

## Planning for greed

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***In this opinion piece Dr. John Ebejer explains that the planning system is not truly serving the public interest and argues the government's approach to planning is fuelling more developers' 'greed'. He lists and explains a number of instances where this is the case. The opinion piece is in two parts and was published on manuedelia.com in November 2019.***

<https://manuedelia.com/2019/11/guest-post-planning-for-greed-1/>

<https://manuedelia.com/2019/11/guest-post-planning-for-greed-2/>

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### Planning for Greed – Part 1

Recently the Prime Minister called on developers to show less 'greed'. This was his reaction to the strong criticism for the many developments that are being permitted which are harmful to the environment, severely detrimental to residents and/or significantly visually intrusive.

Such a statement is surprising coming from a minister, more so from the prime minister. It says a lot about the dismal situation that planning and the environment are in. It is the responsibility of government to oversee the work of the regulator, in this case the Planning Authority. The government is politically responsible to ensure that the regulator is able to carry out its tasks in the best public interest and in line with its legal objectives. The legislation specifies that: *"It shall be the duty of the Government to enhance the quality of life for the benefit of the present and future generations ..... through a comprehensive sustainable land use planning system, and ..... to preserve, use and develop land and sea for this and future generations, whilst having full regard to environmental, social and economic needs; ....."*

The PM's statement is an attempt to shift responsibility for the current situation on others and in so doing implying that the government is not at fault. Nothing could be further from the truth. Politicians are elected to govern and to work for the public interest. That includes overseeing the work of government agencies and regulators. They are ultimately responsible when things go wrong. PM Muscat's attempt to shift the blame on others is in fact an admission of the failure of his own government.

More than that, shifting blame means that the government has no intention of doing anything about it. A serious prime minister would have held a press conference, together with the minister responsible, explaining in general terms some of the changes he would like to bring about to improve the situation. That did not happen nor will it ever happen under a prime minister who seems to care very little on the degradation of people's lives, largely because of overdevelopment.

To operate effectively a regulator requires sensible laws and adequate resources. For the government to rely on the goodwill of those being regulated is simply not on. It creates an unlevel playing field in which developers who are not 'greedy' would be greatly disadvantaged. Because no matter how much the prime minister appeals, there will always be some developers who would be hell-bent on maximising their profits to the full, irrespective of the consequences.

Most of all, Muscat's call for less greed from developers is weird because it was his government that has promoted and encouraged greed.

Until 2015 the Structure Plan was the national strategic document for urban planning in Malta and Gozo. In spite its imperfections, [it provided a holistic view of spatial planning and generally had a positive impact on development in Malta](#). The introduction of the SPED was widely criticised as a retrograde step by environmental NGOs and the general public, yet the government went ahead and replaced the Structure Plan with this unsatisfactory document. Unlike the Structure Plan, [the final SPED document does not include detailed policies to guide planning decisions](#), and only provides high-level thematic objectives, with little practical and positive relevance to decision making in the planning sphere.

We have a planning system gone mad. On selected applications the Planning Authority stretches policy interpretation to the limit. Where this does not go far enough to satisfy developers' 'greed', the policy is changed in a way which is irrational and which is diametrically opposite to the public interest.

For example in 2014, the Rural Policy was amended to allow dilapidated rooms in the countryside to be redeveloped as villas (supposedly subject to the room being once used as a residence). From a planning/ public interest point of view, there was absolutely no justification for this change. The revised rural policy is causing creeping urbanization in the countryside. No doubt, government's intention was to fuel more and more 'greed'.

Also in 2014, the Hotel Height Relaxation policy came into force. Allowing additional floors for hotels was supposedly intended to facilitate hotel improvements and thus improve the tourism product. In reality the policy was abusively used to increase the number of apartments within mixed developments. Still more developer's 'greed' actively encouraged by the government.

In 2016, the planning legislation was amended to remove the autonomy of the Planning Authority. The legislative changes allows the minister to appoint and remove the Executive Chairman at will, which effectively forces the PA's Executive Chairman to follow the diktat of the government. The PA Board's role in formulating planning policy is no more. The more important decisions on policy and on other matters were put in the hands of a small group of people, the Executive Committee, who in turn are under the control of the minister through the Executive Chairman. The PA board is now a mere rubberstamp for the more controversial applications. The new set-up makes it easier for PM Muscat and his ministers to fuel more and more developers' 'greed'. [The dons of two University of Malta faculties have rightly called for less political interference in the planning process](#). That will not happen, however, for as long as the 2016 Act remains in its current format.

Also in 2016, new regulations allowed minor illegal developments to be regularised against the payment of a fine. If it were only very minor infringements that could be regularised, this measure would have been a sensible one. But it turns out illegalities that are quite substantial are also being regularised. It was originally intended to be a temporary measure but it was subsequently renewed. Regularisation sends a clear message to developers (especially those who are 'greedy') – 'build illegally and then sort out later'.

The Paceville Masterplan, again in 2016, was another example of government-induced 'greed', even if it was subsequently scrapped. The PA Executive Chairman set the terms of reference for the consultants

so as to cater for various tall-building proposals that several big developers had submitted to the PA. The eventual draft masterplan proposals were developed around, and broadly in accordance to, the requirements of these various major developments proposals. No planning or public interest justification was offered for these major proposed developments. A typical case of the tail wagging the dog. It's turning urban planning on its head – using a planning tool to legitimize developments that proper scrutiny would have revealed to be unacceptable.

*Dr. John Ebejer is an urban planner. For many years he held various positions relating to planning and development at the Planning Authority, the Building Industry Consultative Council and relevant ministries.*

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## **Planning for Greed – Part 2**

Decisions on investment, development and planning can be fairly complex. In the past I was involved in various public sector decisions on these and on other matters. For major decisions I had a minor role but I could still observe the dynamics how decisions were arrived to. In all cases decisions were taken over a period of weeks or even months, collecting relevant information, considering different options, consulting with stakeholders and considering the implications. On Zonqor, however, our superman prime minister was able to give away a large area of public ODZ land in a meeting lasting just five minutes. In an agreement signed in May 2015, a non-existent American University of Malta belonging to Jordanian investors with no experience in tertiary education, received a whopping 90,000 square metres of Outside Development Zone land to develop 'student dormitories', an area equivalent to 18 football pitches. The area was [subsequently reduced to 31,000 square metres](#). Muscat was able to determine the location and extent of the area, the social implications for M'Scala, the environmental impacts, the trustworthiness of the investor and the feasibility of setting up a new university. All in a mere five minutes. And he actually boasted about it.

It should also be noted that in taking the Zonqor decision the PM ignored the planning and other processes that are set out in legislation. He ignored the need for an Environmental Impact Statement and other studies. He ignored the need for a development permit from the PA. He ignored any concerns that the environmental authorities would undoubtedly have over the urbanization of such a large piece of our countryside. He also ignored the possibility that the then-Lands Department might have other ideas on how the land could be made use of. Above all Muscat ignored the golden rule that the allocation of public resources to the private sector should be done through a competitive process. Our superman prime minister ignored all that and committed the government with the most unreasonable, incomprehensible and damaging decision that any government could possibly take.

The Muscat government decided to build an underwater road tunnel to link Malta and Gozo. When first made public it was claimed that the tunnel will be self-financing and that therefore the private sector would be interested in financing. That turned out to be pie in the sky. [So many important questions remain unanswered](#). Will the tunnel be safe? How much will the tunnel cost? How will it be paid for? Will the benefits justify the cost? How will the inert waste generated from the tunnel be disposed of? In spite of unanswered questions, the honourable Members of Parliament decided unanimously that the Gozo tunnel should go ahead. It is very disappointing to see our elected representatives take such an important decision without reference to reliable information.

Conflicts of interest are openly tolerated by Muscat's government. This is a very serious matter. To be effective, a planning system needs the trust of stakeholders and of the public. A conflict of interest is a

situation where a public official is in a position of giving advice or taking a decision that could potentially benefit him or her financially or in some other way. There are at least three situations of conflict of interest, in the PA or the relevant ministry, that have not been declared. The most blatant is that of Robert Musumeci. He is adviser to government on planning matters while also working as a private architect. On one day, Musumeci drafts the legislation and policies which, on another day, he uses in his applications as a private architect. It is worth noting that the Public Administration Act clearly spells out the relevant principles and calls on all public officers to act ethically and not to put themselves in a situation of conflict of interest. Anyone who thinks that this is a trivial matter should remember that the court nullified the ITS-DB permit on the grounds that one of the PA board members had a conflict of interest that was not declared.

For government-induced 'greed', we can also mention

- the de facto increase of building heights across Malta and Gozo
- the increased visual degradation of many streets in every town and village
- the repeated misinterpretation of the Floor Area policy for major developments
- the lack of development briefs for major developments
- the various permits for petrol stations
- the failure to address the problem of huge quantities of inert waste from construction sites.

The list could go on and on. But without doubt the mother of all government-induced greed is the DB-ITS development at St. Georges. Two government agencies were arm twisted by government politicians to give the developer what he wanted. The land given to the developer was not limited to the ITS site itself. It also included a car park and a landscaped area across the road. The developer got every square inch of public land that could possibly be handed over to him (including a stretch of public road!). From a public interest perspective, there is no justifiable reason why this huge area of public land should be given away for private development of luxurious apartments. To make matters worse many allege that the land was given away at a price that is very advantageous to the developer. Maybe if PM Muscat really wanted to rein in developers' greed he should, for starters, reverse this obscene give-away of public land.

Then there is the way the Planning Authority rolled out the red carpet for the ITS-DB development. I have been involved in the drafting and interpretation of planning policies and legislation for more than twenty years. I reiterate [what I wrote elsewhere](#); no matter what the various planning boards and PA officers may say, the proposed development of the ITS site is contrary to planning policy on many counts. There are several strong valid reasons why it should have been refused (and why the new applications should also be refused). What I found most baffling about the application is how the various boards ignored the shadowing impact on thousands of adjoining residents. A 150-metre long 17-storey building, together with a 40-storey tower, will cast hundreds of apartments into shadow for most of the year. This is clearly shown by the sun-path diagrams of the EIA. The PA board members have a responsibility to the public in general and to nearby residents. It is beyond shocking that, in its meeting, the PA board did not consider this, let alone use it as a reason for refusal. I had always thought that a Labour government would seek to protect the weak and disadvantaged but in this case no government minister or MP spoke out against this obscenity.

There are Planning Authority employees who work conscientiously in the public interest. They are achieving positive results in spite of the government's negative stance towards the environment. But they are fighting a losing battle against overwhelming odds.

The various obscene decisions and policies by the PA and the government are not just one-off mistakes or errors of judgment. They are a pattern of governance that is insensitive to the needs of the

environment and insensitive to the needs of people. It is a governance with the malicious intent of satisfying developers' greed, no matter the environmental and social impacts.

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