapply as many times as they like until they get a permit eventually. Therefore, the playing field should be levelled to balance the incentives/disincentives, and costs made proportional to means, and the capacity of institutions increased to support appellants.
7. Are there functional and creative efforts by local appropriators to craft effective stewardship mechanisms for local resources that should be recognized? (ibid)	Institutions like the <i>Kamra tal-Periti</i> , as well as NGOs, work on developing policy which they feel is then ignored by the institutions. However, when policy is written, there is the impression it is written not on a scientific basis, but to suit the needs of developers with pre-imagined plans. Dr David Mallia stated that the Planning Authority does not operate on a scientific basis, but sometimes even on an emotional one. Bjorn Bonello, President of the Chamber of Planners, calls for warranted planners to man the institutions, who might be better placed to have good-faith engagements on rule-making with the community, though this would need to be preceded

	by more autonomous and independent institutions.
8. How do we create a multiple-layer, polycentric system that can be dynamic, adaptive, and effective over time? (ibid)	The role of Local Councils was explored, with Hon Albert Buttigieg pointing to increasing centralisation and marginalisation working against them. Local Councils should have a far greater say on what can be built in their locality. While this does not resolve land corruption, and may shift it, it provides an essential piece in the puzzle of empowering the community. Similarly, on the level of constitutional rulemaking, Article 9 of the constitution should be amended as appropriate and made justiciable, as this level of protection is currently absent at the highest levels of governance.

The aforementioned policy directions in Table 12 offer possibilities on the levels of "operational rules", "collective-choice rules", and even the "constitutional choice rules" (ibid, p.58). Regardless, as free-riding is a fundamental aspect of the problem in the planning system, and granted that the economic and political model depend upon that free-riding, a deeper level of reform is necessary. This might be realised through the depoliticisation of planning. This was the opinion of the Minister for Finance, who saw it as a way to address the underlying systemic Prisoner's Dilemma.

The Minister for Finance stated that for planning reform to succeed, it would require for the matter to be depoliticised, allowing the parties to come together to agree on it. This would resolve the Prisoner's Dilemma. The role of trust will be further discussed with reference to the second research question. In any case, it is evident that those affected by the rules possess very little ability to amend them, even those who benefit from them. Ostrom writes that when outcomes favour "those involved, the participants may increase their commitment to maintaining the structure of the situation as it is" (2005, p.14). However, "when participants view interactions as unfair or otherwise inappropriate, they may change their strategies even when they are receiving positive outcomes from the situation" (ibid).

The MDA President, Michael Stivala and the Minister for Finance alike agree that it is desirable to achieve an economy of quality and value-added with a reduced amount of construction, in favour of higher priced homes which are more affordable due to a better educated and wealthier population. This vision, shared with NGOs and other sectors of society, presents a common potential ideal which might unite stakeholders towards reform. The question, then, is why this has not yet been achieved, if there are so many stakeholders who agree on a fundamental set of needed reforms, and direction for the country, in spite of competing short-term objectives.

One outcome of the research conducted was the realisation that the free-riding taking place within the system is not limited to a small elite group of developers hijacking the planning process, though that is certainly a major component of the problem. Perit Vella Lenicker, for example, states that architects should share some of the blame for accepting jobs which come at the detriment of built heritage. With the new Periti Act, however, there is now an ethical obligation to take such impacts into consideration.

As a collective action problem and social dilemma, it is nonetheless not enough that Maltese society and leading actors might prefer change on the whole. Darnton recognises that "there is a difference between what people say and what they do", and that this disparity is called the "Value Action Gap" (2008, p.10). The Value Action Gap is not an empty space, but rather, "it is filled with barriers blocking the progress from values to action" which does not arise from a lack of information or knowledge (ibid). One of the main issues is ultimately a sense of futility that the majority of individuals are unable to make a difference. A select few, however, do possess that power.

6.3.2 Role of Leadership

The literature review and mapping exercise alike clearly demonstrated the power wielded by the Prime Minister in Malta, not infrequently a subject of criticism when it comes to institutional design (Pirotta and Calleja, 2019, p.5). This necessitates an exploration of leadership in the commons. That the EPRT is appointed by the President on the advice of the Prime Minister, for example, demonstrates a fundamental link in the permitting process which is politically captured. As Ministers wield little power in comparison to the Prime Minister, their own appointments to the Planning Authority must inevitably also enjoy his or her consent. The role of the Prime Minister, and meaningful leadership in general, are important to take into consideration.

One of the opening statements of *Reimagining Leadership on the Commons* is that "commons literature has not systematically explored leadership" (Singh, Thompson and Curran, 2021, p.6), a gap which the book seeks to fill. It outlines different leadership approaches, styles and concepts appropriate for different types of commons and their challenges. In the Maltese context, the need to obtain a relative political consensus to achieve planning reform implies the need for "convening leadership", which is defined as a style whereby "stakeholders from different organisations... join together to solve complex challenges... (bringing) in multiple perspectives and abilities to act and govern a complex commons challenge" (ibid, p.28). Were sufficient trust to be built on the political stage and in society, it might enable the establishment of truly independent institutions related to planning, which might govern the built heritage commons and land on truly impartial terms, and without allegiance to the current economic model.

Such leadership should not depend on the Prime Minister, but rather, should be expressed by all those engaged in a growing understanding of Malta's built heritage as a commons.

Dialogue is required at all levels, equipped with the knowledge of higher potential optimal outcomes. Opportunities for such dialogue might be facilitated by the President establishing a platform not unlike the annual State of the Nation, but one which is more focused on converting dialogue into action, promoting Ostrom's 7th principle to respect local rule-making. Such an ideal might have been realised through the now seemingly aborted Constitutional Convention. As per Table 11, revisiting the "constitutional choice rules" (Ostrom, 2005, p.58) to make Article 9 justiciable would provide a previously nonexistent arena for engagement which might balance incentives and disincentives in favour of the commons.

Achieving such discussions and reforms would, however, first of all require knowledge that the country finds itself in a situation where it is not only failing to reach optimal outcomes, but that those are within reach through coordination and trust-building. In other words, it is a question of actors possessing the relevant knowledge and strategy. Dr Shirley Cefai stated that the number one priority to protect heritage must be education. However, this need not only be interpreted in terms of those currently in the education system, but also an effort to convince wider actors that the current paradigm can change. The Minister for Finance stated that the public is moving in this direction, and that resulting political pressure might force a change in politics. It is therefore feasible for change to come both from above as from below.

Undoing clientelism and the patronage system in politics would mean that elections are no longer a winner-takes-all scenario, in which those supporting the wrong party miss out on promotions, permits and opportunities. The incentives and disincentives would therefore become more favourable to collaboration, and meritocracy would evidently favour the common good as a result. Without a vicious bipartisan system subject to the

Prisoner's Dilemma, and slowly growing trust in the population that free-riding is no longer the *modus operandi*, then that would also make enforcement less reliant on force. Ostrom states that state policies "need to rely to a great extent on willing cooperation by citizens" and that "when citizens approve of a governmental policy, think they should comply and this view is complemented by a sense that the governmental policy is effectively and fairly enforced, the costs of that enforcement are much lower than when citizens try to evade the policy" (2014, p.105). Undoing the toxicity of partisan politics and enabling wider cooperation might facilitate the necessary compliance for the fantasy of a "right to build" to formally be put to rest. At present, it may be extrapolated that voters' desire to keep their party in government outweighs the value they ascribe to built heritage.

The basis for such a conversation follows Ostrom's presumption that "cooperation will occur in settings with several broad characteristics"; namely, that those affected have agreed on necessary behavioural changes and share joint responsibility for future outcomes, that reliability and frequency of information are sufficiently high, that participants are aware which other actors have agreed to a behaviour change and are being monitored, and finally, that there is communication between at least some participants (ibid). As per Game Theory, this implies that with time, communication, forgiveness and reciprocity, players may develop the relationships and trust to create mutual value via "Tit-for-Tat" strategies (Axelrod, 1985, p.27), and develop nested-tiers as per Table 12.

6.3.3 Potential for Future Research

Incorporation of "behavioural models and theories of change" to the Maltese context is necessary, as they are "fundamental to the process of change" (Darnton, 2008, p.47). Further research would therefore particularly benefit from quantitative studies which might analyse the behaviour of Maltese private owners of built heritage, and to assess the

conditions, incentives and disincentives motivating their behaviour. Under what conditions might heritage outside of UCAs be saved by trust and cohesion, as was seen in Santa Lucija? How might stakeholders be brought together to defend built heritage, as was the case in Villa Frere? Furthermore, scientific studies analysing the demand for housing against the supply, addressing outdated data on vacant housing, would present a more authentic idea of the nature of the property market, and to what extent it is speculative rather than addressing real societal needs. One might also explore the barriers to cross-party cooperation on planning issues, and why in spite of the MDA pushing for certain reforms which NGOs are also calling for, the political class does not concede them.

6.4 Conclusion

One cannot point to any single component of the planning system in Malta as being chiefly responsible for the rapid degradation of built heritage. The economic model alone, for example, is not enough to explain the entirety of the problem, though it plays a key role in setting the incentives and disincentives. However, it is the interface between institutional design, politics and community behaviour which sets the stage for the siege on Malta's built heritage commons, with each component dependent upon the other. This situation is evidently a Tragedy of the Commons not only for the depletion of the resource, but above all, because with the exception of free-riders and their short-term gain, it represents a suboptimal national outcome that impoverishes the country, when coordination might present various other options.

Self-reinforcing, the problem has become entrenched to the point that even when key actors and stakeholders hope for reform, there is a sense of helplessness amongst many of those wielding power. The impression given through interviewing certain institutional and political actors is that while there may be practical executive power which their roles

might present on paper, in reality, the centralisation of the political system, as well as the reality of state-capture, render them as Potemkin figures with only as much room to act as they are provided, unless they are willing to either retire or challenge the system, as Marlene Farrugia and Godfrey Farrugia once did. The unwillingness of institutional actors to stand up for their private principles may partly be explained in light of aforementioned observations on habit and institutional culture, skewing incentives and disincentives and guiding actors down a path of least resistance. As stated by Darnton, behavioural change is influenced "in terms of a person's belief they can take meaningful action" (2008, p.19). In a clientelist system, and amidst a social dilemma, one can once again emphasise the breakdown of an individual's motivation to affect positive change as a key consequence, not for lack of belief that things should be different, but for a lack of belief that they can be different.

While the political and economic model lead to the breakdown of trust, it is trust which is needed to address the problem. Consequently, it may take strong leadership and vision to provide a shock to the system, if not a unifying platform, provided by a sufficiently influential President of Malta, or similar figure commanding respect across party lines. Alternatively, change might be brought about with a sufficiently strong party in government willing to take the full force of the risk, or a coalition with a partner willing to hold its coalition partner to account.

The likelihood of such political arrangements, however, are slimmer in a winner-takes-all political system such as Malta's, where holding power becomes the priority at any cost, which in itself is a symptom of clientelism, distant from considering the commons. A change in mindset is therefore required, one which recognises that there is a near consensus regarding the need to shift towards an economy of quality over quantity. It is

this common ground, and broad agreement on issues such as party financing reform, which may form the basis for the trust and cooperation needed to overcome the Tragedy of the Commons for built heritage in Malta.

The approach to study this problem is novel for Malta, as the theory of the commons is not only relatively new nationally, but its application to built heritage is still a developing field globally. The timing and discussion could not be timelier, with the Minister for Finance calling for a change in economic model the very weekend before the submission of this research (Times of Malta, 2023). This dissertation discusses the needed theories, language and policy direction which might be taken to support that national dialogue, should the opportunity ever be seized.

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Appendices

Appendix 1: Sample of Cases Database

Year	PA Nr	Locality	Status
2023	PA 0554/18	Sliema	Context
2023	PA 8358/21	Marsascala	Context
2023	PA 0558/22	Hamrun	Demolition
2023	PA 5526/21	Zurrieq	Demolition
2022	PA 0116/21	Balzan	Demolition
2022	PA 2427/21	Naxxar	Context
2022	PA 7902/20	Sliema	Context
2022	PA 8485/20	Pieta	Context
2022	PA 1129/21	Qala	Context
2022	PA 2385/21	Birkirkara	Demolition
2022	PA 2316/21	Tarxien	Context
2022	PA 4727/21	Victoria	Context
2022	PA 7136/21	Msida	Demolition
2022	PA 7499/21	Gzira	Demolition
2021	PA 6555/20	Balzan	Demolition
2021	PA 03446/21	Zejtun	Demolition
2021	PA/05925/21	Xewkija	Context
2020	PA 3510 / 20	Xaghra	Proximity
2022	OC019	Tarxien	Proximity
2021	PA 3259/21	Victoria	Demolition
2021	PA 2385/21	Birkirkara	Demolition
2021	PA 2316/21	Tarxien	Context

Appendix 2: Interview Guide Based on Ostrom's 8 Principles

Governance of the Commons: The Case of Malta's Built heritage Guide for Potential Preliminary Questions for Semi-Structured Interviews based on Ostrom's 8 Design Principles

Timothy Alden

Public Policy Leadership (PPL5009)

1. **Clearly delineated boundaries:** What is your understanding of private property rights? Where do such rights begin and end?
2. **Match rules governing use of common goods according to local needs and conditions:** To what extent do planning rules and enforcement reflect Maltese society and its interests?
3. **Ensure that those affected by the rules can participate in modifying the rules:** To what extent, and how, do local communities have influence on changing planning policies and regulations?
4. **Develop a system, carried out by community members, for monitoring members' behaviour:** How easy or difficult is it for people to keep track of applications and respond to projects which may impact their communities?
5. **Use graduated sanctions for rule violators:** How would you describe the situation as regards enforcement when it comes to the building & construction industry?
6. **Provide accessible low-cost means for dispute resolution:** How accessible, transparent and affordable in terms of both time and money is it for people to participate in the planning process? (i.e. objections and court cases)
7. **Make sure the rule-making rights of community members are respected by outside authorities:** Is there such a thing as a local aesthetic or building culture in our towns and villages, and is there any social pressure to conform? Are there factors outside of specific policies taken into consideration in PA planning decisions?
8. **Build responsibly for governing the common resource in nested tiers from the lowest level up to the entire interconnected system:** What role, influence and significance do local councils play in our planning system?