



By Raphael Vassallo

Too many possibilities

IT would be fair to say that the proposed Zonqor point development has galvanised a seemingly dormant environmentalist lobby into sudden action. But as any environmentalist will tell you, large scale opposition to single projects is not the most reliable token of ecological sensitivity.

To most green NGOs, these one-off controversies should ideally be seen against a wider palette of environmental concerns. And Petra Caruana Dingli, a council member of Din l-Art Helwa, was recently heard arguing (at a parliamentary committee meeting last week) that it is actually the government's national Strategic Plan for the Environment and Development as a whole that needs to be revisited... not just its plans for Zonqor point.

At DLH's office in Valetta, I find the former MEPA Director for Environmental Protection poring over printouts of the document known by the acronym 'SPED' (to which one is tempted to respond: 'Andale, andale, arriba, arriba, arriba...!'). Before getting down to the nitty gritty, it might be worth establishing what this 'SPED' thing is, anyway, and why it is so important.

"SPED is intended to be a replacement for the Structure Plan, which was drafted in 1990. The Structure Plan – a hefty document, with lots of detailed policies, and so on. But it needed replacement. There was the Act of 2010 which specified the way it would be replaced; I'm not saying that the original policies should remain, or be replaced with anything very similar; but the intention was that there would be quite a substantial document at the end of the replacement process. A high level document with sufficient detail to also, at times, be the deciding factor in planning applications, and so on..."

The original Structure Plan, she adds, contained policy guidelines on Urban Conservation Areas, Rural Areas, Outside Development Zone issues... all the things one expects to have clear guidelines on to work with.

"In 2012, the government at the time had published the objectives for this new document for public consultation. It was almost exactly the same as the document we have today (SPED): there was a whole series of quite high-level strategic objectives which, once the public had been consulted, were supposed to be translated into more detailed policy."

So if the new document is almost exactly the same as the old one, one assumes that the step from 'objectives' to 'detailed policy' didn't actually take place...?

"No, because what happened is that in 2014... OK, let's take a step back. So those objectives were issued for consultation in 2012, and



there was quite a lot of feedback from the public at the time... but then, the process was not concluded. There was an election, and so on. After that we didn't hear anything for a while; and in 2014 the government issued a document and said, 'This is it. This is the Strategic Plan'. Which we had been asking for all along, by the way: 'What happened to the reform of the Structure Plan?, etc.'"

Along with other NGOs, DLH (including Petra Caruana Dingli) was not overly impressed by the resulting document.

"What we found was almost identical to the document of 2012... without that second stage concerning policy formulation. And when we queried this, we were told that the decision was to change the structure of the document. The objectives laid down here – she indicates her own copy of SPED on the table – would be considered the full strategic plan, and those policies would now be formulated within the new local plans, which are currently being drafted."

The Local Plans, she explains, are likewise in the process of being up-

dated. But they are still at drafting stage. "So those policies that were expected to be in SPED are not there..."

But unless I am mistaken, Environment Minister Leo Brincat admitted at one of those meetings that SPED was not intended to contain all the final policies. It still needs to be supplemented by other legislation...

Caruana Dingli counters that this only means the current document is unenforceable for the present.

"It was intended to have another large section for policy, and also one for implementation. Now, all the policies and implementation strategies are missing, and we are told to await the new Local Plans. But not even the draft Local Plans have yet come out. They would still need three months' public consultation, the government would have to go back to Parliament... we still have some way to go. I'm assuming they couldn't possibly be ready before next year."

So had the incoming government in 2013 continued the process as it stood then, we would presumably have the full final document

today...

"After the consultation period ended in February 2012, the policy formulation stage had begun and was at a very advanced stage. However, for various reasons... you can't put out a strategic plan just before an election. The government could not, at that point, publish a direction for the next 10 years. So it wasn't finalised. Then there was this gap until 2014, where nothing was heard. Then we found the same objectives as the original document for consultation..."

OK, so far we've discussed how this strategic plan was concocted, but this doesn't tell us much about how it will actually work in practice. What sort of plan was DLH expecting? And in what way, exactly, is the current document flawed (beyond its inception, which we've already discussed)?

"There are two aspects to it, in a way. Let us accept that the government's direction is to have this as its policy document. We criticised that they are doing it in this manner; however, now it's gone to Parliament for discussion, and the document is coming out like

this. There are at least two problems. One is that this document has absolutely no indication about how its guidelines are to be implemented. And two, a number of the objectives are very open-ended, and do not have enough environmental safeguards built within them. So there's a problem with the way they are written, and also with the way they are going to be enforced."

She reiterates her view, expressed at the parliamentary committee meeting, that the entire document is 'not fit for purpose'.

"However, if even we do accept that we now have this, and we need to strengthen it so that it does become fit for purpose, there are two areas we need to work on. To tackle the implementation level, and have it specified here..." she taps on the document. "And two, is to strengthen the individual clauses to make them more watertight."

What sort of reaction did her criticism elicit at the parliamentary meeting?

"The reaction was mixed. There were a number of MPs around the table, and I can't say exactly how

PETRA CARUANA DINGLI, council member of Din l-Art Helwa, has described the government's Strategic Plan for the Environment and Development as 'not fit for purpose'. She goes over the plan's main pitfalls

Pitfalls for abuse

they were thinking... for the most part they were just listening. I expect they will go back to their parliamentary groups and take positions, and so on. Now we will see where the discussion will lead to. But there were a number of questions raised at that meeting, and we're expecting to have answers to these questions. Not just as DLH, but I think the public deserves to have these answers. This is a national strategic plan for the environment, and DLH is not the only organisation – far from it – that has raised similar concerns."

Meanwhile, all this must be viewed in the context of a number of other decisions that seem to arise directly out of a weakening of the country's planning and en-

WISH-LIST

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forcement sector. The choice of ODZ land at Zonqor is the most obvious example. But there was also a recent reform of MEPA (which is in the process of having its 'environment' sector transferred elsewhere) to relax restrictions on development in the name of 'cutting back red tape'. The government is also embarked on a policy of land reclamation, and the latest surprise announcement concerns a Gozo cruise liner terminal at Simar quarry.

Is it possible, then, that the government might have had a strategic objective of its own in making this document unworkable in practice?

"Let me put it this way. This document definitely will not provide enough safeguards to prevent more expansion into rural areas, for example. And even if it did... it's already being ignored. If these [guidelines] are the real intentions of the government, they don't need to wait for parliamentary approval within the next month to start working along these lines. If these are the government's real intentions. But I can assure you they are not, and I can give two examples..."

She rifles through the SPED document. "This is a quote from the social policy objectives, which is relevant to the Zonqor point issue: 'To guide the location of the bulk of new jobs and homes within the urban area'. But as we can see the 'bulk of new jobs', at this point – how many jobs are they projecting? 400? – are for a rural area, not an urban area. So if this is the strategic objective for the country, it's being ignored. No doubt about that. So the argument, which I heard at the parliamentary committee, that this is 'not yet the approved document'... for me, it doesn't make any sense. If you've already agreed with the principles... isn't that what matters? If this is what you are proposing Parliament to approve, you don't have to wait for approval to start implementing it. So this is one area where you can see clearly that the direction is not even being considered."

She turns a few pages to another highlighted section.

"This is Rural Objective 3. And it says 'To guide development that is either justified to be located in the Rural Area according to government programmes'... 'or where alternatives are not possible', etc. This already allows for the possibility to go outside the development zone. But then it says, if it does go into the rural area, it should not be in areas which are protected, or of high landscape sensitivity, and so on."

Here she points out that a map is attached to this section, and that the area earmarked for the Amer-

ican University (selected for that purpose by the CEO of MEPA) is marked as an area of high landscape value.

"So they have proposed Zonqor point to parliament – and this is an area of high landscape protection – and in the same document they are saying, to quote exactly: 'to guide development away from areas of high landscape sensitivity'... how can you do the exact opposite of what you yourself have proposed to Parliament? Without any sort of the recognition... first of all that it goes against this document anyway... but even of the amount of opposition there is to it. Yet the government continues to defend the project. When it is the government itself that proposes it shouldn't be done..."

Worst of all, Caruana Dingli continues, the new policy document cannot be implemented for the simple reason that there is no official body entrusted with the task.

"SPED doesn't contain any guidelines about who it will be implemented by. What we queried was basically twofold: one, how the document will be used and interpreted, and two, who will actually be in charge of implementing it. On the one hand, this was conceived as a holistic document. It was conceived at a time when both 'environment' and 'development' were dealt with holistically under one ministry. As a national strategic document, it was previously handled by the ministry itself, not by any independent authority. The ministry was given technical advice, of course, but the strategy document had to be owned by the government in the broader sense... otherwise it couldn't be implemented."

In the meantime, however, it has been moved under the auspices of MEPA. "Now: when this comes to be implemented as a national strategic document, who's going to own it? Will it be MEPA, which will no longer have an environmental arm... because that's going to be split off into a different ministry? So is this strategic plan for environment and development going to be handled only by development?"

At the meeting, Petra Caruana Dingli suggested that the document be handled by a strategic unit within the Office of the Prime Minister. "It was just a suggestion, there are many other ways it can be done. But when I asked the question – who will implement this document? – I got no answer. When you publish a document of this nature, I think you should know who is going to implement it. It should actually be in the document itself. Not only that, but also the criteria by which decisions are taken, the timeframes,

the monitoring, the reviews..."

Yet another problem concerns the future updating of SPED. "At the moment, the way it is, the document is supposed to be reviewed in 2020, so it only has a five-year lifespan. You'd expect a longer-term vision than that from a national strategy document: most strategies are conceived for periods of 20 years alone. But it doesn't specify the milestones, either.

"In a 20-year plan, the first milestone might be targeted for the first five years. There are no specific targets to be met here, and we don't know what will happen beyond 2020. Will we re-write it? Update it? There is absolutely nothing specified, except that the first review is due in 2020. It doesn't say who will review it, or how. I think a document becomes a wish-list if you don't know who's going to own it, enforce it, or anything else. It's just a lot of nice statements – some of them not even that great – but nobody will know what to do with them afterwards..."

There is one last level at which the new strategic plan has already backfired... the Structure Plan it was supposed to replace is no longer in force, and the local plans that will provide it (one hopes) with the enforcement infrastructure it needs are not yet finalised. In the interim, there is nothing of any substance to actually support the new policy guidelines.

"Let me give an example. The current local plans, which are still in force, indicate that when deciding to go beyond the development boundaries, the decision will rest on whether it conforms to Structure Plan policies SET 11 and SET 12. This is what a planner, or the MEPA appeals board, will have to decide on. Now, if you put out this document, which doesn't have a replacement for the Structure Plan... and then let's say you approve it in a month, while the new local plans will not be around for much longer... So between SPED being approved and the finalisation of the local plans, when the old plans are still in force... how are you going to interpret that?"

Again no answer was provided when this concern was raised before the parliamentary committee. "In the absence of an answer – and I would have expected them to have the answer at hand – we propose that either there should be some sort of transition clause: for instance, when SPED doesn't enable an interpretation, we fall back on the old structure plan. Alternatively, don't approve SPED for now. It should come into force at the same time as the local plans. Otherwise we will have a vacuum that will open up too many possibilities for abuse."

PRINCIPLES

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