

ANNUAL REPORT 2011



Foreward

By Mr Austin Walker
Chairman

Another year has gone by and we have reached another important phase in the MEPA Reform Process.

2011 was another challenging year. It was a year in which we started to experience the effects of the measures we introduced through the Mepa Reform, especially when it comes to the implementation of the new development application system. The MEPA Reform Process passed through three main phases. Each phase presented us with a number of challenges which spurred us to learn and work harder to ensure that what was promised must get delivered.

The first phase took us nearly two years to complete, this was the hearing and listening part. During this timeframe which spanned close to 24 months we practically met every interested party to understand what was frustrating our users and the community with the services MEPA was rendering. During the second phase, which took us nearly twelve months to complete, we worked on the preparation of all the documentation and legislation to change the processes and systems on how we operated. This required the drafting of a new and single Environment and Planning Act and a Legal Notice that would cover and entirely change the planning process - from the submission of a planning application to the decision stage and beyond, should an appeal need to be lodged.

The new planning process came into force on 1st January 2011. A new MEPA Board to deliver strategic direction to the organization was put in place, while two new full time Environment and Planning Commissions (EPC) were set up to replace the previous part-time Development Control Commission (DCC). At the start of the year we also introduced the electronic submission system and completely removed the “chess clock” system which unfortunately did not give the timely desired results. The processing of planning applications now starts with a screening process. The system now entails that each application has to go through a screening process to establish whether the proposal contains all the required details and meets the primary planning policies of the Authority. Once an application goes through this screening process and gets validated the Authority is committed to decide the application according to the established timeframes.

While the complete overhaul of the planning application system involved a learning curve for both the Authority and its stakeholders, I must say that the outcome over the past twelve months has been very positive. The Kamra tal-Periti (KTP), with the valuable support of its representatives, namely Perit Vincent Cassar, Perit Simone Vella Linecker, Perit Victor Torpiano and Perit Anthony Fenech Vella, have from the very beginning been very supportive and provided us with worthy co-operation and feedback. I am certain that without them we would not have managed to implement and proceed with these major changes. Their time, knowledge and experience has surely assisted us in improving the processing of development applications. Meetings with the representatives of the KTP are still on-going as we need their input to continuously fine tune our systems and address issues that arise along the way.

Internally the changes meant a major culture shift from the way we were used to operating. The core team under the direction of Director Perit Christopher Borg and Assistant Directors Perit Sylvio Farrugia and Perit Frans Mallia did a professional and excellent job in motivating all the team managers and case officers to go through this period of change seamless. I cannot but not

thank Perit David Cassar, Perit Victor Sladden, Perit Raphael Axiaq, Ing. Stephen Ferrito and Marlene Attard for their work and dedication in making this phase of the Reform become a success story.

In 2011, we saw the setting up of a new Management Team. The Team was completed by the end of March with the engagement of Dr Ian Stafrace as Chief Executive Officer. Dr Stafrace is not a new comer to MEPA, as a partner of Abela Stafrace & Associates, he served for almost ten years as Legal Consultant to MEPA. His experience and acquaintance with Mepa's employees paved the way for his role to become effective in a very short period of time. In February, Perit Alex Borg was appointed as the first Director of Enforcement, with the role of setting up a new Directorate for the compliance and enforcement for both the Environment and Planning matters. Subsequently, Dr Petra Bianchi was appointed Director of Environment Protection replacing the very capable Mr Martin Seychell, who resigned his position to take on the role of Deputy Director General for Health and Consumers within the EU. Unfortunately, the year came to an end with the resignation of Ing. Ray Piscopo who served the Authority for a number of years as Director for Corporate Services. I would like to thank him for his services to the Authority.

The coming twelve months are going to be crucial months for us all. The next phase of the Reform will include the setting up of a centralized customer services system with the aim of streamlining the interface between MEPA and its clients. Here the Authority will be revamping its Customer Relations approach in dealing with all planning, environment and enforcement queries and complaints. This year, we will also dedicate our efforts to updating and revising policy and guidance documents to ensure that they meet the challenges and demands we are and will be facing in the coming years. Government has already initiated the process for the preparation of the Strategic Plan for Environment and Development by presenting MEPA with a document containing the Strategic Objectives to guide the preparation of the Strategic Plan. Once finalized, this Strategic document will replace the 1990 Structure Plan and is expected to cover the period up to the year 2020. To this extent, MEPA has set up a technical team made up of officers from the Planning and Environment Directorates entrusted with the preparation of this plan and will collaborate with experts in the various Government Ministries and sectors so as to ensure that the plan is truly integrated and holistic. The preparation of the SPED is an ambitious task but I am sure that MEPA will deliver the plan to Government within the stipulated timeframe.

The protection of our environment is and remains our main and ultimate responsibility. This duty is not one that the Authority should carry alone but is the duty of every person and Government, to ensure that our behaviour and actions contributes towards the sustainable management of our natural resources. MEPA carries out its responsibility in this aspect not only by taking the right planning decisions but by seeking to ensure the adequate implementation and enforcement of over 200 Directives, Decisions and Regulations under the EU Environmental Acquis.

Next year we hope to conclude and fully implement a new environmental permitting system which will seek to improve the regulatory framework applicable to industrial activities of environmental significance. This system will further result in improving the protection of the environment, while offering several advantages to industry, such as legal certainty, clearer definition of environmental liability and the opportunity to identify priority environmental issues to enable appropriate risk management.

A National Biodiversity Strategy and Action Plan (NBSAP) will be issued for public consultation. This document will define a comprehensive framework for safeguarding Malta's biodiversity over the period 2012 to 2020. Moreover, the Authority will also issue a draft action plan for the better conservation and management of the grouper population in Maltese waters.

The €4.6 EU funded environment monitoring project will be in full swing. The project focuses on radically improving the national environmental monitoring capacity in five environmental themes – air, water, radiation, noise, and soil.

We have made positive strides this past year to ensure that our enforcement function has a dedicated structure with its own resources. To further tighten enforcement by dissuading and penalizing persons from carrying out illegal development, the Authority in 2012 should have will introduce the new daily fines and sanctioning penalties, which should complete the tools to combat illegalities and illegal development. The draft legal notice was rigorously discussed and scrutinized by Parliament's Steering Committee for the Environment and Development to ensure that the new system will be fair and transparent. The daily fines will only be applicable for any irregularities carried out after the adoption of the new law, however, the new penalties will apply for the sanctioning of any illegal development.

Experience today teaches me that an important component to moving issues forward and bring about change is to involve, listen and discuss with all parties that show an interest in the issue. While it might be time consuming, it is the recipe which I will continue to use as I carry on spearheading this Authority to meet the responsibilities, expectations and demands to improve the quality of life for our citizens.

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Chief Executive Office

Report by Dr Ian Stafrace

The MEPA reform ushered in the new and challenging position of Chief Executive Officer (CEO), a position which I was honored to take up in March this year. As envisaged by the MEPA reform, a number of tasks previously handled by the Chairman would now be handled by this office, together with new initiatives and processes which the reform demanded. By the end of the year both the Operations Unit (previously part of the Planning Directorate) as well as the Corporate Services Directorate were reporting to the office, in a move that was envisaged to improve efficient operations across MEPA.

One of the key goals which MEPA set for itself at the start of the year was the need to improve co-ordination across the four directorates. The establishment of the CEO office created a central point in the authority MEPA-wide administrative procedures were rolled out to ensure that a co-ordinated framework was in place for the reform to actually materialize. At the same time, we embarked on a process to carefully dismantle of older systems, including internal procedures.

Dialogue with external stakeholders constituted another major strategic objective of the new CEO function. We were committed to ensure on-going consultation with constituted bodies and no fewer than 1200 meetings were held by the CEO in the space of 9 months, besides weekly MEPA board meetings, Environmental Core Group meetings and meetings with Directors. We also co-ordinated some of MEPA's input to key policy documents prepared by other entities and ministries.

A key deliverable for the office was to conclude a costing exercise to identify self-financing options for MEPA. This including the quantification of the extent and cost of effort dedicated to servicing government in policy making functions. An effort to identify options for resource efficiency gains resulted in several decisions related to re-distribution of staff and changes in modus operandi being issued by this office. Cost cutting measures were rolled out across the whole of MEPA, and at the same time significant effort was made to settle dues to creditors and retrieve money from debtors. Tendering and evaluation processes across MEPA were centralized, as were the Urban Improvement Funds projects, in an effort to improve co-ordination.

In the ICT arena, significant enhancements were applied to the eApps system to meet the needs of the applicants. Albeit a compact team, the ICT unit rose to the challenge that changes brought about by the reform required, including initiatives to increase bandwidth, investment in new ICT infrastructure to increase system resilience, scalability and robustness, the installation of new equipment to control ambient conditions within the server room and increased autonomy in electricity supply in case of power outage. Another important deliverable has been the new map-server intended to service both staff and the general public with enhanced features. Propelled by the reform objective of increased transparency, most documentation (including plans and reports) can now be freely downloaded from our website. A strategic review of hardware and the ICT data

centre was also carried out with a specific view to increasing redundancy and resilience and reducing points of failure.

Aside from tackling the challenging day-to-day activities including constant pressures for recruitment, and on-going negotiations of collective agreement clauses, the Human Resource unit undertook various pro-active initiatives ranging from the revamping HRIS system, employer branding initiatives, over 1000 hours of training sessions, as well as personal well-being seminars and campaigns enabling staff to share their knowledge with each other. There was considerable investment in personal protective equipment, improved work stations, weekly clinic services. From a social perspective aspect, HR coordinated the first for 2012 blood donation. A major issue were the air quality concerns in the proximity of Hexagon House. Tenders for the supply, installation and commissioning of new chillers and air handling units equipped with special filtration systems to abate odours were issued. At the same time, new infrastructural equipment was commissioned for the St Francis Ravelin premises.

As Malta's national mapping agency MEPA continued to be responsible for producing and maintaining the flag-ship national mapping product that is the Large-Scale Topographic Mapping Product Portfolio. During this year the Unit remapped at 1:1000 scale Siggiewi and started the capture of Qrendi, as well as updating from orthophoto maps and ground surveys of various localities. Over 100,000 map features were manually checked and corrected, and the geographic text layer was reviewed and remodelled to conform to current database specifications. At the same time, the Unit continued to be responsible for web-based services (including MapServer, p/o E-Apps, GIS-Viewer), providing access to all MEPA's planning & development data, environmental data and topographic data as well as development control & GIS. MEPA has invested in a major revamp to its Geoportal so as to launch a major overhaul of the Internet Mapserver. The plotting process was evaluated for re-engineering to enable more functionalities in line with the new MapServer technologies. Mapping products and services to external clients offered at the Mapping Shop was extended, maintaining the move to single contractual arrangements and enabling a more cost effective relationship for departments and entities within Ministries. The unit was also active in a number of international projects.

Meanwhile from a surveying point of view, maintenance of the National Grid Geodetic Networks, updating of the Levelling Schemes dataset, ground control for photogrammetry, and other topographic surveys continued to dominate the workload. The Land Survey Unit continued to offer its Setting out and Topographic survey services. A difficulty being faced by the unit is the attrition of staff as they reach retirement age.

Staff from the Operations unit were heavily involved in procedural changes within the planning application process, ranging from stakeholder information seminars to the establishment of electronic management information system, to monitor critical performance indicators. By the end of the year all decided applications had been processed within the legal time-frames. This year the Unit also started to focus on environmental permitting processes with a special view of formalizing better the procedures and bringing it up to scratch as compared with the planning system. In

addition, Integrated Pollution Prevention and Control Permit applications and Environmental Impact Assessments have now been included in the new Geographical Information System. Meanwhile the Documentation and Records undertook a physical audit of PA files from 1992-2011.

A core objective for the existence of the CEO's office was to ensure that the reform objectives were being met. One of the key promises of the MEPA reform was to create a more efficient MEPA and this objective was perhaps the one that took up most of my energy this year. The results speak for themselves: The permitting backlog has been slashed from over five thousand to less than two thousand. To improve accountability, MEPA was to strengthen checks and balances and to make the public more aware of any proposed developments. Whilst MEPA's on-line system allows anyone to click on a map and download the entire history of development pertaining to it, the reform has taken this a step further with interested parties – and not just the architect - now privy to information in the file. Accountability to government for any financial resources it received has also been ratcheted up. Consistency, partly addressed by the new set up of the MEPA board was also constantly on the radar as the CEO's office acted as a central point for several key decisions – including internal corporate matters. Meanwhile, the Enforcement Directorate has been set up, a director appointed, staff deployed and resources were made available. A key strategic objective for this directorate is to ensure a pro-active approach – to work on prevention rather than cure, including by sending a strong legal message that applications to sanction illegal development would no longer be considered as part of the norm.

In conclusion, I wish to outline what I consider to be some of the key deliverables for next year. In the Corporate Services Directorate, a key challenge on the ICT front next year will be to implement an ICT Governance approach within the unit, as well as providing fail-safe ICT infrastructure. The digitization of all MEPA case files must continue until all files are digitally scanned and stored. On the finance front a key challenge will be the better management of procurement as well as the better management of planning gains together with the possible amalgamation of the various funds (EIPP, CPPS, UIF) is an important deliverable for next year. In Human resources aligning human resources/competences to where the real needs are and to identify areas which need further support is one of the key missions for next year. A key challenge for Mapping and Land Surveying next year is to improve the capacity of the Mapping Unit and Land Survey to move towards self-financing arrangements whilst continuing to provide a quality service. Finally, besides a continued effort to improve the quality of our facilities, on the radar for next year is the installation of a large PV cell array, to reduce MEPA's reliance on fossil fuels and increase its renewable energy generation.

On a strategic level, I consider the on-going reviews of policy documents and new legal instruments to be a necessity, as well as ensuring the quality review of new and old procedures. Resource efficiency, cost-cutting and increasing value also remains a priority for the next business year.

Environment Protection Directorate

Report by Dr Petra Bianchi
Director

Environmental assessments

In 2011 the Environment Protection Directorate (EPD) strengthened the integration of environmental considerations within the development control process. The ongoing reform of the Authority has introduced changes in the development assessment procedure. These changes also address the effective integration of environmental concerns into development control, including legal requirements arising from both national, EU and international obligations.

The EPD streamlined procedures for the assessment of environmental impacts of plans and projects, and improved responses to planning consultations on environmental issues. In line with the reform, the EPD improved the coordination of preliminary environmental assessments in the screening of proposals at an early stage of the development control process.

The EPD continued to oversee Environmental Impact Assessments and advise plan makers on environmental issues. The Appropriate Assessment tool was implemented as an integral aspect of development control, also contributing to the fulfilment of obligations under the Habitats Directive.

The EPD handled approximately 60 Environmental Impact Assessments at various stages of the process, which included drafting terms of reference (5 cases), reviewing (10 cases), updates to concluded EIAs, and certification. Eight EPD Reports on EIAs were finalized and referred to the Planning Directorate. For the first time, in 2011 EPD Reports on EIAs began to be published on the Authority's website.

The EPD carried out 409 preliminary screenings (including 203 pre-screening files) and approximately 35 detailed screenings. A new assessment system during the screening process was implemented in over 450 cases. 1,500 development cases were assessed by the EPD in 2011, compared to 1,186 cases in the previous year.

Proposals assessed in terms of Appropriate Assessments increased to 241 in 2011, from 65 in 2010. 18 formal Appropriate Assessments were in various stages of progress, and Appropriate Assessment requirements were applied to 5 plans in 2011 with amendments being suggested in some cases.

The EPD contributed to the processing of 447 planning applications that involved a requirement for either an environmental permit or environmental registration.

Environmental permitting

The EPD processed nine Integrated Pollution Prevention and Control (IPPC) applications in 2011, with IPPC permits being granted for the Delimara power station extension, a chemical plant and a pharmaceutical plant.

In 2011 the EPD met individual quarry operators, architects and environmental consultants, and disseminated information on the environmental permitting process in relation to quarry operations. By the end of 2011, 36 quarries had applied for an environmental permit.

Around thirty environmental permits for industrial activities were issued, varied or renewed in 2011. These included permits for various waste management activities, hotels, laundry and dry cleaning facilities, printing presses, facilities for the maintenance and repair of vehicles and various manufacturing plants.

Over the year, 1,184 new waste carrier permits were issued by the EPD, while 1,675 were renewed and 337 permits were withdrawn. The EPD also permitted a Waste Battery Scheme.

In 2011 the EPD processed 8,119 applications for nature permits, licenses and authorizations, related to protected areas; trees, birds and other flora and fauna; trade in species; CITES and GMOs. Applications were also processed for the possession and transfer of protected stuffed birds.

Significant improvements were made in the processing of permits for activities in protected areas, including filming activities. A new focal point for such permits was established within the EPD, which resulted in a better coordinated approach to monitoring and customer relations in this area.

The General Binding Rules registration process initiated in 2008 was strengthened in 2011, focusing on the reduction of potential emissions into the environment emanating from micro, small and medium enterprises. This included the improvement of existing conditions for pre-registered sectors, based on experience gained in the two previous years.

As part of the implementation of the EU Waste Shipment Regulations and the Basle convention, the EPD processed 55 transfrontier shipment permits for the export of hazardous waste, as well as transit of such waste through Maltese territory. In addition, 1,353 notifications of the export of non-hazardous waste (green-listed waste) were processed.

The EPD also manages a system of permitting and notification of all movement of hazardous waste within the Maltese Islands. To this end, 437 permits for the internal movement of hazardous waste were issued in 2011, and the EPD received 3,680 individual notifications of movements of hazardous waste.

Environmental monitoring and compliance

A Guidance Document and Terms of Reference for Vibration Monitoring were drafted by the EPD, for quarry operators to monitor vibrations resulting from blasting activity in hardstone quarries. These documents were issued for public consultation, and were sent to quarry operators licensed to use explosives to extract hardstone mineral.

A Guidance Document and Terms of Reference for Dust Monitoring were also drafted to establish a baseline study on dust emissions from quarry operations, to assist operators in improving their environmental performance through the reduction of dust emissions into the air. This monitoring aims to identify sites with higher levels of emissions and which require immediate mitigation measures.

The EPD is upgrading its air quality monitoring network, which comprises four real time stations in Malta and one real time station in Gozo, as well as a passive diffusive tube network with over 100 sampling sites spread over Malta and Gozo. The EPD also continued implementing its ambient monitoring programme for radioactive particles in the three environmental compartments (soil, water and air).

In 2011, the EPD implemented an initiative targeted at producers or importers of packaging and electrical/electronic waste, to ensure compliance with legal obligations. The EPD also disseminated information on legal obligations to importers of batteries.

The EPD carried out inspections related to the shipment of waste, including both paper checks as well as physical inspections of containers and storage or loading facilities. Over the year, 56 inspections were carried out in quarries.

In 2011, the EPD continued with the annual schedule of compliance auditing, in order to gauge the level of conformity with environmental permit conditions; ranging from facilities such as manufacturing plants, to power stations, to waste management facilities.

The EPD also investigated various complaints from the general public, which lead to various actions being taken including issuing of fines against facilities operating without the necessary permits. The number of industry related complaints carried out amounted to 267 (excluding quarry inspections detailed above).

The EPD was involved in approximately 400 complaints or compliance visits related to protected areas, trees, flora and fauna, trade in protected species, and CITES. The EPD also continued to carry out work related to bird protection in 2011. Numerous inspections were carried out in conjunction with the Malta Police Force, focusing on issues related to protected species, hunting and trapping.

Various collections of stuffed protected birds were inspected. The EPD oversaw the printing, collection and distribution of the carnet de chasse booklets to hunters and trappers, issued special licenses and administered the SMS reporting system for the spring hunting season, and handled 745 applications for exams related to hunting.

The EPD initiated the implementation of tasks related to the EU Marine Strategy Framework Directive (2008/56/EC). The EPD also carried out a data collection exercise for the compilation of the MSFD Initial Assessment of the environmental status of marine waters which is currently in progress.

Environmental plans and policies

In 2011, the EPD commenced work on a new Waste Management Strategy, launched a Noise Action Plan and a Waste Electrical and Electronic Equipment Plan for public consultation, and published Noise Maps on the Authority's website.

In 2011 the EPD continued work on the National Biodiversity Strategy and Action Plan (NBSAP), drafting the strategy and carrying out inter-ministerial consultations in conjunction with the Office of the Prime Minister. The EPD also drafted the Fourth National Report to the Convention on Biological Diversity, which documents the state of biodiversity in Malta and analyses the work carried out in this sector with the aim of reducing the loss of biodiversity.

The Authority published a 'Code of Conduct on Horticulture and Invasive Alien Plants', an informative booklet focusing on the management of alien invasive species and their use in horticulture in Malta, which aims to raise awareness on this issue among stakeholders.

The EPD also drafted 'Guidelines for the Management of Invasive Plants and Restoration of Native Plants', for professionals involved in site management or landscaping initiatives, and public consultation was carried out.

In 2011 the EPD drafted a 'Dossier on Wild Fauna in the Maltese Islands: Capture, Killing and Exploitation', which proposes a strategy for the development of action plans related to protected fauna in the Maltese Islands, with notes on each species or group, both marine and terrestrial, and a strategic plan outlining priorities and general measures to be taken to protect the species in question.

The EPD participated in the Authority's technical team working on the preparation of the new Strategic Plan for the Environment and Development which is intended to replace the current Structure Plan for the Maltese Islands.

In 2011 the EPD reviewed various draft plans and policies from other entities to identify potential environmental impacts. The EPD also fulfilled the Authority's function as statutory consultee in the Strategic Environmental Assessment process, advising plan proponents on environmental issues at the screening and scoping stages of the process, and coordinating comments on environmental reports and draft plans or programmes.

Environmental legislation and reporting

In 2011 the EPD issued 18 pieces of legislation and in some cases public consultation meetings in collaboration with MEUSAC were carried out, including the transposition of the Waste Framework Directive through The Waste Regulations, 2011. A new set of regulations was published for the improved protection of endangered and rare trees, especially in protected or scheduled areas, and to streamline the permitting system in this area.

In addition, work on the transposition of the Industrial Emissions Directive (2010/75/EU) was also carried out, which will replace the IPPC Directive, commenced in 2011, which involved extensive public consultation and the subsequent drafting of six legal notices

The EPD continued to coordinate work throughout the Authority related to the formulation of positions on proposed EU environmental legislation, as well as the transposition and implementation of EU legislation. The EPD followed negotiations related to ten dossiers including GMOs, Waste Electrical and Electronic Equipment (WEEE) and the 7th Environment Action programme, for which over 700 instruction notes were prepared. Regarding implementation, the EPD carried out a monitoring exercise to assess the current situation and identify steps to achieve progress in various areas.

The EPD also worked to ensure that reporting obligations were fulfilled, and that infringement procedures against Malta in the areas regulated by MEPA were mitigated. 42 reports were submitted to the EU and the EEA. EPD officials attended numerous meetings overseas and compiled data in line with EU directives to enable Malta to report to the European Commission on the implementation and achievement of EU obligations.

International projects

The EPD administered and coordinated projects co-financed by the European Union. Work in this area in 2011 included the European Regional Development Fund (ERDF) project on environmental monitoring, the MEDPAN North project on the management of marine protected areas, the EAFRD project on the formulation of management plans for all the terrestrial Natura 2000 sites in Malta and Gozo and the Regions for Sustainable Change Project on adapting to climate change. Two new project proposals were also submitted - one to LIFE+ and another for a Grundtvig project.

Protected habitats and species

The Authority was awarded €3.4 million from the European Agricultural Fund for Rural Development (EAFRD), for the drafting of management plans for all the terrestrial Natura 2000 sites in the Maltese Islands, and a tender for this project was issued.

The Authority was also awarded €120,700 through MedPAN II (Mediterranean Marine Protected Areas Network) for projects related to marine protected areas. A tender was issued for the establishment of an underwater heritage trail for divers, as well as a tender for the monitoring of noble pen-shells (in-nakkri) in various marine protected areas.

In 2011 the EPD proposed four new marine areas for inclusion in the Natura 2000 network, in order to increase the conservation of the natural marine environment, map out and designate important marine zones in line with the Habitats Directive, integrate these areas into the planning process, and increase awareness of the marine environment.

The Authority approved two management plans for protected Natura 2000 sites, one at L-Irdum tal-Madonna and one at L-Ghadira (l/o Mellieha). The EPD sent over 1,800 notices to owners and users of Natura 2000 sites, drafted five new management agreements with site managers of protected areas, issued a tender for the management of the Dwejra/Qawra Heritage Park in Gozo, and installed information panels in various protected areas. 30 sites in Malta, Gozo and Comino were designated as 'Tree Protection Areas', in line with Government Notice 473 of 2011.

The EPD prepared updates on the status of protected species in Malta and was involved in initiatives related to stranded turtles, dolphins and whales; the rehabilitation of injured turtles together with the Department of Fisheries and their release back into the wild; and the control of rodents in protected areas such as L-Irdum tal-Madonna and Selmunett. The EPD also commissioned a study on the migration of two bird species in spring.

Multilateral initiatives

In 2011, work related to Multilateral Environmental Agreements (MEAs) included the Mediterranean Action Plan of the United Nations Environment Programme (UNEP/MAP) in preparation to the 17th Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols. In this respect, the EPD participated in key meetings and coordinated MEPA's response to requests from the various MAP components, including the Regional Activity Centres, the Mediterranean Commission on Sustainable Development and the MED POL programme. The EPD also provided input to the preparations for the 7th 'Environment for Europe' Ministerial Conference and the United Nations Conference on Sustainable Development (Rio+20). In 2011, the EPD concluded work on the formal designation of Malta's National Focal Points for seven MEAs falling within MEPA's remit and to which Malta is a Party, as well as the acceptance of the 'Ban Amendment' that prohibits the export of hazardous waste for final disposal and recycling to Parties to the Basel Convention that are not members of the European Union, the Organisation for Economic Co-operation and Development or Liechtenstein.

Committees and meetings

The EPD participated in plenary sessions of the European Network of Environment Authorities (ENEA), the working group on Future Cohesion Policy, the Environment Committee for OPI coordinated by the Office of the Prime Minister, the executive committee and the monitoring committee of the Italy-Malta Funding Programme 2007-2013, the management board of the European Environment Agency (EEA), the European Protection Agency Network (EPAN), IMPEL (EU Network for the Implementation and Enforcement of Environment Law) and UNEP-MAP. In May 2011, the EPD hosted the 16th plenary meeting of EPAN and the Better Regulation cluster meeting of IMPEL in Malta. The EPD assisted the Council of Europe with the meeting on invasive species of the Bern Convention held in Malta in 2011.

The EPD participated in the Ornithology Committee, the Plant Protection Board, the Fisheries Board, and the Airport Users Committee. The EPD chaired and coordinated the correspondence or meetings of the Integration Pollution Prevention and Control (IPPC) Committee; the Marine Protected Areas Steering Committee (MPASC); the Biosafety Coordinating Committee (BCC); a joint committee with the Environmental Health Directorate at the Ministry of Health; the Dwejra/Qawra (Gozo) Management Committee; and the Delimara Power Station Monitoring Committee.

Communications

The EPD contributed to seven tours for the public in sites of natural importance, providing information on the species and natural environment present in these areas. In line with previous years, in 2011 the EPD published a booklet with a set of 'Environment Report Indicators'.

Work also continued on the campaign which began in 2010 to raise awareness on issues related to biodiversity. Approximately 1,500 enquiries related to biodiversity were processed by the EPD, and over 80 contributions were made to newspapers and magazines, as well as radio and

television programmes. 24 activities were organized with children as part of the SkolaSajf programme.

The EPD received and replied to approximately 30 queries each month on general environmental issues, and efforts were made in 2011 to strengthen and improve this service.

Planning Directorate

Report by Perit Christopher Borg
Director

Introduction

The financial year 2010-2011 was a crucial year for MEPA and in particular the Planning Directorate. With the introduction of the legislation related to the MEPA reform the Planning Directorate had to ensure the implementation of the related provisions whilst ensuring the smooth transition from the old to the new planning system.

From an organisational point of view, the Enforcement Unit within the Planning Directorate was transformed into a fully fledged Enforcement Directorate while the Operations Unit, responsible for the initial stages of the Development Control Process (including plotting and vetting) was transferred to the CEO's Office and now encompasses a broader function with the main aim to assist the three directorates within MEPA.

Thus the Planning Directorate now consists of two main divisions, one responsible for Forward Planning and the other responsible for Development Management (previously referred to as Development Control).

The Forward Planning Division

The Forward Planning Division (FPD) is made up of three units:

- The Strategic Planning Unit
- The Local Planning Unit
- The Heritage Planning Unit

This division is responsible for planning and policy formulation within MEPA. In common with previous years, it was actively involved in the generation of plans and policy documents. It also generated a number of reports, some of which were of strategic importance and others which were often instrumental to initiate the process to update current policies.

A team composed of officials from the FPD and the Environment Protection Directorate (EPD), headed by the Strategic Planning Unit within the FPD, were entrusted to provide the Government with the necessary technical expertise and assistance for the replacement plan to the Structure Plan for the Maltese Islands. This is a government document that would eventually be approved by parliament and upon which future planning and environmental policies as well as other government policies would be based. A proposal was submitted to Government regarding the mechanism of a National Strategic Plan for the Environment and Planning (SPED) together with a number of implementation measures. Following Cabinet approval, two managers from the Forward Planning section were assigned to assist the Government with the relevant planning expertise required for this project. This process also involved extensive consultation with all the Ministries.

The FPD actively participated in the Permanent Policy Reform Commission (PPRC), which was set up during the year. It also continued to provide necessary policy interpretation both internally

and also to the EPC Boards. FPD staff also gave the requisite support to the screening process and the preliminary discussions with applicants especially in relation to major projects.

On the cultural heritage front, the Heritage Planning Unit (HPU) continued with the process of scheduling property of cultural or natural importance. This was coupled with expert guidance through consultation and monitoring of permits relating to cultural and natural heritage. Other work by the HPU included:

- Technical advice on around 800 development applications, more than 200 of which were in scheduled sites.
- 250 detailed submissions related to restoration method statements.
- 100 Archaeological Watching Briefs with a value of about €800,000.
- 203 sites or “features” which were scheduled including 50 parish churches.
- Continuation of the last phase of the UCA street categorisation exercise
- A number of reports related to Urban Conservation Areas (including proposals for possible fiscal interventions to assist regeneration).
- Professional support to enhance public awareness in the form of public consultation meetings, as well as participation in TV and radio programmes.

Considerable progress was achieved by the Local Planning Unit (LPU) in the process leading to the revision of policies which amongst others included:

- The Way Forward on Areas of Containment.
- Proposals for the revision of the Policy Guidance on Open Air Storage Facilities (one for Malta and a variant for Gozo which takes into account the particular situation of this Island).
- A proposal for interpretation of policies related to interventions in areas Outside the Development Zones (ODZ).
- Reports on the planning of the reserve area between Benghajsa and the Hal Far Industrial Park.

There were also various proposals for policy changes at a subsidiary planning level, some of which rolled over from the previous business year and which included:

- The Marsa Sports Complex Development Brief;
- The Mriehel Corporate Village;
- Fort St. Elmo Development Brief;
- The Chinese Embassy proposal;
- The Boiler Wharf at Senglea;
- The White Rocks Development Brief;
- Proposed amendments to the GCLP in the Ggantija area;
- Amendments to the GCLP on the Gozo Communal Centre and other social and community facilities;
- A “position Paper” between MEPA and MRA regarding communication antennae.

By the end of the calendar year, more than half the sites qualifying as Development Zone Rationalisation Sites had their planning parameters determined.

The Planning Control Team within the Local Planning Unit proposed a way forward so as to address cases of alignment anomalies on development applications approved before 1994. Furthermore this team had 696 requests for “setting out” and 124 interpretations for street alignment. On the other hand this unit also processed some 75 alignment applications. Planning Control was also responsible for the preparation of around 70 maps for revision to subsidiary plans.

On the international front the Strategic Unit within the FPD acted as the Focal Point for the Urban Development Portfolio within the EU and supported OPM on Territorial Cohesion matters within the EU.

The FPD is also responsible for the maintenance and updating of planning related matters on the MEPA Website including publishing of “constraints mapping” updating of policies and the creation of electronic archives for documents whose legal validity has expired.

Professional feedback was also given on important emergent national policies which include the National Environment Policy.

The Development Management Division

The Development Management Division (DMD), formerly known as Development Services, includes two main units:

- The Post Recommendation and ODZ Unit
- The Major Projects and Area Teams Unit

Ever since the setting up of the Malta Environment & Planning Authority in 1992 (then Planning Authority), the Maltese planning system has always advocated the principle that the economic, environmental and social dimensions of development, should be considered in an equitable manner. The taskforce set up to implement the MEPA Reform in 2010 was always meant to steadfastly embrace this principle and indeed set out in January 2011 to roll out a new Development Management process, including simpler planning application procedures.

The MEPA performance data on planning applications for this year has been aligned with the new planning regime. As such performance data prior to January 2011 is not readily comparable to that of 2011. However, performance in 2011 can still be measured by analysis of the statistics tables to establish the number of planning applications determined by the Authority, and its performance in processing them. It includes data on the number and type of applications determined, the time taken to process them, together with information on Development Notification Orders (DNO) and Minor Amendment applications. The statistics put a great emphasis on the three-tier hierarchy of developments (major, complex and simple) and thresholds which distinguish between the types of development.

The new Development Management system introduced on 1st January 2011 has clearer timescales by revising the determination targets within which decisions on planning applications are to be made. MEPA has 12 weeks to determine applications termed as ‘simple’ and 26-52 weeks for those more complex in nature. Applications for major development referred to as Schedule 1 developments have a more flexible timing target although in the majority of cases this is set to 52 weeks.

The main findings are:

- The percentage of ‘simple’ applications decided within 12 weeks was 99%. Forty-one percent of these applications were already determined within 10 weeks, well before the statutory timeframe. The percentage of ‘complex’ applications decided within the legal timeframe was 100%. Likewise, all the major projects decided were determined within the legal timeframe.
- The number of minor amendment applications decided by the Directorate in this twelve-month period was 1322, a marginal decrease from 1356 in the previous period. Over 87% were positively recommended. The approval rate of 80% was registered from January to December 2011: a 2% drop when compared to the same period in 2010.
- Within the past 12 month cycle, MEPA received 1452 DNO applications, representing an increase of 11% compared to 1310 in the year 2010. One thousand three hundred and five requests were approved within the statutory period of 30 days.
- The number of new requests for revocation/modification of permission for this period was also marginally less than last year. MEPA concluded that most of the requests were unfounded and could not proceed with invoking Article 77 of the Environment & Development Planning Act 2010.
- All the targets were achieved with a radically reduced workforce engaged in the processing of planning permissions.

The Directorate has continued to play an active role in disseminating information relative to the reformed planning system.

As part of the overhaul in the Development Management Process a number of MEPA Circulars were issued dealing with the new planning application procedures and Frequently Asked Questions (FAQs) on the Legal Notices and Surgery Hours. The Submissions Checklist for planning applications was reviewed whilst a new Screening Request Submission Checklist was created. This ensures the level of information required at each stage in the process is limited to that which is absolutely necessary.

The Environment & Development Planning Act 2010, together with Legal Notice 514 of 2010, introduced important legal changes to planning. However, legislation on its own cannot deliver a reformed planning system. Over the past year, the Planning Directorate has partnered with the Information & Communication Technology (ICT) Unit of the Corporate Services within MEPA and the *Kamra tal-Periti* to improve and streamline the external/internal electronic application system (e-apps). Changes have been wide-ranging and the Directorate has also prepared a set of frequently asked questions (FAQs) to provide up to date information and provide greater clarification. These changes will be taken forward this year whilst retaining the fundamental purpose of the legislative system to help secure economic growth whilst at the same time safeguarding our environment so that the Maltese community can enjoy a better quality of life.

MEPA issued two amendments to the Development Notification Order (Legal Notice 317 of 2011 and Legal Notice 457 of 2011) in the latter part of 2011. The Directorate had identified types of development that could be exempted from needing full development permission. The information applicants are required to submit is reduced, and so is the application’s complexity.

This signaled a more proportionate level of assessment and determination to a number of development types.

Conclusion

In the year 2012, the Planning Directorate will continue to fulfill its role in focusing on delivering a simpler, speedier and more transparent process. This overarching purpose has become even more important as the problems associated with the wider global economy pose major challenges for Malta in particular. The Directorate will continue to improve its service with the help of other government agencies, Kamra Tal-Periti and Non-Governmental Organisations in both the Forward Planning and Development Management fields. With respect to Forward Planning the main trust of the Directorate will be directed towards the SPED and the Policy and Design Guidance Document DC 2007 while on the other hand will continue to implement the Government Direction in relation to the other subsidiary policy.

During this year, the Directorate would like to see the private sector further improve the quality of applications. This will reduce the need for repeat consultations over missing or inadequate information, enabling even faster decisions by the Authority. On the other hand, this year the Planning Directorate will endeavour to be more customer-oriented and to reach out so as to understand better the applicants' requirements and to disseminate the planning culture to both applicants and the general public.

Enforcement Directorate

Report by Perit Alex Borg
Director

The MEPA Reform identified enforcement as one of its four pillars, and in line with this higher emphasis being given to the sector, the various enforcement functions of the Authority were amalgamated into a new Enforcement Directorate. This effectively happened in 2011, and hence enforcement has attracted a focus and profile that it had erstwhile never enjoyed. Due to the revised legislation, the former Enforcement Unit evolved into a Directorate with its own strategic setup and responsibilities. The overall enforcement of the provisions stipulated in the Environment and Development Planning Act X of 2010 and other laws and regulations regulating the environment and development were the main objectives of the newly appointed Directorate.

This has given rise to greater awareness by the general public, NGOs and Media apart from within various sectors within the organization itself on the operations and responsibilities of the Directorate. This fact, has resulted in heightened expectations and consequently in a corresponding influx of reportings and collaboration from the public. It has highlighted the importance of enforcement as a tool to curb abuse especially in rural and sensitive areas.

Notwithstanding the heightened expectations, the Enforcement Directorate has continued to adapt itself and to enforce compliance with MEPA decisions, through constant investigations and monitoring of development sites, while the Compliance certification procedure has continued to prove to be an essential mechanism towards an effective control on development.

The Business Plan Projection for the financial year has identified the following issues to enhance effective control on development.

- Monitoring of EPDC decisions
- Compliance certification
- Follow up of pending enforcement cases
- Complaint Investigations
- Monitoring of major projects
- Assessment of Art 91 cases

Monitoring of PA Permits

The Authority is obliged to monitor development operations and activities and to ensure that development is carried out only in accordance with the requirements and in compliance with the decisions lawfully taken under the Environment and Development Planning Act [Art 84 (1)].

In line with this obligation, the Enforcement Directorate is geared with an organized system to monitor most of the development underway in the Maltese Islands. Each site inspection is recorded on a database outlining the stage of development reached on site at the particular time of inspection. All refused decisions and granted permits within ODZ areas are inspected to ensure compliance with MEPA decisions.

During this review period, some 5,400 monitoring site inspections were logged in the system, which correspond to nearly 110 inspections just on this count per working week.

Compliance certification

The compliance certificate is considered as an effective and important enforcement tool. It deters developers from breaching regulations as no new development shall be provided with water and electricity services unless a compliance certification is issued by MEPA.

During this review period, MEPA has received 6485 requests for such certificates. About 800 were refused or returned back since development was either not compliant with the permission or the request lacked the necessary information in line with procedures. However the Directorate issued a total of 5,636 compliance certificates for developments which was found compliant with regulations. Through this system, MEPA has achieved deterrence and stricter control on development.

Public Awareness

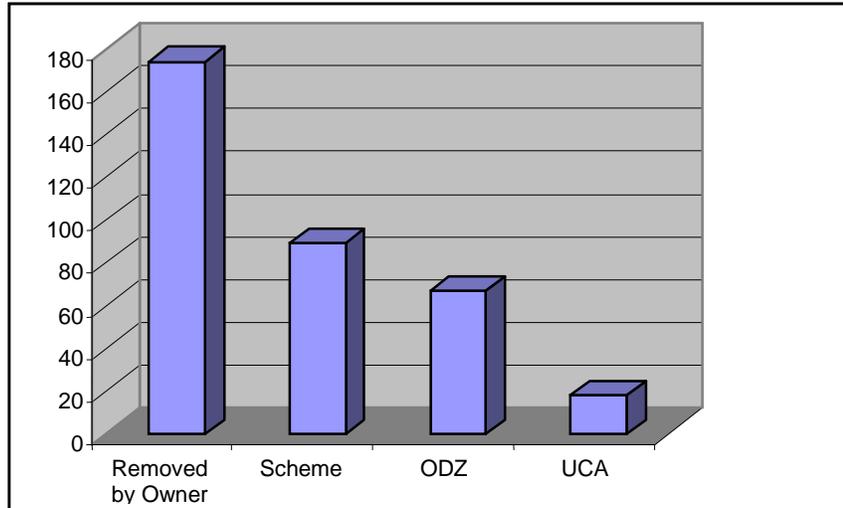
One of the goals of the newly established Directorate was to secure better media coverage to enforcement action so as to instill in the general public a better awareness of the need to respect the law and avoid committing illegalities. Independent media surveys have shown that the Directorate has covered very good ground on this count.

Issuing of Enforcement Notices

When all attempts to halt illegal development from taking place fail, or the owner does not remove such illegal development in a timely manner, formal enforcement action is taken. This year the Directorate issued a total of 618 enforcement notices against sites with illegal development. Moreover a total of 354 cases, or 60%, were closed as either the development was sanctioned through development permission or removed by client to avoid direct action. There were 174 such cases where the owner removed the illegalities himself/herself.

A substantial amount of revenue is generated by the Authority through the imposition of fines when a permit is granted and which includes a request for sanctioning of development which is served with an enforcement notice.

The following table indicates the number of enforcement notices closed by zones where the respective owners removed the illegalities on their own initiative to avoid direct action by MEPA.



Complaint Investigations

During 2011, the Directorate received a total of 2105 complaints on sites that did not already have an Enforcement Notice issued on them. As already pointed out, the general public is now more aware of the environmental and planning requirements. Reports are continuously originating from various sources, particularly from the media, local councils and NGO's. Needless to say these reports are very valuable since the Authority's Enforcement Officers cannot be everywhere all the time. A total number of 1282 cases were solved by the Enforcement Officers after the necessary investigations and dealings with perpetrators were carried out.

It is worth reporting the considerable number of illegal development cases (316) where the enforcement officers succeeded in resolving issues without the need of resorting to enforcement action against the developers.

Monitoring of Major Projects

The Major Projects Enforcement Team (MPTE) was composed of two planning enforcement officers and a senior officer. 69 new projects were identified during the review period. This team also managed to issue 801 compliance certificates for development. The role of this team includes also the coordination of monitoring activity by appointed private monitoring agencies on certain large scale projects. MPTE is positively contributing to the overall performance of the Enforcement Directorate.

Assessment of Art 91 cases

Certain types of development as listed in the Eight Schedule of the Act and which are subject to enforcement action as provided in the same Act, may have the right to claim that such enforcement action is not executed. During the last quarter of the review year, the Directorate has embarked on an exercise to assess such claims and is also working on the new legal provisions that enable further avenues as to when and how the provisions of this Article could apply.

Direct Action

During 2011, the Enforcement Directorate issued several enforcement notices varying from change of use to non observance of plans in permitted development and also to more grievous offences such as totally illegal structures mainly Outside the Development Zone – ODZ. The legislation affords the contravener the opportunity to appeal in front of the Environment and Planning Review Tribunal or to apply for sanctioning of the illegalities through a development application. In the case of developments that are included in Schedule 6 of the new Act, such sanctioning is however no longer possible, and this is a very potent measure introduced by the MEPA Reform.

When the legal avenues are exhausted, the cases may be referred for Direct Action. One of the main objectives adopted during this year for the direct action officers, apart from intervening to regularise site situation, is also to convince the contravener to regularise/rectify situations without the need of MEPA's intervention. In 2011, nearly 30 cases were in fact closed off by the direct action section after managing to convince and educate contraveners to remove the illegalities themselves. Cases treated in this manner varied from change of use of a residence to an office, to removing of illegal rural rooms, high boundary walls and walls not constructed in rubble and the removal of illegal scrap or dumped material. This situation will surely result in lesser expenses for the contravener.

Apart from the above cases, the Enforcement Directorate last year treated 44 cases around Malta and Gozo by means of direct action.

The Authority focused more on illegal development in sensitive and protected areas and Outside Development Zone. In fact MEPA acted upon 36 Direct Action operations outside the Development Zone areas, while 8 sites hit with an enforcement notice were situated within scheme. The operations tackled varied from demolition and carting away of illegal rooms and ancillary structures mainly within rural areas to sealing off sites to ensure that the illegal activities are halted. Removal of illegally dumped material on agricultural and garigue land was also a task taken in hand to comply with enforcement notices. When the owners are known, MEPA would be able to claim back the direct action expenses incurred from the contravener.

For this review period, apart from other areas within the country, MEPA focused on an area known as Ta' Baldu / Wied Hażrun situated in the limits of Rabat and Dingli. These areas are Special Areas of Conservation (Natura 2000 sites designated under EU legal provisions), Areas of High Landscape value, and Areas of Ecological Importance. The main objective for MEPA is to intervene and revert back the site to its pristine condition before further illegal developments crops up. With this strategy, MEPA is sending out the message to citizens, that in such areas of high importance, zero tolerance is the main criteria used. During the direct action operations particular caution was adopted not to damage any sensitive land. In this area, a number of sites hit by enforcement notices, were in fact being reinstated by same owners or occupiers by reverting back the sites to their original states, following MEPA's initial exercises.

Conclusion

The above report outlines the effective role played by the Enforcement Directorate as part of the Authority's mission. Enforcement shall always remain the ultimate tool towards the achievement of planning and environmental control. The Directorate seeks to enhance its exposure by focusing

its actions on methods of deterrence and to be proactive in the implementation of development control.

Audit Office

Report by Perit Joseph Falzon
Auditor

I am submitting this report in terms of the requirements of Section 17C of the Development Planning Act 2002. Although this Act has been repealed by the coming into force of the Environment and Development Planning Act 2010, the post of Audit Officer has been retained in accordance with the provisions of the previous act until the post of Commissioner for the Environment within the Office of the Parliamentary Ombudsman is filled.

Introduction

The number of complaints which required a formal investigation has remained nearly the same as the previous year, which actually was considerably less than the investigations in earlier years. I had already commented on this fact in the Annual Report for 2010 and gave possible reasons for this fact. On the other hand there were a number of various serious developments both in terms of environmental or planning considerations but increasingly so on administrative grounds. As I stated last year the Audit Office is trying to reduce the number of formal investigations by concluding complaints received by direct communication with the complainant. The fact that the number of formal investigations has decreased has permitted the possibility of direct communication with members of the public. The standard practice of the Audit Office has always been to limit direct contact with members of the public to an absolute minimum, particularly due to the limitations of available time. More time is now available and it has been possible to meet members of the public and discuss their complaints directly with them. In many cases the result of these meetings would be that the complaint, at least as far as the Audit Office is concerned, would be exhausted and there would be no need for formal investigations. Unfortunately complaints on grounds which are not part of the remit of the MEPA are still fairly common. It seems that members of the public are still not well informed as to the roles of the MEPA.

The duties of the MEPA are primarily the protection and enhancement of the environment, whether it is the built environment, the natural environment, the historical heritage and related factors. The duties and obligations of the MEPA are clearly listed in the Environment and Development Planning Act. It is not the role of the MEPA to address good building practice, the safety of the occupants of the building or third parties, construction safety, property rights and so many other concerns of the public. In general these concerns form part of the remit of other bodies or institutions, for example, the civil courts. However, the image of the roles of the MEPA has been inflated with the result that an image persists that the MEPA is responsible for all aspects of building development or the protection of the environment.

Last year I had predicted that the 2010 Annual Report would be the last report of the Audit Office as the pending reforms of the MEPA would eliminate the office which would be substituted by the post of Commissioner for the Environment at the Office of the Parliamentary Ombudsman. My predictions did not materialise and my appointment as Audit Officer has been extended indefinitely until the necessary reforms can be affected, as stated earlier on.

Appointments of personnel with the MEPA

A development which is of concern is the increase in complaints concerning appointments or promotions of personnel within the MEPA. The complaints were submitted by employees of the MEPA or persons who aspire for a position within the MEPA, but also from the general public.

There were two types of complaints on this matter;

1. There were complaints from members of the public concerning two senior appointments made at the MEPA. The post of Director, Environment Protection had unexpectedly become vacant due to the resignation of the incumbent. Instead of following the normal procedures and fill the post by a call for applications from interested parties, the MEPA chose to fill the post by a direct appointment. The MEPA created a new post of Chief Executive Officer with the intention that eventually the post of Chairman would revert to being a non-executive appointment. This post was also filled by a direct appointment. Complaints were received from the public that the provisions of the Constitution and subsequent legislation were not followed and hence the two appointments were irregular.
2. A number of complaints were received from employees of the MEPA concerning calls for application to fill higher posts within the MEPA. The complainants considered that the requirements for the posts were unnecessarily restrictive which led them to believe that the posts had been earmarked for particular persons and the whole exercise of submission of applications, interviews, etc were simply a mere formality as the successful applicants had already been selected. The complainants also commented that the practice of making acting appointments, frequently for long periods of time constituted an unfair practice as the person who occupied the post in this way was given an unfair advantage over the other applicants. Complaints were also received on the outcome of the selection interviews. The complainants claimed that they were not given due recognition for their qualifications and experience.

Appointment of Director, Environment Protection

In the first case the Audit Office concluded that the practice of giving direct appointments to senior posts within the Authority was contrary to the spirit and wording of existing legislation. In the case of the Director for Environment Protection, the appointment was clearly contrary to the provisions of the Employment and Training Services Act and the provisions of the Environment and Planning Act. The constitutional requirements on the employment within the public sector were further enhanced by the provisions of Articles 21 and 33 of the Public Administration Act. These two clauses in the Act are still not in force, but they clearly indicate a decision given by the legislators which deserves to be respected and not ignored. The Chairman, MEPA claimed that the position of Director for Environment Protection was one of special trust and in the interests of expediency it was necessary to make the appointment directly and this was permitted by law. The Audit Office took legal advice on the matter and the position of the Audit Office was confirmed. There is no definition at law what constitutes a position of special trust and in addition similar positions in the public sector were filled by the normal process of a call for applications open to all interested parties. Incidentally the practice adopted, in addition to creating a very dangerous precedent which can be used to exclude potential candidates for posts within the public sector for reasons of their political or religious beliefs, sexual orientation, etc also denies possibly highly

qualified persons, but who are not known to the Chairman, MEPA from being considered for the post.

Appointment of CEO

A complaint was also received concerning the appointment of Dr Ian Stafrace as Chief Executive Officer of the MEPA. In this case the Permanent Secretary (TCDS) asked for the advice of the Attorney General. After quoting the relevant legislative requirements the Attorney General concluded his advice stating:

In my considered opinion that specifically in the circumstances of employment of a person to a top management position (CEO) as a person of trust in terms of article 15(2) of the ETS Act on conditions considered b the ETC to be fair and in the best interests of the public sector; the requirements of both Article 15 of the ETS Act and of sub-articles (2) (c) and (6) of Article 11o of the Constitution are satisfied.

I commented on this advice as follows:

It is beyond the competence of this office to criticize the advice given by the Attorney General. However, as stated above, the advice of the Attorney General is based on the assumption that the involved entities (MEPA and the ETC) would observe the provisions of the Constitution as quoted. A perusal of the facts indicates that the only consideration of the ETC was, as clearly stated in their reply to the Permanent Secretary (TCSD), that the MEPA considered the position of CEO as being one of Special Trust. All indications are that at no stage was there an assessment whether the request of the MEPA to consider the position as being one of special trust was justified or not. There is no indication anywhere, at least in the documentation provided to this Office by the MEPA, whether the requirements of the Constitution as outlined by the Attorney General were observed

The factors addressed in the investigation concerning the appointment of the Director, Environment Protection applied as well to this post. I would like to make it clear at this stage that the two reports were limited to a consideration of the procedures adopted. The suitability of the two appointees was not investigated and the comments in the reports are not intended as an observation on the capabilities of the officers concerned. The investigations concerned the manner of appointment of the two officers, irrespective of the qualities of the actual incumbents.

Promotions and transfers within the MEPA

A call for applications to fill the post of Senior Officer (Enforcement Operations) solicited a complaint. The complainant based his objections on a number of factors: inconsistency in the qualifications requirements for different grades where the more senior appointment had lower academic requirements than the more junior one and unnecessarily restrictive requirements which in practice meant that only one person could apply for the post. The Audit Officer concluded that the complaint was perfectly justified and recommended that better analysis of the academic qualifications required for posts is carried out. Although the report was concluded on 28 February 2011, it has not yet been published as feedback from the Chairman has not been given.

Similar complaints were received following a call for applications for the post of Senior Administrative Assistant. The complaints included objections to the marking scheme and the way marks were allocated during interviews. The Audit Office was very concerned with the

procedures adopted with this application. The post of Senior Administrative Assistant is one of a general nature where the successful candidate may be required to work in various departments of the Authority. Yet the call for applications required experience of work within the Development Control Commission and this experience was allocated 20% of the marks for the interview. The Audit Office considered this as excessively restrictive and practically resulted in only persons who had worked at the DCC were in reality eligible for the post. The Selection Board also claimed to have taken into consideration factors which none of the members of the Board were qualified to assess and, moreover, there was not sufficient time in a twenty-minute interview to assess them. Finally relevant qualifications were not given due recognition. Hence a Diploma from the University of Malta in a directly related discipline was not considered relevant, while a much lower qualification was given due recognition.

The practice of creating acting appointments for long duration is to be deplored. Inevitably, this raises the expectations of the officer concerned that he or she should be automatically eligible to fill the post once it is advertised. It also gives him unfair advantage over other competitors. While it is reasonable and standard practice in the public sector that when an officer is temporarily absent from his post, then the next most senior officer would assume the acting duties of the post, this practice should not be adopted when a post becomes vacant. Obviously if it is known when the post would become vacant, e.g. the particular officer reaching retiring age, then the management should take steps to fill the post in advance of the post becoming vacant. In the unexpected situation when a post becomes suddenly vacant, then it would be more proper if the acting post is assumed by a more senior officer than the one who vacated the post.

Another complaint concerned an officer of the Authority who was transferred to work within another Authority as the MEPA claimed that his section was being transferred to the other Authority. The officer alleged that he was promised that he would continue with the same work as before but this never materialized. The Audit Office had negative comments to make on the way the operation was carried out and the way two officers of the Authority were treated which was a cause of disappointment, stress and anxiety for them. Unfortunately, although the Audit Officer's report was concluded on 7 September 2011, no action has been taken by the MEPA on the matter to date.

Minor amendments to applications

A number of complaints were received concerning the practice that once a development application is approved, the applicant may submit a minor amendment application to amend details of the development. By its very nature (and in accordance with the provisions of the Legal Notice) a minor amendments application can only be limited to changes in the development which do not affect the material considerations treated in the assessment of the application. Consequently, the rights of third parties will not be affected. Unfortunately, the right to submit minor amendments which is of major importance as it expedites matters and avoids the necessity for developers to submit full development applications for minor changes is being abused and in certain cases the abuse was condoned by the Authority.

In the most serious case investigated the applicant had a villa located outside development zone and in a prominent position in a highly sensitive area. The MEPA made it clear to the developer that it could only consider changes to the construction which do not increase the overall area of the building, but could not accept a request for complete demolition and re-construction. The applicant accepted the conditions but once a permit was issued, he submitted a minor amendment which in reality led to the demolition of most of the existing structure. The case officer who assessed the application failed to notice the practical effects of the application and approved it. In

this way the applicant achieved his intended objective: that of complete demolition and re-erection. Incidentally, the Audit Office noted that there was no real justification for a policy with a blanket prohibition of demolishing and re-building and advised that the policy be amended to allow for such a request (provided the existing building has no architectural or historical value either on its own or within its context) in return for some form of planning gain, e.g. a reduction in the building footprint or better massing.

Minor amendment applications should not be accepted where new material considerations arise, for example, an adverse effect on third parties would result. This can be very important if the proposal creates an easement on third party property. Although the fact itself may not be a planning consideration, third parties have a right to know the possible restrictions on the enjoyment of their property which a particular application may have. In the case of minor amendments they are not informed of the submissions made.

Development outside building zone

The pressure by various entities to carry out development outside building zones continued. There was the much-publicised case of the environmental damage done to a site at Dwejra, Gozo during the filming procedures. In this case the developer accepted responsibility and took remedial works to mitigate and make good the damage done.

However, developments of a permanent nature are generally of greater concern. While it is inevitable that some development may be necessary outside building zone, in the interests of all concerned, such developments should be limited to the minimum necessary and every effort should be made such that the development would enhance the existing situation.

Of particular concern which definitely needs a re-assessment of present policies, is the practice of allowing existing buildings outside scheme to be re-developed for other uses (especially when such uses are not permitted outside development zone). In one case, a disused broiler farm was converted to a factory for the packing of fish. The MEPA justified the approval by stating that in this way a building of historical importance which was being used for the proposed activity would be vacated. The use of a historical building for industrial use is to be regretted, but it does not justify the inclusion of an industrial building in the countryside.

Another type of development which is relatively common is the conversion of existing farmhouses into residential villas complete with swimming pools and formal gardens. The farmhouses were originally purely functional buildings absolutely required in those days as the limited means of transport available required that a farmer lives on his land. But the new residents of these “farmhouses” have no interest whatsoever in agriculture. If the agricultural holding is still being tilled, the farmer probably has no absolute need to live on his land as the means of transport available makes it possible to access his land in a very short period of time. It is of greater financial benefit for him to sell his farmhouse for its refurbishment as a country villa.

The relocation of service stations is another cause of concern. At present there is no official policy on this matter. While it is reasonable that the MEPA should make it a point to try to remove service stations from town centres to the periphery of the built-up area in the interests of the well-being of the residents, the need to limit such developments to the minimum possible areas outside building zone should be a primary consideration. In an investigated case, the owner of a service station had, in addition, a large, totally illegal open storage area for contractor’s plant. In the relocation exercise he was allowed a large development outside zone which included not just the service station and ancillary facilities (already much larger than the original premises) but

also a space for storing his contractor's machinery. It is obvious that an application from a building contractor to take up a large area outside building zone for storage of his machinery would be refused, but no satisfactory explanation was given why this particular applicant was given preferential treatment.

The urban environment

An interesting case brought to the attention of the Audit Office concerned a minor development which affected badly third parties. The Audit Office was unable to give any form of redress as the case had been decided by the Planning Appeals Board, but the facts raised at that forum are worth considering by the MEPA. In this case a developer proposed to extend the height of a party wall between two yards. It was established that there was no security needs for the increased height, but in all probability it was being built out of spite following quarrels between the co-owners. The Planning Appeals Board commented that the inconvenience caused by the proposed development was unreasonable and hence the provisions of Structure Plan policy BEN 1 should apply. These remarks should be considered well, as they indicate that while in most cases it is sufficient for a developer to abide by the planning rules, situations may exist where genuine needs have to be demonstrated.

The problem of developments within villa or bungalow areas remains. As has been stated on a number of occasions, the objectives of the constraints imposed on villa or bungalow developments follow from the desire to create a high quality residential development of low density surrounded by greenery. The continuous concessions given to developers, e.g. to have basements extending over the whole area of the development, several basement floors which are not supposed to be habitable (although there is no indication how the MEPA intends to enforce this condition and there is no real definition of a habitable space) have led to a degradation of this type of environment. In one investigated case, the approval of a semi-basement over the whole plot, and the failure to assess professionally an application to demolish and re-build a dwelling in a villa area resulted in negative consequences for the next-door dwelling. The Audit Office has on several occasions recommended that in these areas only one semi-basement or basement would be allowed with a layout which clearly indicates that it is to be used as a parking space and the term "habitable room" should be defined using size only as the criterion. The minimum area of soft landscaping should be rigidly enforced, even if it means that it would not be possible to have a pool.

In another case involving a bungalow area the justifiable complaints from a resident were ignored. An adjacent bungalow was converted into small separate dwellings on more than one floor for renting out during the holiday season and advertised as such. The objector had alerted the MEPA on this fact especially after an application was submitted by the owner to extend his property (which was already very large). Despite the fact that it was reported that works continued after an enforcement order had been issued (very reluctantly it seems) the application was approved by the DCC without any justification. Incidentally, in this case the applicant had protested that the objector was an employee of the MEPA. The information was not correct as in fact his wife was a MEPA employee. This objection was completely ignored by the case officer. Obviously the fact that a person is an employee of the MEPA does not in any way limit his civil rights. He would only be abusing his position if he makes use of internal confidential information not otherwise available to the public. But any person can make use of information which is in the public domain. Obviously this was another case of a "bungalow" on several floors which was being used for habitation. The whole development as used was obviously totally illegal.

Use of professional expertise

The Audit Office is concerned that the professional planners assessing applications tend to consider only the official policies which can be assessed with mathematical exactness. Other considerations of a more general nature which require a professional input from the case officer are generally ignored. Compliance with official policies is an essential factor in the consideration of a planning application. But there is no need for professional planners to do this – any reasonably educated person can do it. It is the expertise of the professional planner which then has to consider whether the proposed development is in the interests of good planning or not on the basis of his or her professional knowledge.

A case in point was an application to demolish an existing terraced house and replace it with an apartment block. The terraced house development, located in a holiday area, had been recessed from the official building line to create an open sitting area in front of the houses. This recess extended the whole length of the terrace from one corner of a street to the corner of the next street. The proposed new development extended to the building line. Technically the development was within the parameters of the local plan provisions. But, in addition to being much higher than the adjacent buildings (four floors plus penthouse as against a two-storey development), one building was going to project outside the building line. The negative effect on the streetscape can easily be imagined. But the case officer just recommended an approval without any consideration of this important fact.

Conclusion

A useful development in the relation between the Audit Office and the MEPA administration was the practice of regular meetings between the Audit Officer and the CEO. It gives a possibility to clear pending issues without the need of formal investigations and recommendations to the Authority. I hope that in the remaining period of my post as Audit Officer, which is not likely to be very long, these meetings continue as they can be of great benefit to all concerned.

Finally I would like to extend my thanks to all those persons whose contributions are of primary importance for the Audit Office to function properly: first of all my Personal Assistant, the Chairman and Chief Executive Officer and the rest of the staff of the MEPA and also Dr Ivan Mifsud from the Office of the Ombudsman. The contribution of the media is indirectly of considerable importance: it alerts the Audit Office for possible cases of maladministration and criticizes regularly the operations of the MEPA.

Boards and Committees

MEPA Board

Chairman Mr. Austin Walker

Deputy Chairpersons: Perit Sandra Magro
 Perit Franco Montesin

Independent Members: Perit. Elena Borg Costanzi
 Ing. Joseph Farrugia
 Mr. Joe Vella
 Dr. Giovanni Bonello
 Dr. Philip Manduca
 Ms. Christine Pace

Public Officers: Mr. Anthony Zammit
 Mr. Charles Bonnici
 Ms. Chiara Borg

Members of the House of Representatives

Hon. Joseph Falzon
Hon. Roderick Galdes

Board Secretary

Ms. Sylvana Debono

Environment and Planning Commissions

EPC A:

Chairperson: Perit Sandra Magro
Members: Perit Marie Fleur Ebejer
 Perit Claude Borg
 Perit Elizabeth Ellul
 Dr John Mangion

EPC B:

Chairperson: Perit Franco Montesin
Members: Perit Saviour Borg
 Perit Anna Marie Attard Montalto
 Mr. Anthony Ellul
 Mr Bjorn Bonello

Heritage Advisory Committee

Cultural

Chairperson	Dr Albert Ganado
Members	Dr Ray Bondin Perit Konrad Buhagiar Dr Godwin Cassar Dr Keith Sciberras Perit Hermann Bonnici Ms Joan Abela

Natural

Chairperson	Mr David Dandria
Members	Ms Antonella Vassallo Chev. Joseph Sammut Ms Henriette Putzulu Caruana Mr Mark C. Mifsud Dr Antoine Vella Mr Anthony Zammit

Bio-Safety Committee

Dr. Petra Bianchi
Chairman/Director Environment Protection, Malta Environment and Planning Authority, OPM.

Appointed Committee Members:

Mr. Joseph Abela Medici
Secretary / Public officer responsible for biosafety, Malta Environment and Planning Authority, OPM.

Mr. John Attard Kingswell
Public officer responsible for public health, Department of Public Health, MHEC.

Mr. Darrin Stevens
Public officer responsible for biodiversity, Malta Environment and Planning Authority, OPM.

Mr. Cedric Camilleri
Public officer responsible for Occupational Health and Safety, Occupational Health and Safety Authority, MEYE.

Dr. Marion Zammit Mangion
Scientist representing the scientific community.

Ms. Maureen Delia
Public officer responsible for rural affairs, Agricultural Services & Rural Development Dept,
MARRA.

Mr. Joseph John Vella
Other representative required by the Competent Authority, Veterinary And Fisheries Department,
MARRA.

Mr. Mark Dimech
Other representative required by the Competent Authority, Veterinary And Fisheries Department,
MARRA.

Ms. Flavia Zammit
Other representative required by the Competent Authority, Malta Standards Authority, MCMP.

Integrated Preventive Pollution Control Committee

Name	Role	Representing
Dr Petra Bianchi	Chairman	
Mr Michael J. Sant	Member	Environmental Permitting and Industry Unit, EPD, MEPA
Mr Kevin Mercieca	Member	Waste, Air, Radiation and Noise Unit, EPD, MEPA
Mr Johann Buttigieg	Member	Planning Directorate, MEPA
Mr John Attard Kingswell	Member	Environmental Health Directorate
Capt. David Bugeja	Member	Maritime Directorate, Transport Malta
Dr Duncan Chetcuti Ganado	Member	Agriculture and Fisheries Regulation Division
Ing. Anthony Rizzo	Member	Malta Resources Authority
Mr Cedric Camilleri	Member	Occupational Health and Safety Authority
Dr Anthony Galea	Secretary	

Users' Committee

Ian Mizzi Chairman	Malta Federation of Industry & Chamber of Commerce
Mario DeBono	GRTU
Ian Borg	Local Councils Association
Anthony Fenech Vella	Kamra tal-Periti

