

FEEDBACK BY THE MALTA CHAMBER

Planning Appeals Reform - Justice in Planning

Presented to : Ministry for Infrastructure, Planning and Employment (MIPE)

Date : 17/08/2026

Version : Release_V02

Classification : Public

1. Introduction and Policy Context

The Malta Chamber of Commerce, Enterprise and Industry notes the publication of the consultation document entitled **Reform of Appeals – Justice in Planning, which proposes amendments to the Environment and Planning Review Tribunal Act, Cap. 551, and the Development Planning Act, Cap. 552.**

The Malta Chamber recognises the legitimate objective underpinning the proposed reform. Where the law provides a right of appeal against a development permit, that right should constitute an effective remedy and should not be rendered meaningless by the completion of potentially irreversible works before the appeal is determined.

The current framework allows the Environment and Planning Review Tribunal to suspend the execution of a permit following a request by the appellant, but such suspension is discretionary, time-limited and subject to a preliminary assessment by the Tribunal. On the other hand, the proposed reform reverses this point of departure by providing that, where an appeal seeks the cancellation, annulment, revocation, reduction or limitation of a permit or of any right arising from it, the permit is suspended automatically from the moment the appeal is filed. The suspension would remain in force until the relevant proceedings have been determined finally and the decision has passed into *res judicata*.

The Malta Chamber supports the principle that the planning appeals system should prevent irreversible development from undermining the practical value of an appeal. To achieve this objective effectively, the proposed framework must also ensure the timely determination of appeals and provide appropriate mechanisms for addressing preliminary procedural issues and potential abuse of the process.

While the policy objective is therefore sound, certain aspects of the proposed framework would benefit from further refinement. In particular, additional safeguards are required to ensure that automatic suspension operates proportionately, that preliminary procedural matters are addressed without unnecessary delay and that the statutory timeframes introduced by the reform have meaningful procedural consequences.

2. Reform Within the Wider Planning Framework

Whereas The Malta Chamber notes and acknowledges the objectives of the proposed reform, it reiterates its position against partial and piecemeal approaches. A Planning Reform should be considered holistically on a nationwide basis rather than by subject matter, sector or area given that there are a number of other crucial areas within planning that are in dire need of reform.

The Malta Chamber has consistently called for a comprehensive and evidence-based reform of Malta's planning framework. Central to this is the long-overdue review of the Strategic Plan for the Environment and Development (SPED, 2015), which itself required revision by 2020. That review must be carried out in tandem with a full realignment of planning policies to ensure coherence with a revised SPED, clear and unambiguous provisions that prevent selective application, and a transparent hierarchy of policies that removes scope for misinterpretation or inconsistent decision-making.

As articulated in The Malta Chamber's [LEAD - Proposals: 2026-2031 Legislature](#) and reiterated in our [press release of July 2025](#), any amendments to planning legislation, rules and policies must form part of a holistic and coordinated reform process, rather than a continuous series of adjustments driven by individual subject matters. The Malta Chamber therefore reiterates its call for a comprehensive rewriting and consolidation of the planning policy framework, supported by explanatory notes, tracked changes, cumulative impact assessments and accessible summaries for stakeholders. Only through such a fundamental overhaul can Malta's planning system provide the clarity, consistency and confidence that businesses, communities and decision-makers require. That said, The Malta Chamber does not consider that the present appeals reform should necessarily be postponed until the wider planning reform is completed. The deficiencies presently affecting the effectiveness of planning appeals warrant immediate attention. Nevertheless, the reform should be situated within a clear and published roadmap for the comprehensive reform of Malta's planning system, including the revision of SPED and the subsequent alignment of subsidiary plans, policies and procedures. The truth is that a number of appeals arise due to the inconsistency and lack of clarity that exists today in respect of policies and decisions.

3. Coordination with Other Regulatory Authorisations

The Malta Chamber considers that the effectiveness of the proposed automatic suspension mechanism should not be undermined by the operation of separate permits, licences or authorisations issued by other competent authorities in connection with the same development.

Where a development permit is suspended pending the final determination of an appeal, works which are ancillary to, preparatory to, or functionally dependent upon the implementation of that development should not be permitted to proceed solely on the basis of a separate regulatory authorisation where such works could result in irreversible physical or environmental effects or otherwise prejudice the effectiveness of the pending appeal. Otherwise, a situation may arise whereby significant works are lawfully undertaken pursuant to another authorisation, notwithstanding that the underlying development permit remains suspended and may ultimately be annulled, revoked or materially altered.

The Malta Chamber therefore recommends that the proposed framework expressly address the interaction between a suspended development permit and other regulatory approvals connected to the same development. A clear coordination mechanism should be established between the Planning Authority, the Environment and Resources Authority and any other relevant competent authority to ensure that the legal effect of the suspension is respected across the regulatory process.

4. Preliminary Review of Admissibility and Potential Abuse

The Malta Chamber recognises that existing Article 43 of Cap. 551 already allows the Tribunal to impose a fine of up to €2,500 where an appeal is declared frivolous or vexatious. This provides an existing safeguard against abusive appeals.

Under the existing suspension mechanism, however, the Tribunal is required to consider the nature of the request before suspending the permit. The Tribunal should not grant suspension where the request is considered frivolous or vexatious.

Under the proposed framework, the suspension would instead arise automatically upon the filing of the appeal, before any assessment of admissibility or of whether the appeal is manifestly abusive. The Malta Chamber's concern is about the absence of a clearly defined and expedited process through which preliminary procedural deficiencies can be addressed while the permit remains automatically suspended.

The Malta Chamber recommends that the Tribunal be required to undertake an initial review within ten working days from the filing of the appeal, covering:

- whether the appeal was filed within the applicable statutory period;
- whether the appellant has the necessary standing;
- whether the statutory requirements governing the content and grounds of the appeal have been satisfied; and
- whether the appeal appears, on a *prima facie* basis, to be manifestly frivolous, vexatious or otherwise constitute an abuse of process.

Any preliminary objection raised by the applicant or permit holder, or any other party to the appeal proceedings entitled to raise such an objection, should be considered as part of this review. The proposed framework should ensure that these parties are notified sufficiently promptly to allow any preliminary objections to be raised and considered within the ten-working-day review period. The framework should also clarify the status of the suspension following the dismissal of an appeal on preliminary grounds and should ensure that any subsequent challenge to that dismissal is treated urgently.

The Malta Chamber recommends that the mechanism should clearly distinguish between an appeal that is manifestly frivolous or vexatious and one that is ultimately unsuccessful on its merits. Existing or additional sanctions should therefore apply only where the Tribunal is satisfied that the appeal is manifestly frivolous, vexatious or otherwise constitutes an abuse of process. Such an approach would protect the legitimate exercise of the right of appeal while reducing the risk that automatic suspension is used strategically to delay otherwise lawful development.

5. Statutory Timeframes and the Consequences of Delay

The Malta Chamber welcomes the introduction of specific timeframes for the determination of appeals involving suspended permits. The proposed framework requires the Tribunal to hold its first sitting within 30 days and to deliver its final decision within six months. At Court stage, the Court of Appeal would be required to deliver its judgment within four months, subject to one reasoned extension of up to two months.

While the introduction of statutory timeframes is positive, The Malta Chamber considers the proposed periods to be quite lengthy in the context of a permit which remains suspended throughout the proceedings. The Malta Chamber recommends that the period for determination by the Tribunal be reduced from six months to four months, and that the standard period for determination by the Court of Appeal be reduced from four months to two months. Shorter statutory periods would address possible delaying tactics from either party and encourage all parties to ensure that their respective case, evidence and submissions are properly prepared from the outset.

These timeframes are an essential counterpart to automatic suspension. A permit holder who is prevented from implementing a permit should be entitled to expect that the appeal will be determined within a reasonable and predictable period. However, the proposed legislation expressly provides that failure by the Tribunal or the Court to deliver a decision within the prescribed period does not terminate, interrupt or reduce the effect of the suspension. In the case of the Tribunal, the principal consequence is that the matter is referred to the Chairperson responsible for the panel, who may issue directions or order that the appeal be assigned to another panel. The Malta Chamber is of the opinion that the proposed framework should clarify whether the newly assigned panel would continue proceedings from the stage already reached, without requiring evidence or submissions to be heard again, and confirm that reassignment would not restart the applicable timeframe.

The statutory timeframes should not be described as merely aspirational, since the draft imposes a clear legal obligation on the Tribunal and the Court to determine proceedings within the specified periods. Nevertheless, the proposed framework does not provide the permit holder with a direct procedural remedy where those obligations are not observed.

The Malta Chamber recommends that the suspension should not lapse automatically upon the expiry of the relevant period. Automatic expiry could permit irreversible development to proceed solely because of institutional delay and this would undermine the objective of ensuring that the appeal remains an effective remedy. Furthermore, it could also give rise to abuse and pave the way via which development which should not be approved would get 'approved'.

A more proportionate approach would be to provide the permit holder with a right to request an urgent review once the applicable statutory period has expired. Upon such a request, the Tribunal or Court should be required to:

- provide a reasoned explanation for the delay;
- establish a clear and binding revised timetable for the remaining proceedings; and
- take the administrative and procedural measures necessary to prioritise the case. and

The full suspension should remain in force where it continues to be necessary to prevent irreversible prejudice. The procedural measures outlined above would nevertheless ensure that any failure to observe the statutory timeframe is formally addressed through an explanation for the delay, a revised binding timetable and the prioritisation of the case. This would strengthen accountability for compliance with the proposed timeframes without allowing delays outside the appellant's control to defeat the appeal itself.

6. Conclusion

The Malta Chamber supports the principle that a statutory right of appeal should constitute an effective remedy and that all safeguards should be in place so as not to render it meaningless.

The proposed automatic suspension mechanism represents a substantial change to the present planning appeals system. Its success or otherwise will depend on the existence of appropriate safeguards that protect the rights of both the appellant and the applicant, ie the *bona fide* appellants and applicants, while avoiding unnecessary or prolonged restrictions on applicants and permit holders.

The Malta Chamber therefore recommends that the proposed reform be refined to:

- require the Tribunal to undertake an expedited preliminary review of admissibility, standing, compliance with statutory requirements and any manifestly frivolous, vexatious or abusive appeal;
- establish a clear coordination mechanism between the Planning Authority and other competent authorities to ensure that separate permits, licences or authorisations cannot be relied upon to undertake works which would circumvent the suspension of a development permit, prejudice the pending appeal or result in irreversible consequences before proceedings are finally determined.
- clarify that, where an appeal is reassigned to another panel following delay, proceedings must continue from the stage already reached and the applicable statutory timeframe must not restart; and
- provide the permit holder with a right to request an urgent review where the Tribunal or Court fails to determine the proceedings within the prescribed period, requiring a reasoned explanation for the delay, a binding revised timetable and the prioritisation of the case.

These amendments would not detract from the central objective of the reform. On the contrary, they would establish a more balanced, proportionate and legally certain framework and would strengthen confidence in the planning appeals process. At the same time, this reform should not be considered in isolation from the wider deficiencies affecting Malta's planning framework. The Malta Chamber reiterates that the revision of SPED and the comprehensive realignment of plans, policies, legislation and procedures remain essential to achieving a coherent, transparent and predictable planning system.



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