

## **PRIVATE PROPERTY IN PUBLIC PROCESSES**

How public stakeholders strategically interfere in private property rights in the public interest in regional spatial development processes

**F.M. van Straalen**

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Social Sciences

# **Private property in public processes**

How public stakeholders strategically interfere in private property rights in the public interest in regional spatial development processes

**F. M. van Straalen**

## **Thesis**

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## Preface

Since I was a little girl, soil, and especially clay, earth and land have captured my attention. Born on a farm in Zuid-Holland, dirt was never far away. The fascination for soil and messy clothes slowly progressed towards interest in land, planning, and ownership questions. Especially when our farm became part of the Bentwoud development, a forest-to-be, my curiosity towards the public interest, private rights, and compulsory purchase procedures was triggered. Eventually my interest in this topic, and a fortunate meeting in the bus between Wageningen UR and the railway station Ede-Wageningen, presented me with the opportunity to study the use of private property in public processes in this PhD-thesis. The thesis presents my reflections on the topic and the research path I have taken in these past years. Off course I could not have undertaken this path alone. Therefore I would like to take the opportunity to thank several people.

First of all, I would like to thank both of my promotors. Adri, without our fortunate meeting in the bus and the manner in which you encouraged me for both the topic and the PhD-position, I would not have started this academic journey. Willem, without your continuous enthusiasm and solid reasoning, I would not have finished the journey. I would like to thank both of you for the comments you presented on my work and the patience with which you have read yet another version of a paper, article, or draft thesis chapter. Your inspiring comments, ability to point out flaws in my reasoning, and critical reflections on my research process and progress have advanced my work and more importantly my personality as a scientist.

Second, I would like to thank those people who have participated in my research in many ways. Foremost, I would like to thank the co-authors on my papers. Leonie, your perseverance has taught me to stand tough in the academic field. Our discussions, both concerning our paper and the PhD-trajectory more in general, have been very welcome and inspirational. Jan, you have presented me with additional insights into the Public Arrangement Approach and more in general the social sciences. Furthermore, I would like to thank the interviewees who have taken the time to contribute to the empirical data for this thesis and thereby have made this thesis possible. A special thanks to the province of Noord-Holland, for providing additional discussions and meetings to sharpen the empirical analysis in the thesis.

Third, I would like to thank the members of the chair groups Land Use Planning and Landscape Architecture. I would like to suffice by saying: do not forget the coffee breaks, these are essential to the body and mind of academia. Particularly I would like to thank the secretaries and administrative personnel,

Audrey, Keen, and Annelies, for providing solid support with practicalities and keeping up with my hasty and far too complicated questions for a Friday afternoon. Furthermore, I would like to give a special thanks to the PhD-candidates which worked at the chair groups alongside me. Jeroen, Hetty, Petra, Jasper, Renée, Sanne, Wiebke, Marjo, Mark, Annet, Kevin, Anoushka, Yang, Judith, you have inspired me in our PhD-meetings and with our thorough discussions on both my research and research methodology more in general. Especially our cooperation within the course Advanced Planning Research Methods has shown me, together we bring about change.

Fourth, I would like to thank my family and friends for supporting my ambitions and understanding my absence when I was writing or otherwise occupied with my thesis. My dearest friends, thank you for providing me perspective and relaxation on our nature hikes and keeping me with two feet on the ground when my brain was drifting off in complicated deliberations. Parents, a special thank you to you both. You have supported me throughout my studies, not only financially but more importantly, mentally as well. Your upbringing, and faith in me and my choices, have made me into the person who I am today. In my opinion, a good place to be and not far from the three-year old girl who, very stubbornly, wanted to carry her own chair.

Finally, I would like to thank my husband Michiel. Your continuous support throughout my master studies and my PhD-studies have provided me the opportunity to finish this thesis. You picked me up when I was feeling down and celebrated every step forward with me. Furthermore, you were so patient with me during the final stages of the thesis, when you met with a tired girl every evening, had to miss me during the weekend (I was at the University), and had to take over every household task. Without you, I would not have eaten properly, nor would I have had clean clothes. Thank you for being there for me.

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## Introduction

# 1

### 1.1 To serve the public interest in Buitenland van Rhoon

To develop wetlands with a high biodiversity, preserve cultural heritage, or sustain intensive farmland? This is a dilemma that remains unanswered in the case of the Dutch polder, 'Buitenland van Rhoon'. The polder, located just South of the City of Rotterdam, was reclaimed from the sea in the 12<sup>th</sup> Century. Since then, it has been used as arable farmland, and has slowly evolved into a landscape that is appreciated for its authenticity and historical value. At the beginning of this Century, new plans were drawn up for Buitenland by national- and regional governments. The polder was designated for redevelopment, as part of a larger program to strengthen the economy and improve liveability in the region of Rotterdam. The program included development of a large harbour area (2<sup>nd</sup> Maasvlakte), compensation objectives for biodiversity losses (due to construction of the harbour), and the development of 750 hectares of natural- and recreational space to improve liveability in the region.

The Buitenland van Rhoon polder (600 hectares) was designated to secure a substantial part of the latter planning objective. During the planning procedure, several designs for the polder were drawn up, including a proposal that contained 300 hectares of wetlands, roughly 50% of the polder. In the subsequent Environmental Assessment procedure, this design was preferred, because of its positive impact on biodiversity. Besides wetlands, the plan includes recreational space and would create the opportunity for local farmers to provide for recreational activities and maintenance of the polder. Traditional (arable) farmland is not integrated in the plan, meaning that the land of (most likely reluctant) farmers must be acquired by government before redevelopment can take place. The province opted to acquire the land compulsorily, if land was not acquired voluntarily. Currently, the land use plan for the development is legally binding and the province is preparing the compulsory purchase procedure, as only 43 of the 480 hectares required were acquired voluntarily.

Even though the legal framework for the redevelopment of this polder became binding in 2013, procedural progress has been marked by ongoing protests against the wetlands. Several times during the procedure, resolutions were adopted in the

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Second Chamber of Dutch Parliament to implement the planning objectives for the polder in a different manner- more aligned with the wishes and propositions of local inhabitants. The latest motion passed in December 2013, resulted from a petition of local farmers' children, who wish to preserve the farmland in the polder. The farmers' children presented three arguments to influence the public opinion about the wetlands: (1) the construction of wetlands is too expensive in economically difficult times, (2) development equals a loss of valuable farmland, which feeds the nation, and (3) the local population appreciates the existing recreational opportunities and authentic values of the polder. Their petition harvested over 18.000 signatures against the development of Buitenland van Rhooen and created national media attention.

After the latest resolution in Parliament, the responsible minister (for Infrastructure and the Environment) declared further deceleration of the project undesirable. She proclaimed that changes to the redevelopment should only be possible within the boundaries of the binding land use plan, and if the planning objectives of the larger program remain secured. Nevertheless, the petition of the farmers' children rekindled debate about the development of the polder: Is the public interest best served with the creation of wetlands or are both the polder landscape and the local farmers' rights unnecessary damaged by the redevelopment? It is now up to the regional planning authority in charge of redevelopment to redesign land use in the polder, so that the program objectives are met and the farmers are satisfied. However, it remains to be seen if, after considerations at national- and regional planning levels, the property rights of the farmers will be valued over redevelopment of the polder in the public interest. After all, the land is still needed for the public interest, secured in national policies, made binding *via* the land use plan, and pressured by the preparation of the compulsory purchase procedure. The redevelopment of the Dutch polder 'Buitenland van Rhooen' is one of many examples in the Netherlands, of farmland that is required for the implementation of planning objectives in the public interest, or, at least, where governments utilise public policies to acquire private rights. Whether this serves the public interest depends on the eye of the beholder.

### **1.2 Private property rights, the public interest, and land policies**

The perception of property rights differs between public- and private stakeholders in spatial development processes. Private parties relate to their private rights in land, whilst public stakeholders relate to land for the public interest. In this respect, property rights are part of planning systems and assist in balancing individual- and the public interests. Both property rights and the public interest can be understood as political-normative principles, which are the

"*institutional rights in that particular society, polity, or community*" (Alexander, 2007, p. 114) - A view that is widely accepted in literature (e.g. Bromley, 1991; Garruthers and Ariovich, 2004; Needham, 2006; Alexander, 2007; Davy, 2012). Davy (2012) reflected on these rights from a social perspective and considers property in-line with the establishment of societies. Davy - relating to social contract theories and the work of Hobbes, Locke, and Rousseau - argues that protecting individual property rights is an outcome of the establishment of societies and the negotiation of government; individual freedom is exchanged for citizen rights and responsibilities, including property rights. In the same line of reasoning, the sociologist, Foglesong (1986), defined the boundary between the public interest and private property rights in land as a contradiction. He argues that the nature of property is contradictory, as the social character of land is hampered by the private land rights of that same Society (see also Campbell, 1996; Buitelaar et al., 2008). Private property rights hinder public stakeholders to deliver planning objectives (e.g. economic growth, social equity, sustainable spaces) in the public interest.

How these property rights are protected, or rescinded in the public interest, depends on the legal order of a society and its views on control, liberty, and similarity (Needham, 2006; Davy, 2012). In Western European countries, this comprises a (more) holistic ownership model. A model that refers to the value of property, rather than dissecting property into several different rights (Renard, 2007; Alterman, 2010; Di Robilant, 2013; Van der Molen, 2013). How governments may interfere in property rights is legally embedded in public- and private State laws, and inspired by international human rights treaties (Loof et al., 2000; Needham, 2006). Firstly, the constitution and the civil code of the State define rights in land and how they are enforced. These laws also create possibilities for the State to interfere in these rights, for example, whether or not regulatory takings are allowed. Secondly, public- and private laws are enacted to govern land use on a sectoral basis, e.g. land-use planning legislation, environmental ordinances, and landlord-tenant legislation. Private- and public law have different views on control. In private law, control relates to material things, e.g. land owners possessing property rights. Whilst in public law, control relates to people, e.g. the relationship between the individual and the government (Davy, 2012). Thirdly, regional- or local governments design additional rules that only apply to a specific jurisdiction, area, or project.

Besides the legal framework, which determines the rights in land and how governments may interfere in these rights, governmental agencies decide how to interfere in these rights to reinforce or change land use. Typically, governmental agencies do not limit themselves to regulatory measures, but can also actively interfere in rights *via* land acquisition. In this respect, governmental agencies act

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both as public authorities and private entities, and operate using both public- and private laws. Choices between regulatory or active interference in private rights are stipulated in the land policies of a State. Land policies are considered normative models, which explains “*why planners must protect or restrict private property, what planners have in mind when they promote the public interest in land, or why they consider one future development more desirable than others*” (Davy, 2012, p. 31). These policies reflect upon and legitimise how far governments are able, and willing, to go in pursuing the public interest *via* interference in private property rights. Legitimation of choices, especially in relation to proportional interference in private property rights and just compensation, is a necessity for governments seeking to interfere in these rights, when delivering socially desirable land use (Van der Molen, 2013).

Although land policies legitimise governmental choices, on paper, these policies are hollow. They are merely reflections of (political) considerations between private rights and the public interest, expressed in the laws and policy documents of a State. Only when policies are used in practice, is meaning given to the policies. How public stakeholders strategically frame the debate about the use of land and formulate policies, and how they put land laws, policies, and rights into action, determines how the relation between individual property rights and the public interest is shaped and changed over time. Thus, to understand this relation, insights are needed in the choices, actions, and interactions of public stakeholders, when regulating land use and acquiring land in the public interest. In planning research, the roles of (individual) stakeholders and their agencies is gaining momentum. Studies increasingly emphasise how transformative processes take place, rather than how they ought to be shaped (e.g. strategic planning and collaborative planning; Healey, 1997b; Albrechts, 2004; Albrechts, 2013). The empirical and theoretical studies conducted thus far, have attempted to understand, or model, the (strategic) use of land policies by stakeholders in planning and development processes to successfully deliver planning objectives. However, these studies do not reflect on the individual choices and decision-making processes of stakeholders or how stakeholder interaction sparks land policy change, e.g. where land policies are both means *in-*, and an outcome of spatial development processes.

The majority of the conducted studies have focused on successful (efficient, effective) delivery of planning objectives (e.g. Fliervoet et al., 2013; Jensen et al., 2013; Mills et al., 2014) or on the (economic) effectiveness of land policy instruments to provide land for the public interest (e.g. Alterman, 2010; Hartmann and Needham, 2012; Van der Krabben and Jacobs, 2013). However, success or failure of land policies is largely reliant on the consensus of stakeholders and how public stakeholders evaluate their use of land policies to deliver planning

objectives. Therefore, success or failure of policy implementation should be considered as conditional for policy (re)formulation, rather than be measured in terms of efficiency or effectiveness. A second, smaller, group of studies have addressed the decision-making of interacting stakeholders, by using two different approaches: empirical studies (e.g. Van Dijk and Beunen, 2009; Davy, 2012; Kerselaers et al., 2013), or theoretical modelling, inspired by game theory or agent-based models (e.g. Fürst et al., 2010; Samsura et al., 2010; Sohl and Claggett, 2013). Although these studies could assist to predict the key factors in stakeholder interaction and decision-making during land or property development processes, the understanding of public stakeholders' decisions and their effects on land policy change is, so far, limited. The underlying factors that influence decision-making regarding the use of land policy instruments, land acquisition, and land policy (re)formulation need to be understood in more detail (e.g. Samsura et al., 2010). This provides cause to examine three subjects in more detail: (1) how policies are shaped, (2) how land policies are implemented and (re)formulated and the relation between these dynamics, and (3) the processes with which, public stakeholders implement land policies and interact with other stakeholders to deliver planning objectives.

### **1.3 How land policies are shaped**

In planning processes, land policies predominantly provide support to implement planning objectives, such as housing and infrastructure. They assist in regulating land markets, support or restrict certain land use and structure choices and interaction of stakeholders involved in planning processes. Therefore, in practice, land policies are valued as tools, rather than as aims. This applies, not only to laws that support or restrict rights in land, but also for the property rights themselves, which can be considered instruments or tradable rights in negotiations (Bromley, 1991; Alexander, 2007). To be able to study policy change, it is vital to understand how policies are shaped, what goals they have, and which role they fulfil. For this purpose, Hall (1993) and Howlett and Cashore (2009) created, and specified, a model of policy composition. This model, i.e. taxonomy, provides insights into the focus and content of policies, divided into different components. The taxonomy assists policy analysis, as it helps to provide meaning to policies, distinguishes which components of policies change, and determines in which direction policies change. For this thesis, the taxonomy provides insight into differentiation between different land policy components, and helps in understanding when planners relate to policy aims or tools. The policy aims of the taxonomy reflect the (political) decisions of Society to interfere in private property rights, and the policy tools are the instruments that public stakeholders use to provide land for the delivery of planning objectives.

Table 1.1 Taxonomy of land policy components (based on Howlett and Cashore, 2009)

		Policy content		
Policy focus		High level abstraction	Program level	Specific measures
	Policy aims	<p>GOALS</p> <p>Types of ideas</p> <p><i>Balance protection of private property rights and the public need for land</i></p>	<p>OBJECTIVES</p> <p>Aim to address</p> <ul style="list-style-type: none"> <li>- <i>Regulate land markets</i></li> <li>- <i>Structure behaviour of stakeholders</i></li> <li>- <i>Support the implementation of planning objectives</i></li> </ul>	<p>SETTINGS</p> <p>Specific requirements</p> <ul style="list-style-type: none"> <li>- <i>Protection of property rights</i></li> <li>- <i>Full compensation for damage to property rights</i></li> <li>- <i>Affordable and available land for the public interest</i></li> </ul>
	Policy tools	<p>INSTRUMENT LOGIC</p> <p>Norms to guide implementation</p> <ul style="list-style-type: none"> <li>- <i>Use of instruments as stimuli</i></li> <li>- <i>Use of instruments as restriction</i></li> <li>- <i>Acquire land for the public interest</i></li> </ul>	<p>MECHANISMS</p> <p>Types of instruments utilised</p> <ul style="list-style-type: none"> <li>- <i>Regulatory (land use restrictions)</i></li> <li>- <i>Subsidies (compensation)</i></li> <li>- <i>Direct tools (e.g. pre-emption right, compulsory purchase procedure)</i></li> </ul>	<p>CALIBRATIONS</p> <p>Specific ways of instrument use</p> <ul style="list-style-type: none"> <li>- <i>Zoning (including planning permissions)</i></li> <li>- <i>Strategic use (stimuli, adaptation for own interest)</i></li> <li>- <i>Court decisions</i></li> <li>- <i>Jurisprudence</i></li> <li>- <i>Compulsory acquisition of land as last resort</i></li> </ul>

The taxonomy of land policy components is displayed in Table 1.1, using Dutch land policy to exemplify the division between the six compartments of the policy (based on Dutch national and regional land policy documents; Louw et al., 2003; Needham, 2006; Doevendans et al., 2007; Buitelaar, 2010; Van der Molen, 2013). In relation to policy aims, the taxonomy distinguishes between goals, objectives, and settings. The goals express the types of ideas that are addressed in the policy, i.e. the balance between the need for land in the public interest and the protection of private property rights. The policy objectives relate to the aims of implementation of the policy. For land policies this is not limited to regulating markets, and structuring the behaviour of stakeholders, but also involves assisting the implementation of planning objectives. The policy settings refer to specific requirements of the policy aims, such as protection of rights, full compensation, and affordable and available land for the implementation of planning objectives.

For policy tools, the taxonomy distinguishes instrument logic, mechanisms, and calibrations. The instrument logic points to the norms that guide implementation of the objectives. For land policies, this component includes the use of instruments as stimuli or as restriction, and land acquisition (both voluntarily and compulsorily). The mechanisms relate to the actual instruments to implement the objectives: regulatory instruments to facilitate or coordinate land uses, subsidies to stimulate a specific land use or compensate for the loss of rights, and direct tools to actively acquire land in spatial development processes. Calibration, as a final component points to the specific use of instruments and agreements in Society about the use of certain instruments. This includes zoning schemes, the strategic use of instruments, court decisions (for example on compulsory purchase), case law, and the choice to use compulsory purchase only, as a last resort. How policies are calibrated not only relates to the choices for a specific style of land policy, but also to the choices for the implementation of planning objectives *via* direct development strategies or regulatory measures (stimulating or restricting certain land uses).

#### **1.4 Land policy dynamics: implementation, (re)formulation, and direction**

The role of the individual stakeholder and agency is also gaining new momentum in policy sciences. Studies towards policy change and policy dynamics have focused on the role of institutions in the last decades, rather than "*the strategic role of agency*" and "*the entrepreneurial and leadership qualities of key actors*" (Howlett and Migone, 2011, p. 60). Howlett and Migone point out that emphasising the role of agency in policy-making is not new. Nevertheless,

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they argue that understanding policy change *via* individual stakeholders' decisions and interactions is essential for understanding the consequences of small transformations in policies. These small transformations, for example, adaptation of regulation, might not change the broader aims of policies, or their role in institutions, but they require policy-makers and planning practitioners to change their routine behaviour, consequently influencing the interaction between stakeholders in development processes and sparking new policy changes. When these small transformations are overlooked in the analysis of policy change, and are only grouped as larger transformation processes, the key factors for policy change might be misunderstood. Consequently, misinterpreting how stakeholders' choices and interactions influence policy dynamics.

How stakeholders influence both the implementation of policies and the (re)formulation of policies (e.g. strategic and operational actions) can be visualised as a policy-action continuum, "*in which interactive and negotiated process is taking place over time, between those seeking to put policy into effect and those upon whom action depends*" (Barrett and Fudge, 1981, p. 25), see Figure 1.1. This model, and similar models, such as that of Davy (2012), distinguish between two processes, or worlds, one, in which, policy takes effect (e.g. the real world, practice), and one, in which, policies are (re)formulated (e.g. the policy world). To understand how policies change, both processes of policy implementation and policy (re)formulation must be studied, as changes in one process, will affect the other. When combining the policy-action continuum with the taxonomy of policies, detailed descriptions can be given of land policy dynamics. On one hand, how (re)formulations of specific policy components affect the implementation of planning objectives with the support of land policies. On the other hand, how public stakeholders' choices in the implementation of policies lead to changes in specific land policy components, or have no substantial effect on land policy dynamics. In Chapter 2, both processes will be operationalised in more detail, referring to agency-structure duality (Giddens, 1984) and the policy arrangement approach (Arts and Leroy, 2006).

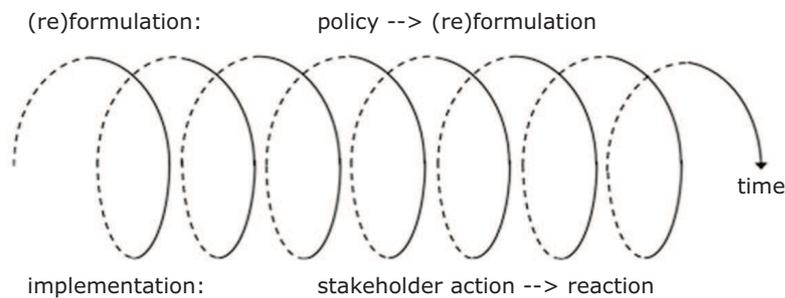


Figure 1.1 The policy-action continuum

### **1.5 Land policies and stakeholder interaction in spatial development processes**

How land policies support the delivery of planning objectives, relates to spatial planning and land development practices. Spatial planning, as understood in this thesis, is concerned with the regulatory interference in private property rights, whilst land development concerns the active interference in private property rights. To provide insights into the division between planning and development processes, Van Rij and Korthals Altes (2010) constructed a spatial planning-land development matrix, see Figure 1.2. Spatial planning, in their definition, is more “*inclusive, transparent and well informed, and justified by spatially relevant arguments*”, whilst land development processes “*aim to produce services plots effectively and efficiently*”, in which, “*cost considerations play a key role*” (Van Rij and Korthals Altes, 2010, p. 301). Van Rij and Korthals Altes define strategic and operational components for both spatial planning and land development. In their view, strategic spatial planning is concerned with those indicative plans that communicate spatial visions and assist the coordination of planning tasks. Operational spatial planning is more pragmatic and locally organised than strategic spatial planning. Operational spatial planning includes those plans that secure the land use of specific plots, such as the local land use plan. Strategic land development focuses on the formulation of policies with respect to land ownership, land acquisition, and the use of land policy instruments. Operational land development is concerned with land use changes, by changing land ownership. This includes land transactions, contract works, and land reallocation.

Spatial planning, at the left side of the matrix, undeniably influences the right side of the matrix, for instance, as it dictates land use and provides those planning objectives to be delivered in land development processes. Strategic spatial planning is considered as guidance for planning objectives to be delivered *via* land development processes, and operational planning instruments are considered part of the toolbox that a planner can use in his or her strategy to provide for certain planning objectives in land development processes. To emphasise this relation, this thesis refers to spatial development processes. With regards to the taxonomy of policy components, this thesis regards planning objectives as *raison d'être* for public stakeholders to interfere in private property rights in spatial development processes (see the objectives component). Likewise, the planning instruments are grouped together with land development instruments under the policy tools section of the taxonomy. These instruments provide the basis, upon which, public stakeholders actively interfere in private property rights in the public interest in spatial development processes.

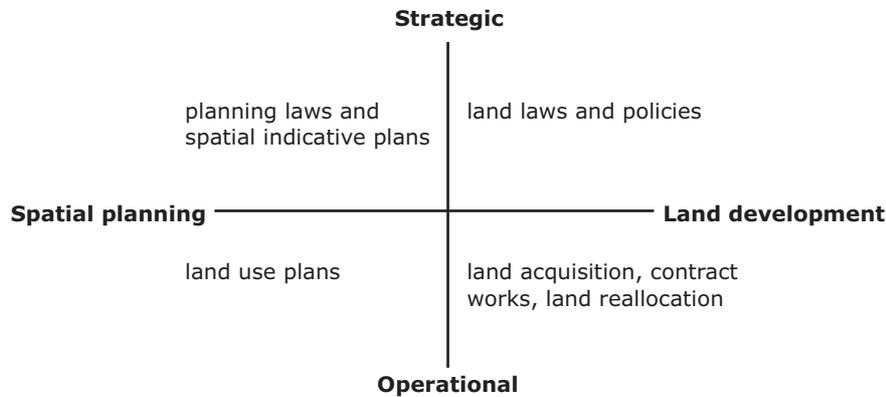


Figure 1.2 Spatial planning-land development matrix (based on Van Rij and Korthals Altes, 2010)

In spatial development processes, stakeholders are active agents. They apply meaning to the surroundings and actively seek to change the environment to implement objectives or intentions. How these spatial development processes are shaped and how stakeholders interact in these processes, differs between spatial planning systems, as these are “*deeply embedded in their socio-economic, political and cultural context*” (Nadin and Stead, 2008, p. 35). However, stakeholders (inter)actions, stakes, property rights, and motivations influence the (political) decision to interfere in private property rights for the public interest, and the use land policy instruments to implement planning objectives. Besides using policy instruments, public- (and private) stakeholders can use land acquisition strategically in spatial development processes. The land acquisition strategies of public authorities can be divided into two categories: strategic land acquisition, which commences prior to the start of spatial developments, and operational land acquisition to secure the spatial development during the development. For this latter category of acquisitions, public planning authorities seek application of land policy instruments, such as pre-emption rights and compulsory purchase, to provide for the land within a given timeframe. Additionally, stakeholders, as active agents, influence the decision-making and interaction of other stakeholders, who in turn might adapt their decision-making and interaction to act more to their own interests, or the public interest, when this concerns public stakeholders. This results in a complex web of interactions (e.g. communication, instrumentation, negotiation, competition, solidarity) and strategic decision-making, which influences land policy dynamics.

## 1.6 Research aims and main research question

Understanding how public stakeholders strategically apply land policy instruments and acquire land in spatial development processes, increases insight into their decision-making and how they achieve balance between individual rights and the public interest. Additionally, how the stakeholders decide and (inter)act influences the implementation and (re)formulation of policies. Insights into these decision-making mechanisms of public stakeholders will enhance the understanding of land policy dynamics. Therefore, this thesis' objective is to contribute to the knowledge on public stakeholder decision-making, its underlying decision mechanisms, and how stakeholders choices and interactions influence land policy implementation and (re)formulation, which is expressed in the following research question:

*On what basis do public stakeholders choose to apply land policies and interact in regional spatial development processes, and how, over time, do these practices influence land policy changes?*

Besides contributing to the scientific understanding of the decision-making of stakeholders, and its influence on the policy-action continuum, this thesis opts for societal relevance. The thesis aims to contribute to the understanding of the delivery of those planning objectives in the Netherlands, for which, land ownership might be essential. This includes profitable objectives, such as infrastructure and housing, but more importantly, less profitable, cost-efficient or undervalued objectives, such as nature conservation (Ehrlich et al., 2012). Although the Dutch planning system has a strong international reputation, it also faces serious criticism (Roodbol-Mekkes et al., 2012). Planning processes often prove to be very slow and the processes encounter strong resistance from the public (Buitelaar, 2007). Dutch spatial planning has gradually changed since the 1950s. The Welfare State paradigm, with a crucial role for social engineering at the level of central government, was largely replaced by collaborative decision-making and decentralised planning powers. Likewise, the planning paradigm shifted from traditional land use planning towards 'spatial development planning' (*ontwikkelingsplanologie*) or 'integrated area development' (*integrale gebiedsontwikkeling*). New planning practices include a wider variety of stakeholders than more traditional land use planning practices. How inclusive these practices are considering Society (participatory planning) and private stakeholders (public-private partnerships), depends on the public planning authorities involved. Although the planning form has changed, the core principles of Dutch planning – for instance, urban concentration, spatial differentiation, integrated development, and the multiple and intensive use of land – still stand, leading to an ambitious planning agenda to implement in spatial development processes (Faludi and Van der Valk, 1994; Needham, 2007; Roodbol-Mekkes et al, 2012).

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Table 1.2 Land ownership in the Netherlands (data source: Wiersma and Van Leeuwen, 2012, using data of Kadaster)

Land owners		Percentage of land owned
<b>Private</b>		<b>75%</b>
	Private persons	55%
	Companies and foundations	10%
	Project developers	5%
	Private nature organisations	5%
<b>Public</b>		<b>25%</b>
	National government	9%
	Regional government	1%
	Local government	10%
	Public nature organisation	5%

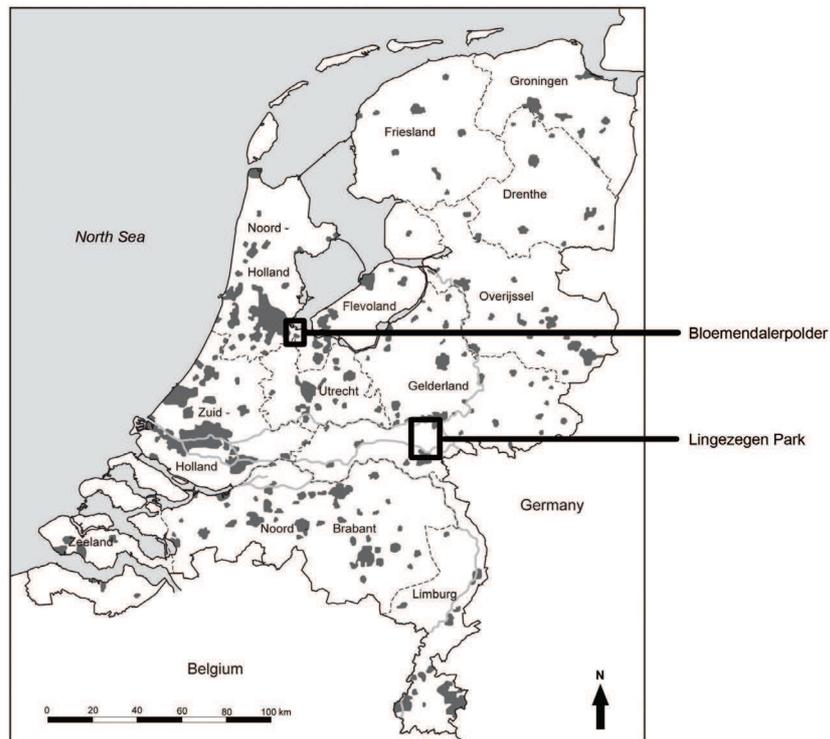


Figure 1.4 The 12 Dutch provinces, with larger urban settlements marked in grey and both case studies highlighted

### 1.7 Thematic lenses and regional spatial development

To study the different aspects of the relation between (public) stakeholders' decisions, interactions, and land policy dynamics, the thesis utilises four different thematic lenses (see Figure 1.5). The lenses were chosen based on the differentiation between policy implementation and (re)formulation (policy-action continuum, Figure 1.1) and the components of the land policy (policy aims and tools, see the taxonomy in Table 1.1). The first two lenses take land policy (re) formulation as their starting point. The first lens focuses on policy changes over time, and emphasizes the influence of significant changes in the aims of policies. The second lens considers smaller policy transformations and assesses the effects of adaptation of land policy tools and its effects on the decision-making of public stakeholders. The latter two lenses take policy implementation as their starting point. The third lens emphasises the effects of public stakeholders' decisions and interactions on planning objective delivery in spatial development processes with the use of land policy tools and land acquisition strategies. The fourth lens closely examines how stakeholders translate policy aims to policy tools, the instrumentation of policies. Each of the thematic lenses focuses on Dutch spatial development processes in general, and the decision-making and actions of the regional planning authorities in these processes in particular.

Land policies in the Netherlands help to distribute rights in land to access, use, and benefit from land in the public interest. These policies provide accountability for those exercising power on behalf of the public interest (Healey, 1997b). When taking into consideration that about 75% of the land in the Netherlands is privately owned – the Dutch water system (major rivers, lakes, and sea) excluded, see Table 1.2 – and that several of the (non-profitable) planning objectives will not be provided for *via* the market, it is not surprising that Dutch governmental organisations make extensive use of direct development strategies to provide for the delivery of planning objectives (Needham, 2006; Buitelaar, 2010; Roodbol-Mekkes et al., 2012; Van der Krabben and Jacobs, 2013). These strategies include cooperation with private stakeholders and active use of land acquisition and land policy instruments by different levels of government. Since the regional planning level is increasingly required to deliver planning objectives (Korthals Altes, 2006a; Allmendinger and Haughton, 2010; Janssen-Jansen and Hutton, 2011; Stead, 2013), the thesis focuses on the decisions and interactions of the regional planning authorities in the 12 Dutch provinces (see Figure 1.4).

The Dutch provinces are considered to have a reasonable amount of formal authority, compared to regional governmental structures in other Europe countries (Hooghe et al, 2010). In their study, Hooghe et al. compared democracies and measured the variance in the formal authority of their regional

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authorities. The Dutch provinces scored 14.5 for their formal authority (German Länder, 21.0; Italian Regioni a statuto ordinario 14.0; Regions in the UK, 4.0). Until the 1980s, the provinces concentrated on regulatory planning, producing integrated plans. Since then, this gradually changed, allowing for more active planning and implementation of planning objectives for rural areas *via* land consolidation or land development. Presently, the provinces have a more active role, experimenting with land development and assuming financial responsibilities for planning of green- and rural areas (Korthals Altes, 2006a; Roodbol-Mekkes et al., 2012). In 2007, the provinces became accountable for the development of rural areas and in 2008 they were granted additional planning powers and land policy instruments. Consequently, they are re-evaluating their role in spatial planning, and their strategic choices related to land policy. Gaining insights into these re-evaluation processes fits within the societal relevance of the thesis.

The 12 provinces provide a variety of spatial development processes as they differ in terms of population, landscape, degree of urbanisation, and land use. The provinces of Noord-Holland, Zuid-Holland, Utrecht, Gelderland, and Noord-Brabant are more urbanised than others. The larger demographic pressure in these provinces results in a greater demand for housing and employment, as well as recreational opportunities. In consequence, the pressure on land is larger around the urban areas in these provinces. This leads to differentiation in the choices that provinces make, both in the role they choose in spatial development processes, and the strategies that they choose to provide for land in the public interest. Therefore, gradual changes at the regional planning level, related to the provincial role, responsibilities, instruments, and future planning challenges, are different for every province. Coupled with the relatively large formal authority of the Dutch provinces, this resulted in varied approaches to tackle planning and land policy challenges, within the regulatory and planning context of a single country.

Each of the thematic lenses focuses on a different part of the Dutch regional spatial development processes. The first lens views the broader societal processes which resulted in the increased provincial planning powers between the 1980s and 2010s. These societal processes signal changes in policy aims and the manner, in which, planning objectives are implemented. The second lens focuses on recent regulatory changes in 2007 and 2008, which increased the planning powers of the provinces and added policy tools. The third thematic lens focuses on the interaction between stakeholders and its effects on decision-making of the provinces in two specific spatial development processes: *Lingezege Park* and *Bloemendalerpolder*, see Figure 1.4. The fourth lens focuses on the instrumentation of policies. It takes the Dutch Compulsory Purchase Act as a case and examines how the instrumentation of this Act has influenced implementation of nature conservation objectives by the Dutch provinces.

### **1.8 Structure of the thesis**

The outline of the thesis is closely related to the thematic lenses (see Figure 1.5). Chapter 2, together with this Chapter, can be regarded as the introduction to the study that was carried out to answer the main research question. Chapter 2 describes the research methodology of the study. Chapters 3 to 6 comprise the thesis' empirical chapters, which correspond with the four thematic lenses. These chapters were all submitted as journal articles to a peer-reviewed journal. Chapter 3 focuses on the historic relation between stakeholder behaviour and policy dynamics and studies land policy changes in the Netherlands between the 1950s and 2010s. Chapter 4 focuses on the differentiation of the use of land policy instruments and land acquisition strategies of the 12 provinces, and examines how these provinces implemented the land policy changes as result of the new 2008 Spatial Planning Act. Chapter 5 focuses on stakeholders' interaction in spatial development processes and how this interaction influences the choices to use certain land policy instruments or land acquisition strategies, in two specific planning practices in the Netherlands: Lingezege Park and Bloemendalerpolder. Chapter 6 focuses in detail on the instrumentation of land policies and how this affects the use of land policy instruments. The chapter discusses the Dutch compulsory purchase procedure in relation to nature conservation objectives. In Chapter 7, the different empirical chapters are brought together to reflect on the rationale of strategies, the delivery of planning objectives, and land policy dynamics.

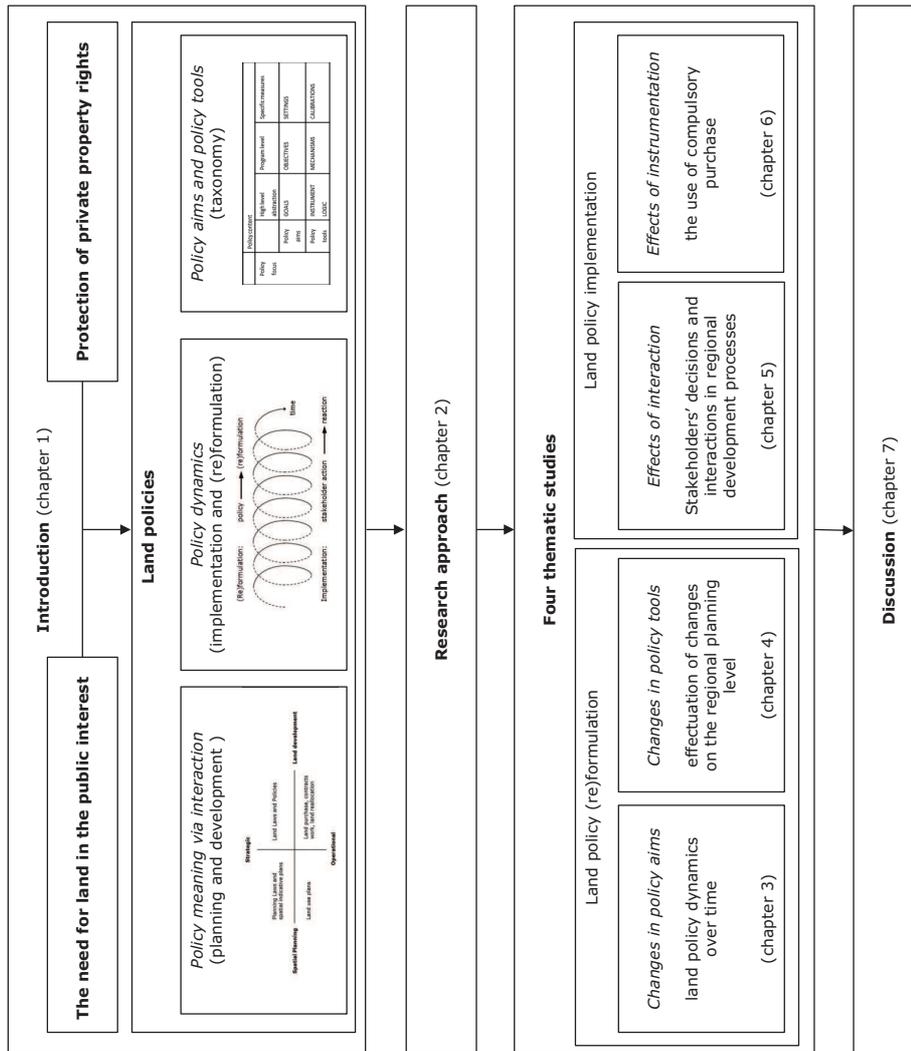


Figure 1.5 Outline of the thesis

## Research Approach

# 2

The central aim of this research is to contribute to the comprehension of public stakeholder decision-making and interactions and how this influences, and is affected by, land policy dynamics. How the research was constructed is discussed in this chapter. As introduced in the previous chapter, the thesis uses four thematic lenses to study the relation between public stakeholders' decisions, interactions with other stakeholders, and land policy dynamics: changes in land policy aims, changes in land policy tools, effects of stakeholder interaction and effects of land policy instrumentation. Although the research was divided according to the different lenses, it was conducted using a single research design, in which, methods were added during the research to provide data for each individual lens. The analysis of stakeholder interaction and decision-making in relation to land policy dynamics has formed the core of every theme. This chapter subsequently addresses (after Crotty, 1998, p. 3; Creswell, 2014, p. 5):

- *Epistemology* (or the worldview of the researcher); the position on the theory of knowledge and *theoretical perspective* (or research perspective); the philosophical stance towards research, which provides the context of the methodology.
- *Methodology* (or research design); the strategy that underpins the way that the research was carried out.
- *Methods*; the operational techniques and procedures that were used to gather and analyse data.
- *Research quality*; different techniques applied to monitor the quality of the research (Yanow and Schwartz-Shea, 2006; Yin, 2009).

### 2.1 Interpreting stakeholder decision-making and interaction

Researchers with an interpretive research perspective focus on understanding and interpreting the meanings that individuals apply to objects, experiences, and social practices. The most important notion in the social sciences, compared to physical sciences, is the understanding that individuals (stakeholders) are reflexive (Giddens, 1984; George and Bennett, 2005). Reality is socially- and historically constructed when people actively apply meaning to experiences to understand the world (Yanow, 1993, 1996; Creswell, 2014, p. 8). Each individual

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applies their own meaning to objects or experiences, often in interaction with other individuals, resulting in varied and multiple meanings of certain objects or experiences. "*Meaning cannot be 'given' as such, but is understood, often differently by different people*" (Hillier, 2008, p. 25). For example, how planning processes proceeded or how land policy instruments were used during a land development process, is perceived differently by different individuals, even individuals within a single institution and operating the same set of planning objectives. Likewise, key concepts, such as the public interest, property rights, or land policies are socially constructed.

Therefore this thesis starts from a constructivist epistemological position that realities cannot be known objectively (Crotty, 1998; Haverland and Yanow, 2012). Constructivists understand that there is no single, objectively-determined reality, each individual gives meaning to the world differently. Additionally, constructivist researchers acknowledge that their own background and experiences will influence how they construct their research and apply meaning to the data which is gathered. Researchers can only understand meanings of participants *via* interpretation (Yanow and Schwartz-Shea, 2006). Researchers, with a constructivist position, seek to understand the complexity of meanings, rather than to understand reality or focusing on narrowing meanings into categories (Creswell, 2014). Their research focuses on processes of interaction amongst individuals and the context, in which, these individuals operate, to understand the historical and cultural settings of the participants. In this thesis, this is understood as the decision-making and interaction of public stakeholders, applying land policies and interacting in spatial development processes in the Netherlands.

To examine land policy dynamics as the result of stakeholder decision-making and interaction, this thesis follows the principle of *agency-structure duality*, introduced by Giddens (1984). The theory of Giddens bridged social ontologies of objectivism, that human agents are constrained by Society, and subjectivism, but also create Society, reconceptualising these as a duality of structure. Human agents are constrained by the same Society that they have created. This duality explains why stakeholders' agency is the key component to understand policy implementation and policy (re)formulation. "*The structural properties of social systems are both the medium and outcome of the processes they recursively organize*" (Giddens, 1984, p. 25). For this thesis, this implies that land policies are both the means *in* and ends *of* spatial development processes. Furthermore, it places the agency of stakeholders at the centre of policy change. How stakeholders are mediated by structural properties and choose to interact with other stakeholders (e.g. communicate, negotiate, compete) in day-to-day practices decides how policies are implemented and (re)formulated. Giddens perception of structural properties divides between rules and resources. The

rules concern both the formal (regulatory) and informal (interactive) elements. The resources also concern two elements: authoritative, which allow agents coordination of the activity of other agents, and allocative, which allow agents to control material products or aspects of the material world. According to this view, planning tools (e.g. the land use plan or compulsory purchase) are considered authoritative resources, whilst land is considered an allocative resource.

Besides using the general concept of agency-structure duality, this thesis uses the Policy Arrangement Approach as an analytical tool to understand how policies stabilise or change (Arts and Leroy, 2006). Where the structuration theory of Giddens mainly focuses on day-to-day practices, the Policy Arrangement Approach seeks to link changes in day-to-day practices to broader, more structural, changes in Society (Liefferink, 2006). Besides the agency-structure duality, the approach also includes an ideational-organisational duality, which emphasizes the institutionalisation of day-to-day practices. Institutionalisation in this context relates to the gradual stabilisation of patterns of actions and rules, either agency driven (organisational) or externally driven (ideational or discourse) (Leroy and Arts, 2006). In the analytical framework of the Policy Arrangement Approach, four dimensions are divided (Liefferink, 2006). These dimensions include the *actors* (stakeholders) involved in a policy domain, the *resources* of the domain (the division of these resources, the differences in power and influence due to these resources), the formal- (regulations) and informal (interaction) *rules*, and the *discourses* (norms, values, problem definitions, approaches to solutions, and planning cultures) surrounding the policy domain. When considering the taxonomy of land policies, Table 1.2, discourse closely links to the compartments of the policy aims, and the rules and resources link to the policy tools compartments of the taxonomy. Moreover, when taking into account the differentiation between operational and strategic planning and development, Figure 1.2, strategic planning or development could be considered discourse (e.g. norms and values guiding stakeholder decision-making and interaction) and the operational side can be considered part of the rules (spatial planning) and resources (land development) of the domain.

As active agents, stakeholders mobilize the structural properties to support the implementation of their (spatial) objectives in planning practices (Healey, 1997a). Similarly, stakeholders are bound by these same structural properties, larger societal structures (i.e. discourses), and the interaction with other stakeholders (or actors) involved in the processes. Land policies mediate, constrain, and enable the strategic decision-making of stakeholders interacting in spatial development processes. Successively, stakeholders evaluate how planning objectives are implemented and if necessary (re)formulate land policies to improve their application, when land is needed in the public interest. These processes take

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place as social activities, stretching over time-space. Single activities of human agencies are not enough to change land policies. Changes are a result of multiple activities in several spatial development processes over time-space and external pressures on these practices, such as the spatial planning system or changes in Society at large.

The notion that stakeholders' patterns of actions get solidified (institutionalised), and constrain agency, can be understood as path-dependency. The observation of path-dependency is not new to planning or policy analysis. Nadin and Stead (2008), for instance, conclude that European planning systems show a certain degree of path-dependency, such as persistence of institutions and cultures. They observe that being embedded in a cultural context might constrain the ability to learn from previous practices or other planning context. This does bring forward the importance of (cultural) context of countries and institutions in understanding the decision-making and interaction of stakeholders. For instance, Dutch spatial planning benefits from the stable and commonly accepted ideas of the planning doctrine, but this may also make planners inflexible and "*harm the interests of those outside the consensus*" (Faludi and Van der Valk, 1994; Roodbol-Mekkes et al., 2012, p. 392). Whilst path-dependency might hamper spatial development processes, stakeholders' strategies could also constrain agency in spatial development processes. A study of Gerber (2012) points out that continuous adaptation of strategies could hamper the ability to learn. Gerber studied the strategic behaviour of Canadian land trusts (non-governmental organisations), who acquire land for nature conservation. In his examination of the strategic behaviour of land trusts, Gerber observed that adaptation of strategies is a necessity for land trusts to acquire land and meet the objective of conservation, but that adaptation hampers the ability to learn from previous practices.

To what extent the decision-making of and interaction between stakeholders is framed by structure, to what extent stakeholders can recreate structure, and how much creative, or discretionary, space stakeholders deliberately exercise, is still debated in literature (e.g. McAnulla, 2005; Allmendinger, 2006; Nadin and Stead, 2008; Wang, 2008; Bakewell, 2010; Akram, 2012; Gunn and Vigar, 2012; O'Boyle, 2013). In spatial development processes, stakeholders operate under the same discourses and basic set of constitutional rules, leaving a certain amount of freedom. For instance, in most legal systems, owners' autonomy is defined by the amount of freedom regulation leaves to the owner, e.g. negative freedom (Di Robilant, 2013). In this thesis, the freedom of stakeholders is understood as the power they exercise when interacting with other stakeholders and what these stakeholders can achieve with this power (Arts and Van Tatenhove, 2004). Power depends on the capacity to mobilize authoritative and allocative resources

in interaction with other stakeholders, whilst simultaneously, stakeholders are positioned and mediated (i.e. structured) by rules, resources, discourse, and their relations with other stakeholders. Whether or not stakeholders exercise this power, or act unconsciously and through habit, are part of the analysis of stakeholders' decision-making and interaction. The notion of unconscious behaviour or acting through habit closely relates to the concept of path-dependency and the institutionalisation of patterns of action (Arts and Leroy, 2006; Nadin and Stead, 2008).

Important to policy dynamics (implementation and (re)formulation), is the effect the policies create when stakeholders' choose to use certain policy instruments. The choice of stakeholders to use certain land policy instruments, may structure the policies more than the expression of its aims (Hood, 2007; Lascoumes and Le Gales, 2007). As such, the use of land policy instruments by stakeholders in interaction could produce effects independent for the objective delivered (Lascoumes and Le Gales, 2007), or unintended by the policy objective (Griffiths, 2003). This results in altered implementation of land policies as intended, and possibly sparks policy (re)formulations to address these unintended effects. As the interaction between stakeholders, and their application of structural properties, greatly influences the shape of land policies, this thesis seeks to understand how public stakeholders provide meaning to the use of these properties and exercise power in the interaction with other stakeholders to provide for land in the public interest. The thesis focuses on three specific elements of the relation between public stakeholders' agency and land policy dynamics: how (regional) public stakeholders (1) interact with other stakeholders, (2) use rules and resources to deliver planning objectives in development processes, and (3) reformulate land policies *via* the interpretation of the results of these spatial development processes relating to the success of their delivery of planning objectives.

The agency-structure duality and the dimensions of the Policy Arrangement Approach guided the construction of the research design, the choice for the thematic lenses, and how the researcher interpreted the data provided by interviewees. How regional public stakeholders interact with other stakeholders, relates to the creative space stakeholders operationalise and the power they exercise by mobilizing certain rules and resources (lens 3, effects of interaction). How public stakeholders use rules and resources is addressed by assessing how they provide meaning to policies (in documents and plans) and how they choose to operationalise these in spatial development processes when opting to deliver planning objectives in interaction with other stakeholders (lens 2, changes in policy tools). Furthermore, the thesis addresses how formal rules are operationalised in spatial development processes (lens 4, effects of instrumentation). How public

stakeholders (re)formulate policies as a result of the results of (a sum of) spatial development processes or larger societal structures is examined by using the Policy Arrangement Approach (lens 1, changes in policy aim). The examination focuses on stabilisation in the arrangement of land policies and what causes breaches in this stabilisation (changes in discourse, rules, resources, actors, or a combination).

## 2.2 An iterative research design and case study research

The research design for the study derived from the interpretive research perspective. The research design chosen is inductive, to prevent a selective focus at the start of the research (Yanow and Schwartz-Shea, 2006). The benefit of this approach, compared to a deductive approach, is the opportunity to study complex processes without simplification or generalisation of the meanings and perceptions of stakeholders. The design allowed comparison of empirical data without adaptation to specific theories, as the result of deducing hypotheses (Rose, 1991). The basis for the exploratory methodological design was found in grounded theory (Glaser and Strauss, 1967; Seale, 2004; Charmaz, 2006) and interpretive policy analysis (Yanow, 2000; Yanow and Schwartz-Shea, 2006). Although this research does not claim to be grounded, principles descending from grounded theory formed the basis of the research design, for instance, the empirical orientation of the research design. Empirical events and experiences were studied in a qualitative manner to pursue leads and potential analytical ideas about them, which allowed the start of a broad exploration, but focused and framed the research during the study period. A second benefit of this approach was the ability to adapt and frame the design during the course of the research, for example, by adding research methods. This way of constructing the research design, led to an iterative process, in which, the gathered data was continuously compared to other data to find patterns (Charmaz, 2006; Seale, 2004). When, at a given point, new data did not lead to new insights or research results, findings were noted.

Although the research design has an inductive and iterative character, existing theoretical notions and frames, such as the Policy Arrangement Approach (Arts and Leroy, 2006) and the instrumentation of policies (Lascoumes and Le Gales, 2007), were used to guide the analysis of the empirical data. These frames, for example, guided the research in the division between agency and structure, as well as differentiating between different structures dimensions (e.g. actors, rules, resources, discourse). The research process started with gathering empirical data from the field, for example, *via* open-ended interviews. Afterwards empirical data was analysed to find patterns, with the assistance of the theoretical

notions and frames to interpret the empirical data and analytical findings. As such, the empirical data and the patterns that emerged during data gathering were leading and not the existing theory related to parts of the research subjects (Seale, 2004). The theoretical notions, such as the agency-structure duality and the structural dimensions, helped to explain and strengthen data patterns and to explore additional ideas and leads. Furthermore, additional leads were studied by adding research methods, such as the quantitative analysis of Dutch Royal Decrees for compulsory purchase. The iterative manner of data collection allowed revisiting previously studied processes, or interviewees, to provide additional insights in the choices of stakeholders. This method was chosen to ensure data saturation, to the point that no new insights or research results were found and the results provided a complete overview of land policy dynamics (Charmaz, 2006; Seale, 2004).

The findings of the study are based on the analysis of empirical data *via* several lenses. The thematic lenses assisted in gaining a broad insight into public stakeholder decision-making, interaction between stakeholders, land policy dynamics, and the instrumentation of land policies by stakeholders in interaction. The empirical data was gathered by studying several spatial planning and land development processes in the Netherlands. These practices, also referred to as *'case studies'* or *'embedded cases'*, consisted both of assessment of actual land development processes and broader assessments of stakeholder decision-making and interaction over the course of multiple land development processes. Case studies fit well in an interpretive research, as they provide in-depth, but context-dependent understanding of specific social phenomena, which cannot be understood by 'general rules' (Yanow, 2000; Flyvbjerg, 2001, 2006). The use of various case studies concealed patterns, whilst constructing a web of knowledge between different spatial development practices and the strategies of (public) stakeholders. To assist in a structured and focused comparison between different practices, such as different regional spatial development processes, literature on case study research was used (George and Bennett, 2005; Yin, 2009). As this literature originates in a different ontological and epistemological position, e.g. realism and objectivism (Haverland and Yanow, 2012), the literature informed the techniques for structured data comparison, rather than as part of the iterative research design or holistic data collection process.

As the study subject, between thematic lenses, spatial development processes, decision-making and interaction of provincial planners, and the use of regulation, different analytical frames were used for each thematic study. For the analysis of changes in land policy aims and land policy dynamics over time, in Chapter 3, a broad perspective was chosen on planning and land policy in the Netherlands. Although this chapter focuses on regional development processes

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and the role of regional stakeholders in spatial planning practices, data collection and literature review were much broader and included Dutch planning between the 1950s and 2010s to gain a deeper understanding of the evolution of Dutch spatial planning and land development. Besides using policy documents and interviews to understand how land policy dynamics constrained and enabled stakeholders in spatial development processes over time, literature was sought to complement this analysis (e.g. Dutt and Costa, 1985; Bosma, 1990; Van der Brink and Molema, 2008; Janssen, 2009; Molema, 2012). After a broad (historical) overview was gained of Dutch land policy dynamics, the analysis narrowed to focus on those practices and insights related to regional planning authorities and interpretation of their increased role and planning powers, and likewise, how this influenced their choices for land policy instruments and land acquisition strategies over time. As such, the final analysis combined literature overviews with thick descriptions.

For the analysis of the different strategies of provincial planning authorities and their employees in Chapter 4, a multi-case approach was chosen. Each province was considered to be an embedded case study within the context of Dutch spatial planning. For each individual province, data was gathered on land policy (re)formulation and implementation. Besides studying policy documents, different provincial managers and policy advisors were interviewed to differentiate between the land policy aims on paper, and how land policies were given meaning as tools in spatial development processes. To provide a focus point in the analysis and assist the different interviewees in their interpretation of their practices, the study questioned how the provincial interactions and decisions changed as a result of the 2008 Spatial Planning Act. This Act increased the planning powers of the provinces and granted additional land policy instruments. The interviewees, for example, were asked if their province implemented the new land policy tools, if this affected their spatial development strategies, and what kind of barriers and opportunities they felt for using direct development strategies. If, during interviews, the answers given deviated from existing policy aims and statements in the land policy documents of that province, additional questions were asked to understand why practices deviated from policy statements. After the data was gathered for each individual province, data was combined to derive patterns between the different provincial strategies and decision-making processes. Although the majority of the combined analyses happened after the interviews took place, the latter interviews were inspired by the answers of previous interviews, as part of the iterative character of the research design. Furthermore, to assist the analysis of the patterns, the researcher participated in an additional meeting, in which, several of the provinces jointly discussed their land policy strategies in spatial development processes. This meeting was observed, rather than participated in as an active interviewer. The goal of the meeting was to inform others of the land policy strategies in other provinces and

learn from the experiences and choices of the others. The attending provincial land managers and policy advisors discussed the purpose of having a separate department for land policy and spatial development processes in the provincial organisation, reflected on the use of several land policy instruments, and on their land acquisition strategies. The data analysis resulted in an overview of the use of different land policy tools by the provinces, the barriers and opportunities for the use of the instruments, and an assessment of the effectuation of land policy (re) formulation on the regional planning level.

For the study of the effects of stakeholder interaction, addressed in Chapter 5, a case design was chosen, in which, two cases were studied separately before comparison, first in the Lingezege Park case and afterwards in the Bloemendalerpolder case, see Figure 1.4. To some extent, the cases can be considered an in-depth and narrowed, study of the provincial choices, as addressed in the previous study. The case studies were conducted in different provinces in the Netherlands to obtain a deeper understanding of the differences between the choices and strategies of stakeholders, and these cases presented the best opportunity to learn (Denzin and Lincoln, 2005). Both cases comprise of a spatial development process, in which, the respective provincial planning authority, at some point during the process, had a leading role. The cases were selected based on their differentiation in the planned land use, land acquisition procedure, duration, and location. This differentiation was chosen to gain insights in patterns between strategies stakeholders use to acquire land and implement planning objectives, even though the processes are dissimilar. The Lingezege Park development is a 1500-hectare-project with planning objectives including nature conservation, recreational opportunities, and the protection of open space. The consortium in charge of the development comprises of public stakeholders. The Bloemendalerpolder project consists of 490 hectares. The planning objectives include housing (1/3rd of the area), nature conservation and recreation (2/3rds of the area), improvement of infrastructure, and water security. In both cases, planning and land policy documents were analysed and key stakeholders were interviewed to understand how the interaction between stakeholders led to the assembly of the consortia, the leading stakeholders in the development, the use of certain land policy tools and land acquisition strategies. For the Bloemendalerpolder case, this included revisiting the case after the plans for the development were revised, due to the economic setback in 2008. After both cases were analysed, the cases were compared to derive strategies which surpass the context of the case, and to understand to what extent stakeholders are constrained and enabled by structure and the strategies of other stakeholders. This resulted in an analysis of the creative space of stakeholders in the different spatial development processes, and how stakeholders are able to mobilize power in these processes.

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To study the effects of policy instrumentation, in Chapter 6, a somewhat different approach was chosen. This part of the research was largely the result of a lead, when none of the interviewees seemed informed about the reasons for installing a 10% ceiling to compulsory purchase for nature conservation, or the effects the instrument sorted on their practices. Although the analysis focused on the strategies of provincial stakeholders, the case study was directed at the use of the compulsory purchase procedure. As the provinces are responsible for the development of the National Ecological Network, the analysis still focused on the land acquisition strategies provinces opted for when implementing this objective. In particular, the decision to use the compulsory purchase instrument was analysed, and if the 10%-ceiling changed their attitude towards the use of the instrument to compulsorily acquire land. Besides using policy documents and interviews to understand how provinces choose to use compulsory purchase, which legal procedures they must follow, and which additional policy aims they must meet (i.e. a 10%-ceiling to the use of the instrument), the study included a quantitative analysis of the (decisions to) use compulsory purchase by different levels of government, and for which land uses, between 2001 and 2012. The additional qualitative analysis increased the insights of the use of the instrument, and, in particular, whether or not the 10%-ceiling was exceeded. The findings of the study include patterns of instrumentation of policies, and how the choices to operationalise land policy aims have intended and unintended effects on the implementation of planning objectives.

### 2.3 Methods

Empirical data were derived from land policy documents, project plans for the cases of Lingezege Park and Bloemendalerpolder, newspaper articles, Royal Decrees of Compulsory Purchase, and 28 open-ended interviews with different stakeholders and experts. The policy document analysis focused on those documents related to planning and land development of national and regional planning authorities (e.g. the 2001 National Land Policy and policy documents of the 12 provinces). The analysis of policy documents at the national level contained a systematic search of documents related to spatial planning and land policy within the Dutch national archives; this included the Archives of the Ministry of Agriculture, Nature and Food Quality<sup>1</sup>. The analysis at regional level focused on

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<sup>1</sup>(2.11.93: Archief Directie Ruimte en Recreatie en taakvoorgangers van het ministerie van Landbouw, Natuur en Voedselkwaliteit (1973)1979-2005), the Ministry of Housing, Spatial Planning and the Environment (2.17.05 Archief Ministerie van Volkshuisvesting, Ruimtelijke Ordening en Milieu (VROM): Raad van Advies voor de Ruimtelijke Ordening (RARO), 1965-1994 (1996) en idem

the land policy documents of the 12 provinces. Furthermore, the analysis focused on the choices of the provinces considering land development, for instance, regulatory coordination or direct development, which role provinces opted to take in land development processes, what kind of land acquisition strategies provinces considered, and the rationale of these choices. For both case studies, the project plans were examined, including the rationale of the choices for the consortia, operationalisation of land policy instruments, and land acquisition strategies. Furthermore, newspaper clippings were used to gain insights in the critics of the public on these developments. The newspaper articles helped to gain insights in processes and which additional topics to address in the interviews.

The interviews were conducted between 2010 and 2013, see Appendix A. The respondents were employed at national-, regional-, and local governmental planning authorities. One of the 12 provinces could not be persuaded to participate in the research, their rationale being a lack of land policy within the province. The expertise of the respondents was related to spatial development, land acquisition, and land policy. In the interviews, several topics were addressed, all related to (integrated) regional spatial development and land acquisition in the Netherlands. Before the interviews, the standpoint of different governmental agencies towards the (strategic) use of land policies was defined *via* the policy document analysis. Open-ended semi structured interviews were held to test and elaborate on these standpoints. As such, the interviews provide insights into the interpretations of policies by professionals, and contribute to knowledge about actual land development practices and the strategic use of land policy instruments. The interviews included (in order of appearance) details about the profession of the respondent, general thoughts and considerations on land policy, land development, and spatial planning, detailed accounts on the land policies or spatial development processes (the use of instruments, land acquisition strategies, interaction between stakeholders, their rationale), a comparison of the choices of the respected respondent to the choices of others (within the organisation or other planning authorities at the same planning level), some closing questions addressing the general thoughts on land policy at the close of the interview. Besides addressing individual cases or provincial practices, the interviews also focused on land policies and strategic choices of governmental planning authorities in general and the interaction between different officers involved, for example, the cooperation between the planning- and land development departments. During the interviews the topics were shortly introduced by the interviewer, without defining the concepts which were involved in the questions asked. In this way, the interviewee was unbound and could provide his or her own interpretation of

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(RARO) (1991)1995-1996(1998) en hun commissies en werkgroepen), and a selection of the Archives of the Dutch Parliament (2.02.28 Archief van de Tweede Kamer der Staten Generaal (1949)1945-1980(1994)

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the concept and the practices, in which, the interviewee was involved.

In addition to content-based analysis, the interview results and the interviewees' responses were used to establish a framework for the subsequent case studies and interviews, consequently constructing a network of interrelated opinions on certain topics, such as the choices made by provinces with regards to their strategies when deploying instruments or acquiring land. The analysis of the empirical data focused on the stakeholders involved, how these stakeholders interacted, which planning and land policy instruments they chose to implement planning objectives, the rationale behind these choices, and how strategies were adapted in interaction with other stakeholders or when the context of the project changes, for example due to the economic setback of 2008.

To complement the data set deriving from policy documents and open-ended interviews, especially for the analysis of the compulsory purchase procedure (see Chapter 6), a systematic analysis was conducted of Royal Decrees of Compulsory Purchase between 2001 and 2012 (688 in total). These Decrees, which must be published in the *Staatscourant* (State Gazette) to be enforced, provide full coverage of the decisions of public planning authorities to commence the compulsory purchase procedure, as most interfering instrument in private property rights in the public interest. The analysis included the total number of Decrees per year, the planning authority which requested the Decree (national, regional, local), the project for which compulsory purchase was requested, the land uses involved, the legal basis for the compulsory purchases (title), if (part of) the request was denied, the reasons for denial, and between 2007 and 2012 the number of hectares for which compulsory purchase was requested. The analysis of the data comprised of basic numeral analysis and visualisation of the data in charts.

### 2.4 Research quality

Interpretive research and content-dependent comparison assumes 'bounded variability' (Rose, 1991). Interpretive researchers reject extremes of universalism or particularism, they seek to comprehend social phenomena through patterns. Results of interpretive research are socially constructed and context-dependent, aimed to understand social phenomena rather than explain or predict causal relations (after Neuvel, 2009). The insights which can be derived through iterative processes are bound in time and space (Gottweis, 2003), and are not value-free. The findings need to be evaluated for their explanatory power, and be weighted in light of their plausibility, trustworthiness, and transparency (Crotty, 1998; Howarth, 2000; Fisher, 2003; Schwartz-Shea, 2006). To monitor the quality of

the research, different techniques can be applied (Schwartz-Shea, 2006; Yin, 2009; Creswell, 2014). The following have been applied to this research:

- Triangulation of data: to improve the reliability of the results, data was gathered from multiple sources. For the different parts of the study data was gathered *via* policy document analysis and afterwards, verified in the interviews with both key stakeholders and experts in the field of land policy. For Chapter 6, the collection of data from the Royal Decrees was also followed by interviews to increase insights into the compulsory purchase procedure. Furthermore, triangulation of the data happened as part of revisiting the case studies as part of iterative case designs. Additionally, reflexive notes were kept to provide insights into any '*aha*' moments experienced during the study and to map thought processes.
- Comparison: Although the results of individual case studies are specific and, in social sciences research, the richness of data gathered could be considered as final result, the aim of the study was to derive context-dependent patterns. For this reason, the practices of different provinces were compared and the provinces were treated as embedded cases. The different individual studies were compared to derive patterns at a more fundamental scientific level in relation to the knowledge of stakeholder decision-making and interaction and land policies.
- Explicitness: Quality of any research is influenced by a clear and logical research process to explicitly explain how any conclusions made are derived from empirical data. For the benefit of transparency, in several chapters of the book, interviewees are quoted or information they provided is displayed that lead to thick descriptions of the research content. Furthermore, the research differentiates between the logic derived from policy document analysis and the logic and reality of practices of stakeholders, examined *via* open-ended interviews.
- Informant check: insights from the research should correspond with the planning practices studied. For this reason different key-stakeholders were interviewed during the study, and some of these interviewees were visited several times. Furthermore, a roundtable session provided additional insights into differences between the practices of different provincial stakeholders. As a 'final validation' of the results, a symposium was organised to discuss some of the results of the study and reflect on the current debate of the role of the provincial government on the land market. The symposium, held on 31 October 2013, was titled '*Grond voor Discussie*' and reflected the role of the local and regional government on the land market and discussed how these

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governments should operate on the land market and in land development processes in the future, and 80 participants from the field of planning and land development attended the symposium.

- Auditor check: a review of the research process and content by external experts can also improve the quality of the study. For this reason different parts of the study were presented at international conferences and papers resulting from this study, and part of this thesis, were reviewed by anonymous referees of different academic journals. The following chapters each hold one paper that has been submitted to, or has been published by, a peer-reviewed journal. The status of each paper is indicated on the first page of the respective chapter.

## **Integration and Decentralisation: The Evolution of Dutch Regional Land Policy**

# 3

### **Abstract**

How public stakeholders implement planning objectives in the public interest depends on the land laws and land policies of a State. Not only are stakeholders enabled or constrained in their actions by these laws and policies, but public stakeholders also (re)formulate these laws and policies to support their actions. The objective of this chapter is to understand how stakeholders' interactions influence the implementation and (re)formulation of planning processes. The chapter explores the changes in land policies in the Netherlands, in particular how changes have enabled the regional planning level. The Policy Arrangement Approach is used to analyse the strategic behaviour of agencies and their use of structure in spatial development processes. The findings show that the arrangement rapidly changed from the 1980s onwards, due to changes in the underlying political discourses and the effectuation of these discourses *via* regulation and instruments. With objectives of decentralisation and integration, the national government has enabled the regional planning level to become more active in spatial development processes. Although the provinces were enabled by new laws and policies, not all have implemented the new planning powers to the same extent.

**Keywords:** Land Regulation and Policy, Spatial planning, Stakeholder strategies, The Netherlands

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### 3.1 Introduction

Property rights make it possible for governmental actors to weight individual rights and to get insight in the public and private needs for land. Besides the constitutional framework which determines rights in land, governmental agencies formulate land policies to determine how far governments are able and willing, to go in pursuing the public interest *via* the interference in private property rights (Davy, 2012). Since land is an important component of spatial development processes (Korthals Altes, 2000), land ownership, land policies, and land regulations structure these processes. On their own, land policies, regulations, and even property rights are hollow; rights, regulations, and policies are, on paper, merely reflections of considerations and agreements of Society and governmental authorities. Meaning is given to these regulations and policies *via* the interaction of public and private stakeholders in spatial development processes. Coalitions between stakeholders develop new strategies regarding land acquisition, land policies, and regulation. The success of these strategies (i.e. negotiated deals, voluntary land acquisition) affect the delivery of planning objectives such as housing, infrastructure, or nature conservation. If planning objectives are not delivered as intended, strategies and land policy instruments are adapted to better support the delivery of these objectives in spatial development processes. How stakeholders strategically frame debate about the use of land, and put land policies into action in spatial development processes, determines how the relation between individual property rights and the public interest evolves. Thus, understanding the way stakeholders strategically acquire land, and operationalise land policy instruments, are essential to comprehend how land policies change, and, more fundamentally, how the relation between individual rights and the public interest in land is shaped.

Public stakeholders, i.e. national, regional, and local governmental planning tier, implement planning objectives in the public interest *via* spatial planning and land development processes. Spatial planning is concerned with securing land use *via* inclusive, transparent and well-informed processes, justified by spatially relevant arguments, while land development is characterised by its aim to provide serviced land effectively and efficiently, with cost considerations as a key argument (Van Rij and Korthals Altes, 2010). Spatial planning undeniably influences land development, for instance, as it dictates land use. Therefore, this chapter addresses the spatial development processes, referring to both land development and the guiding principles and instruments adopted from spatial planning in these processes.

Although several (historical) studies have been conducted on the delivery (e.g. implementation) of planning objectives with the support of land laws, and land policy instruments, most of these take an instrumental perspective, rather

than addressing changes in land policies that result from strategic behaviour of interdependent actors (or stakeholders) over time. The existing studies focus on the delivery of planning objectives or integrating policy levels (e.g. Fliervoet et al., 2013; Jensen et al., 2013; Mills et al., 2014). When the behaviour of stakeholders is examined, this is usually from an economic perspective (e.g. Alterman, 2010; Hartmann and Needham, 2012; Van der Krabben and Jacobs, 2013). Land policy studies that do consider stakeholder behaviour tend to take two different approaches: empirical studies (e.g. Van Dijk and Beunen, 2009; Davy, 2012; Kerselaers, et al., 2013), or modelling (e.g. Fürst et al., 2010; Samsura et al., 2010; Sohl and Claggett, 2013). Although modelling could assist in predicting the effect of stakeholder behaviour on land policy dynamics and *vice versa*, the use of the models is so far limited as the underlying assumptions are still insufficiently understood (Samsura et al., 2010). Therefore, additional insights in stakeholder behaviour is necessary, especially when considering how land policies influence the decision-making of public stakeholders and their interaction with other stakeholders in spatial development processes. This study understands the land policy dynamics from a duality of agency and structure perspective (Giddens, 1984). According to Giddens agency is both constrained and enabled by structure and has the ability to (re)produce these structures. Related to spatial development this implies that public and private actors in interaction deliver planning objectives *via* spatial development processes, but are at the time constrained by structures, such as land legislation, land policy instruments, and finances. How structuration affects the decision-making and interaction of public stakeholders, and how stakeholders operationalise and change land policies to deliver planning objectives is not examined yet, but essential in understanding, and modelling, stakeholder behaviour.

This chapters' key objective is to understand how different stakeholders in spatial development processes, influence land policy dynamics (both implementation and (re)formulation of policies) and *vice versa*. Since spatial development processes are relational activities shaped by a particular institutional context, this chapter explores the changes in land policies in the Netherlands from the 1980s to the present. The chapter focuses on Dutch spatial development practices and the delivery of planning objectives *via* the regional planning level. As this planning level is increasingly relevant for the efficient and effective delivery of planning objectives (Louw et al. 2003; Kantor, 2006; Van Straalen et al., 2013). In the 1980s, regulation for rural development changed, thereby extending the role of regional planning authorities (i.e. provinces) in the delivery of planning objectives in the rural area in the Netherlands. Until the 1980s, provinces concentrated on regulatory planning, e.g. producing integrated plans. Since the 1980s this has gradually changed, allowing for more active implementation of planning objectives at the regional level *via* spatial development processes.

Changes in the arrangement have increased the formal authority of the provinces; the Dutch provinces have a reasonable amount of formal authority, in comparison with other European regions (Hooghe et al., 2010)<sup>2</sup>. The chapter analyses how Dutch land policies and planning objectives have changed, and how changes at the national planning level enabled regional planning authorities to gain power in spatial development processes. Furthermore, the chapter examines how regional planning authorities have taken up their new role in these spatial development processes and how they decided to operationalise their new planning powers.

### 3.2 Examining stakeholder behaviour

The chapter applies the Policy Arrangement Approach (PAA) to understand the duality of agency and structure in land policy dynamics over time. Policy arrangements are defined as 'the temporarily stabilisation of the content and organisation of a particular policy domain at a certain policy level, or over several policy levels – in case of multi-level governance' (Arts and Leroy, 2006). To emphasise the institutionalisation of day-to-day interaction, the PAA includes an ideational-organisational duality, besides the agency-structure duality. Institutionalisation is understood in this study as the gradual stabilisation of patterns of actions and rules, either agency driven (organisational) or externally driven (ideational or discourse) (Leroy and Arts, 2006). Stabilisation and alterations in the arrangement of a policy can be understood by analysing the arrangement from four dimensions (Liefferink, 2006). The temporary stabilisation of the arrangement alters, when changes occur in one of the four dimensions (see Figure 3.1), or when there is a change in long-term societal- and political trends and processes (Arts and Van Tatenhove, 2006). Furthermore, changes in policy arrangements are the result of the relations between, and actions of, agents using (and changing) these dimensions.

These dimensions, include the *resources* of the domain, such as the division of resources, and differences in power and influence; the *rules* of the game, concerning both formal (regulations) and informal (interaction) rules, and the *discourses* surrounding the policy arrangement, such as norms and values, problem definitions, and approaches to solutions. Furthermore, as stakeholders interact in spatial development processes, the *actors* involved in the domain, the coalitions they form and the oppositions they have, also influence how planning objectives are delivered.

<sup>2</sup> Hooghe et al. (2010) studied the rise of regional governments and measured their formal authority. Based on a dataset from 2006 the Dutch provinces were scored 14.5 on their 'regional authority index'. This figure is comparable with the Italian *Regioni a statuto ordinario* (14.0), lower than the German *Länder* (21.0), but higher than the *Regions* in the UK (4.0).

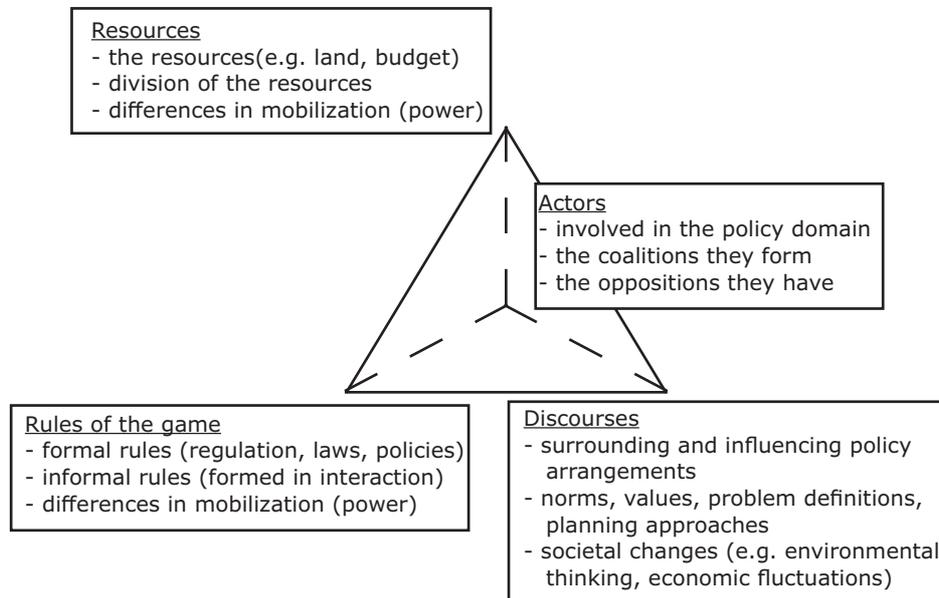


Figure 3.1. Tetrahedron with the dimensions of the policy arrangements (based on Liefferink, 2006)

### 3.3 Method

The analysis of the arrangement of the Dutch land policies is based on existing historical studies within the timeframe 1950-2010 (Dutt and Costa, 1985; Bosma, 1990; Van den Brink and Molema, 2008; Janssen, 2009; Molema, 2012), additional policy document analysis, and open-structured interviews with experts in the field of spatial planning and land policy (28 in total) to gain insight into more recent practices, policy changes, and the operationalisation of the new planning powers of regional governments. The policy document analysis included a systematic search of documents related to spatial planning and land policy within the Dutch national archives<sup>3</sup>. The interviewees were employed at national-, regional-, and local governmental planning authorities. Their expertise was related

<sup>3</sup> This search included the Archives of the Ministry of Agriculture, Nature and Food Quality, the Ministry of Housing, Spatial Planning, and the, and a selection of the Archives of the Dutch Parliament: 2.11.93 Archief Directie Ruimte en Recreatie en taakvoorgangers van het ministerie van Landbouw, Natuur en Voedselkwaliteit (1973)1979-2005; 2.17.05 Archief Ministerie van Volkshuisvesting, Ruimtelijke Ordening en Milieu (VROM): Raad van Advies voor de Ruimtelijke Ordening (RARO), 1965-1994 (1996) en idem (RARO) (1991)1995-1996(1998) en hun commissies en werkgroepen; 2.02.28 Archief van de Tweede Kamer der Staten Generaal (1949)1945-1980(1994).

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to spatial development, land acquisition, and land policy. In the interviews, several topics were addressed, all related to (integrated) regional spatial development processes, land policy, and land acquisition in the Netherlands. The interviews were conducted between 2010 and 2013.

The chapter focuses on changes in resources, rules, and discourses related to spatial development processes and planning objectives, which are a result of, or resulted in, new coalitions and changed behaviour of actors. Changes at the strategic planning level, for instance which public authority should deliver a planning objective, were dealt with as part of the discourse dimension, because these strategic planning decisions and visions are considered guiding to spatial development processes. Changes in operational planning and the planning instruments are considered part of the resource dimension, as land policy and planning instruments predominately provide support to implement planning objectives *via* these processes. Nevertheless, the responsibilities of governments and the changes in instrumentation of policies is also considered in relation to changing regulation (rules dimension). To be able to point out constraining and enabling factors for stakeholders interacting in spatial development processes and to identify temporal stabilisations and sources of changes, different dimensions of the arrangement were explored separately. But when explored separately it was not possible to detach dimensions entirely from other dimensions, as agency sparked changes in different dimensions simultaneously. Therefore, the exploration assumed a funnel-shape, which started with (global) societal processes of influence to the arrangement and ended with the different actors involved in spatial development processes and the behaviour of these stakeholders. The alterations in the arrangement are presented in four different sections, roughly coinciding with periods of temporarily stabilisation of the content and organisation of the arrangement. These periods result from the analysis of the arrangement. To provide context, an additional preceding section briefly highlights the arrangement prior to the 1980s. After describing the arrangement and how changes in the arrangement have enabled provincial land policy, the chapter discusses how the provinces have taken up their new abilities in spatial development processes.

#### **3.4 Social welfare and national-led planning**

During the 1950s and 1960s, the Netherlands, like many other European countries, recovered from the Second World War. Political emphasis was directed at collective prosperity, rather than individual wealth, and resulted in a breakthrough for modernism, an overarching discourse of physical and social engineering, and the further development of the Social Welfare State. In this Welfare State, central government played a crucial role in the delivery of policy

objectives. This included both urban and rural planning, where implementation of policies and land use changes were organised in a top-down manner. During the 1960s the central planning objectives were stimulating economic development and an equal distribution of welfare between all regions of the Netherlands. In the 1970s controlling sprawl (compact Cities) and increasing urban quality were the main objectives. Although urban- and rural planning still were separated during this period, initiatives were taken to integrate both forms of planning. The core objective of rural planning was "modernization, rationalization, and intensification of the landscape for agricultural production" (Doevendans et al., 2007, p 334). National government, responsible for improving the rural landscape for agricultural purposes, used land consolidation as key instrument. In a similar vein, urban planning had as a core objective to restore and develop housing areas and improve the liveability and quality of urban space (Faludi and Van der Valk, 1994). Local governments controlled urban developments; planned small developments often located in Cities or on City edges and serviced the plots.

For the delivery of planning objectives in the public interest, public authorities relied on several land- and planning regulations and land policy instruments. Many of these laws, and accompanying instruments, were effectuated (long) before the 1980s. These include the laws and regulations that provide the starting point for urban planning (the Housing Act of 1901), rural planning (the Land Consolidation Act of 1924), and later on more integrative spatial planning (the Spatial Planning Act of 1965), and those that regulate interference in private rights in land (e.g. the Compulsory Purchase Act of 1851). These regulations were particularly important in this period, as governmental authorities relied on them in spatial development processes; property rights hardly played a role in spatial development processes (Hofstee, 1967). Municipalities, as part of their central role in urban development, acquired land prior to the start of housing projects and serviced the plots for development. Private developers could provide for the housing, but had no part in land acquisition for urban development.

The first efforts towards integration of urban- and rural planning concerned different spatial policies, including infrastructure, water quality, and industrial development. The integration efforts were intensified with growing attention to recreation in the 1960s, and the evolution of the environmental discourse in the 1970s. The evolution of the environmental discourse was related to expanding economic productivity in the 1960s, which caused new problems, such as overproduction, rapid expanding Cities (sprawl), and environmental harm. Eventually, environmental awareness created a new, more environmentally-friendly discourse, but not in time to prevent economic decay in the 1970s and 1980s: Markets were saturated, production processes were outdated, and the environment needed immediate attention.

To summarize, during this period the policy arrangement largely centred around the national and local planning level. The actors at the regional planning level did not have a large role in the land policy arrangement. Changes in the arrangement result from the discourse dimension, whereby social welfare, environment, and integration are three discourses which determined the shape of the arrangement. Changes in the rules and resources dimension largely followed adaptation of the discourse dimension. Still, the increase in regulation affected the actors of the arrangement, as it constrained their actions in spatial development processes.

### **3.5 From technocracy to multi-functionality in rural land development**

The economic decay of the late 1970s and early 1980s resulted in a loss of momentum for spatial planning. Due to the stagnating economy, the municipalities were confronted with descending real estate prices and high interest rates on mortgages, which resulted in financial losses. This strengthened the caution of municipalities against taking (risky) land positions for urban development, and likewise, increased their willingness to cooperate with private developers. Public authorities, especially municipalities, became more cautious on the land market and opted for regulatory planning, rather than development planning (Priemus and Louw, 2003). To support public intervention in land rights for urban development, a new law was introduced in 1985. Because intervention in property rights is such a delicate topic in Dutch politics, even resulting in the resignation of several governments (in 1958, 1966 and 1977; De Vries, 1989), it took until 1985 to establish new regulations to interfere in private rights in land. In 1985, the political climate was such that a law, and accompanying instrument, was introduced: The Pre-emption Right Act. The aim of this law was to mitigate strongly increasing land prices, which put pressure on municipal budgets due to urban developments. The need for a broad instrument, applicable to all planning levels and in both urban and rural context, was emphasised. However, in 1985 the pre-emption rights instrument could only be used by national and local governments in inner-city areas and therefore only enabled these layers of government to pursue urban development. It took until 1996 to effectuate pre-emption right for urban development outside Cities, and even until 2008 to effectuate the use by regional governments. In addition, the Compulsory Purchase Act – originally introduced to expropriate land for the construction of infrastructure, such as railways, waterways, and national defences – was revised several times, alongside the introduction and revision of new laws, mainly to expand the planning objectives for which expropriation is possible, for instance, nature conservation and recreational facilities.

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Meanwhile, the emphasis on environment, nature, and recreation, highlighted the relatedness of urban and rural planning and the need for further integration. The replacement of the Land Consolidation Act – revised in 1938 and 1954 – by the Land Development Act in 1985 made it possible to include nature conservation and recreation objectives in rural land development, besides agricultural productivity objectives. The Act also introduced a multifunctional approach to the development of rural areas, with a greater diversity of instruments for rural policy delivery. Land consolidation, which had been the main land policy tool since the 1920s, was replaced by land development, a less technocratic and more inclusive and multifunctional rural planning instrument (Van den Brink, 2009). The introduction of the Land Development Act brought a broader perspective to rural areas and increased the role of regional planning authorities in land development processes. In 1994, a policy document was released, directed at the quality of rural areas, and with objectives to improve nature conservation (National Ecological Network), develop recreational opportunities, preserve cultural-historical valuable landscapes, and enhance the quality of agricultural areas. The objectives were implemented by a national governmental agency that was in charge of the delivery of rural objectives, since the early days of land consolidation projects (see Van den Brink and Molema, 2008). Land development was still used as the main instrument and public authorities opted to acquire land voluntarily to prevent large disturbances to the agricultural land market. However, regional planning authorities were involved in establishing the planning framework for these developments.

To summarize, in this period alteration in the arrangement largely resulted from changes in the rules dimension of the land policy arrangement. The new objectives and visions on spatial development, established in the previous period, resulted in changes in regulation in this period. Although the rules dimension altered the most, the changes in regulation also slowly increased the role of regional actors in the arrangement. Furthermore, changes in the rules dimension resulted in new resources, e.g. pre-emption right, budgets for nature conservation, which increased the planning powers of local and national governmental actors in the arrangement, and potentially enabled their agency in spatial development processes.

### 3.6 Neoliberalism and market-led development

At the end of the 1980s, the emergence of neo-liberalism and a parallel political discussion on involvement of Society in political decision-making changed the relation between State, Market, and Society. Although, in scientific literature, the shift to a more neo-liberal planning system is often mentioned in one and the same breath with the shift from 'government to governance', there is no clear, singular, or uni-linear development from government to governance in the Netherlands. The Dutch consensus and pacification democracy (Lijphart, 1984) of the beginning of the 20th Century provides an early example of governance. The Dutch political system is based on the principles of consultation, cooperation and consensus (Duyvendak and Krouwel, 2001). These principles are reflected in the decentralised planning system and the division of spatial planning tasks between the layers of Government (national, provincial and municipality); regional- and local government increasingly handle and supervise several (former) national tasks, including decision-making on financial budgets (Pierre and Peters, 2000; Korthals Altes, 2000; Eckerberg and Joas, 2004). As the planning arena was opened to new (private) stakeholders, cooperation between agencies became more important (e.g. Healey, 1997a; Albrechts, 2004). Governmental planning agencies relinquished their central role in spatial development processes (Marshall, 1996; Pierre and Peters, 2000; Cheshire et al., 2009). This brought about more multifaceted development processes, in which, public- and private stakeholders interacted, communicated their interests, objectives, and visions, whilst negotiating consensus to provide for the public interest.

Alongside societal processes, urban growth also changed the face of spatial development and the division of tasks between national- and regional government. The interrelatedness of urban and rural planning increased at the end of the 1980s, as urban growth could no longer be sustained within smaller developments in Cities or at City edges. As a result of new housing policy in 1989, and a new Spatial planning policy in 1992, urban growth was focused within 'spill-over' areas in rural areas close to City boundaries (Van den Brink, 2009). These new policies set the development agenda for governmental agencies, but affected property developers too. The new housing policy loosened the regulations in relation to the development of social housing, which increased the interest of the market, e.g. property developers, in housing development. As a result of the new spatial policy public planning authorities identified search areas for urban developments at the edges of Cities, and designated them on a map. As the search areas clearly indicated where land was needed for development, this opened possibilities for property developers to purchase land in rural areas at 'safe prices', i.e. without taking major financial risks in relation to development. Although the discourse on property rights remained largely the same, i.e. property rights were considered a

fundamental civic attainment, the role of property rights in spatial development processes increased from this point forwards (e.g. Overwater, 2002).

In the 1990s and early 2000s, the Dutch economy flourished. Not only did the prosperous economy result in optimism and rising stock markets, but also in thriving spatial development. The prosperous and stable economy proved to be a safe climate to invest in land and property for spatial development processes. Both public- and private stakeholders took the opportunity and invested in land ownership, especially for housing development. The larger role of private developers in spatial development processes influenced the power balance in planning practices. Market-led planning practices from the 1990s onwards strengthened the role and power of private developers in planning processes. From a governmental perspective, the relation could be visualised as a struggle between encouragement of private development and fear for dependency on private developers. Although the economy flourished and both municipalities and developers made large profits, municipalities felt that a larger portion of the profit from urban development should be reinvested in development of public facilities as component of the social welfare philosophy. For this reason, governmental stakeholders chose to abandon their more traditional role as facilitator to become an active developing stakeholder (De Weerd-Van de Poll and Van den Brink, 2005). The relation between private- and public stakeholders' became less top-down, and more based on partnership. Most of these new forms of cooperation are former business models adapted to use in spatial development processes. As governmental agencies now act as both regulator and partner in planning processes, it is difficult to maintain transparency and equality of different partners in and between development processes. The fact that the public authorities own land could influence the planning objectives that public authorities set and seek to implement (see Needham, 2007).

To summarize, in this period the stabilisation in the land policy arrangement gave way to several alterations, occurring rapidly one after another, and in response to each other. There were changes in discourse, i.e. neo-liberalism and market-led development, and changes in adjoining policy fields, i.e. housing policy. This in turn changed the number of actors in the arrangement and their interactions in spatial development processes. The changes in discourse and adjoining policies enabled the private sector to acquire land for development, which simultaneously constrained the actions of public actors in the arrangement, especially at the local planning level. As a reaction to these alterations in the arrangement, the rules dimension was adapted to better support the delivery of planning objectives. However, the adaptation of the Pre-emption Rights Act did not sort the effect public actors had hoped for, and public planners had to rely on partnerships and negotiated deals to deliver planning objectives. Additionally,

land acquisition or property rights gained importance as resource in development processes. It enabled private developers to access spatial development processes, and granted public actors more space to negotiate deals or initiate partnerships.

### **3.7 Decentralisation and integration**

In 2001, the planning discourse changed, as national government aimed to decentralise several planning tasks and integrate several policy fields. Previously, spatial policy documents had a strong focus on centralised planning, and were largely content-based. In 2001, a new spatial policy was introduced with a stronger emphasis on decentralisation of planning objectives, integrative planning processes, and provision of guidelines, rather than core objectives. It supported the integration of urban- and rural planning at regional planning level with the introduction of a new concept: 'Integrated Spatial Development'. Integrated spatial development addressed several planning 'buzzwords', such as integration, transparency, openness, and participation (Louw et al., 2003; Boelens and Spit, 2006). The introduction of this concept resulted in different hybrid planning forms, often referred to as metropolitan planning, development planning, and (integrated) area development (Van den Brink et al., 2006; Korthals Altes, 2006a; Allmendinger and Haughton, 2010; Roodbol-Mekkes et al., 2012). The new policy opened the arena for regional planning authorities to get involved in larger regional development processes, combining the delivery of both urban- and rural planning objectives in regional spatial development processes, including housing, infrastructure, nature conservation, recreation, and spatial quality.

The preference for spatial development over regulatory planning stimulated the release of a National Land Policy in 2001 (Ministry of Housing, Spatial Planning and the Environment and the Ministry of Finances, 2001). The reasons for such a land policy were plenty: land was scarce, land was essential for the delivery of policy objectives, and there was a need to re-evaluate land policies in relation to the national planning objectives. The National Land Policy contained the philosophy and choices of national government related to land acquisition (task-specific, anticipatory, strategic) and the use of land policy instruments (pre-emption right, expropriation) in the context of spatial development processes and direct development strategies of public planning authorities. This included active participation of governmental agencies in planning processes to provide for planning objectives in the public interest and enhance the quality of use of land.

In 2007, the Dutch government replaced the Land Development Act by the Rural Area Development Act, and in 2008, the government drastically revised the Spatial Planning Act to deal with flexibility and 'free-rider' behaviour in planning

processes. The changes included a further devolution of planning powers to the regional- and municipal governments, whilst simultaneously increasing the planning powers of regional governments to enforce spatial developments, infrastructure and housing. Regional planning authorities became (financially) responsible for the implementation of the National Ecological Network, recreational opportunities, and the quality of the rural areas. The provinces gained opportunities to overwrite municipal land use plans, access to the pre-emption right, and additional powers to expropriate land. Furthermore, the 2008 Spatial Planning Act introduced a new spatial development instrument, the Land Development Plan. The Land Development Plan aimed to regulate the behaviour of private developers on the land market and in housing development. The instrument allows municipalities and provinces to draw up a plan in advance of an area development and reinvest part of the profit of housing development in other public facilities (infrastructure, parks, nature, etc.). The tool is more in line with regulatory approaches to urban development, enabling municipalities to draw on legal certainty, rather than flexibility in planning, and leaving housing development to private developers.

To summarize, in this period the arrangement largely remained as it was established in the previous period. Nevertheless, changes in the discourse dimension added to the arrangement. For instance as integration and decentralisation objectives strengthened the planning powers of regional public actors. The changes in the visions on the delivery of planning objectives (discourse dimension) also resulted in alteration in the other dimensions. Rules were adapted, new planning instruments were introduced, which enabled the regional planning level to gain access to both urban and rural land development.

### **3.8 Economic decay and deregulation**

The prosperous era ended in 2008 with the collapse of the financial systems, causing a new economic setback. The large investments in land seen in the 1990s and early 2000s of both public- and private stakeholders, and the negotiated agreements between the public and private stakeholders cooperating in spatial development processes, led to a mutual dependency between private developers and public authorities. Both suffered losses due to stagnating spatial development processes and high interest rates on investments (i.e. land); neither of the stakeholders was able to break through existing negotiated agreements without loss. Both parties needed each other to break the impasse on the housing market and to stimulate spatial development processes, either financially or regulatory. To the current date, the setback is continuing, sparking new debates on the role of governmental agencies and the private sector in spatial development, and the extent to which government has a political responsibility to provide for the delivery of planning objectives and the social welfare system at large.

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In 2012, the Dutch Government presented its planning objectives in a new form, a vision on infrastructure and spatial development (*Structuurvisie Infrastructuur en Ruimte*). Although the content of the vision is similar to the previous spatial policy – a focus on integration, guidelines, and broad planning horizons – the new vision is revolutionary in the sense that it includes the withdrawal of national government from many planning tasks. Intentionally, this withdrawal is not characterised as decentralisation, but as deregulation. This change in vocabulary has a financial intent; whilst decentralisation includes a transfer of accompanying budgets, deregulation explicitly opts to withdraw without budget transfers to other planning levels. For example, national government withdraws from its coordinating task in the regional distribution of housing developments and industrial sites. Now, it is left to provinces and municipalities to decide how they want to regulate and coordinate these types of spatial developments. Whether or not this deregulation will last is still to be seen, as new political debates on recentralisation recently commenced.

Although towards the end of the 2000s, spatial development had become more integrative and included both rural- and urban planning objectives, there is still some distinction between urban- and rural planning. This is reflected, for instance, by the different ministries at the national level, responsible for agriculture and nature, infrastructure, and urban development. However, after the most recent elections, the responsibilities for spatial planning, infrastructure and the environment were merged into one department. In addition, new political debates sparked by the financial losses of municipalities and stagnating housing markets, have redirected the attention from 'spill-over' areas back to existing residential areas and City centres (e.g. brownfield locations and urban regeneration). Likewise, declining budgets for nature conservation and the quality of rural areas, has led to re-evaluation of the implementation of these planning objectives by the provinces. As such, there is the possibility that urban and rural planning will be more separated in the future. This is however, still undetermined and largely depends on the economic prospects of the forthcoming years.

Even though the new path of both urban- and rural development is not clear yet, there are interesting experiments happening in relation to the 'old' land consolidation instrument. The land consolidation instrument, which was replaced by the land development instrument, is gaining new attention for both rural and urban development. Regional planning authorities and land owners are experimenting with a voluntary form of the instrument to improve the allocation of land of individual farmers and deliver nature conservation objectives in rural areas. Simultaneously, the instrument has been reinvented to assist the regeneration of City centres and retail areas (*stedelijke herverkaveling*). Currently, the first experiments are being conducted to see if the instrument could be as effective

as it has been for the development of rural areas. It should also be mentioned that currently a new and far-reaching legislation is in preparation, a so-called Environmental Act, which will encompass all existing laws and regulations on spatial development, infrastructure and the environment. It is expected that this new law will be enacted in 2018.

To summarize, with the collapse of the economy the land policy arrangement can to a standstill. The actors in the arrangement had to reconsider their land acquisition strategies and evaluate the extent of their financial losses. After a period of relative quietness, the national public stakeholders were the first to react, by deregulating planning, and as such influencing the discourse dimension of the arrangement. The changes also influenced the actors dimension, as the planning tasks of provincial actors increased. Because economy is only very slowly recovering, it is still unclear how the changes will affect the stability of the arrangement and what decisions will be made with regards to rules and resources. Still, the assessment of actors, their new experiments with the land consolidation instrument, and the wish to integrate several policy domains under one Environmental Law, shows new alterations to the arrangement might be expected.

### **3.9 How the provinces have taken up their new abilities**

As a result of the changed planning discourse and the new planning responsibilities, regional planning authorities became more involved in the spatial development processes. Initially they focused on cooperating with municipalities and private developers, but from the 2000s onwards alterations in the land policy arrangement enabled them to take a leading role in the development processes or to participate in (risky) investments during these processes. In the development processes, both urban- and rural planning objectives were combined, with the aim of dedicating some of the profits of housing development to less-profitable part of the plan, using concepts such as *red-for-green*. To reflect, in 2009, the National Council for Spatial Planning (VROM-raad) concluded that part of the difference between the land acquisition price and the final selling prices of the houses, was the most important financial source for developing spatial quality in the Netherlands (VROM-raad, 2009).

The strategies provinces chose to deliver planning objectives differ, not all provinces became equally active in the spatial development processes. Some provinces were so dedicated that they started their own land development department, used a land bank, to enable land acquisition in spatial development processes (often using revolving funds). However, as the interviews showed, the

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provinces perceive land policies and land acquisition as tools to deliver planning objectives, rather than as the intended purpose of spatial development processes. Nevertheless one interviewee argued: *"land is very determining in the delivery of some provincial planning objectives"*. Another proclaimed: *"the department for land affairs is an instrument to realise our visions"*. Also, the provinces acknowledge the use of both regulatory and active land policy instruments. One interviewee reflected that *"one could work faster with both regulatory instruments and land acquisition ... Without acquiring land a project could take easily ten years before the development could even start"*. Other provinces focused on their core planning tasks of nature conservation and the quality of rural areas using the 'old' land development instrument, often in cooperation with or assistance from the national governmental agency previously in charge of land development in rural areas. One interviewee responded: *"Since the new Rural Development Act, the province increasingly takes a directing role in (rural) development processes. This does however, not necessarily mean a role as a leading authority, we simply seek the best fit for objective delivery"*. The interviews showed that the provinces made these choices deliberately, depending on the political climate of the Provincial Council and the culture within the institution, and depended less upon the required knowledge and skills to participate or lead such large projects. One interviewee indicated that the Provincial Council simply explained *"we want active land development, you do not have to consider this, it suits us"*. Another interviewee explains the difference between municipal and provincial ability to involve in active spatial development processes. When the municipalities are concerned there is an equal share between policy design, development, and construction, whilst the provinces mainly focus their attention to policy design. *"The provinces still lack the culture to invest in property development"*.

The newly available land development plan did not change the active behaviour of several provinces. The interviews indicated that provinces are reluctant to use the instrument, largely because it is difficult to predict the costs of large scale spatial development processes which include multiple (non-profitable) planning objectives and have a lengthy character, often spanning 20 years or more. In addition, the economic setback has made provinces more careful in the acquisition of land and active participation in spatial developments. One interviewee reflected on public-private partnerships and provincial investments in these joint processes: *"five years ago this was very interesting, but now everybody has gotten very careful"*. Another highlighted how the past experiences have increased the knowledge on the use of instruments and land acquisition: *"In terms of professionalization, there are discussions to integrate different policy fields ... In this respect it is interesting to view that there are different Provincial Executives for nature conservation, water security, land acquisition, etc. and that they have to start cooperation ... there is a need and cause to connect these*

*fields*". Another had similar reflections: "What adds to our reflections is the knowledge and critical mass that we have gathered since 2006. As civil servants, we now have improved knowledge to consider direct development strategies more thoroughly". Finally, one interviewee reflected on the progress in nature conservation *via* spatial development processes. The interviewee argued that although there has been a large budget, the actual progress of the delivery of the objective was lacking. "We can establish we bought as much lands as trading objects, as we have acquired land in the locations we seek to develop the National Ecological Network". This shows how decentralisation of planning objectives and planning powers, does not immediately result in success in the delivery of planning objectives in the public interest.

### **3.10 Discussion and conclusion**

Both changes in the societal discourses and the political responses, and the day-to-day interactions of stakeholders interacting in spatial development processes influence the arrangement. As many development processes and (political) policy discussions take place simultaneously, public- and private stakeholders continuously influence the arrangement. Although this mutual influence might not directly breach the temporarily stabilisation of the arrangement, in the longer run these interactions together bring about change. Changes are a result of constraining and enabling processes, an outcome of the interaction of stakeholders, strategies, and regulation within and between spatial development and policy processes.

The analysis shows that from the mid-1980s onwards, the land policy arrangement became less stable. Through the late 1970s and 1980s, several occurrences pushed for change in the arrangement. Although these occurrences generally originated from outside the arrangement or even outside the context of spatial planning, they affected spatial development processes to a large extent. An example is the economic crisis in the late 1970s and its far-reaching effects on municipal land development, and later on, provincial land development. Coupled with other changes in the discourse, such as environmental considerations, integration objectives, and neo-liberal philosophy, and associated (new) rules and resources, the arrangement made a rapid alteration. Within a time period of approximately a decade, the arrangement reached a new temporal stabilisation that was largely different from the previous one. This implies that the political momentum for a wider intervention in property rights *via* regulation and instruments, created by different external influences, changed the arrangement during the 1980s.

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Through the 1990s and 2000s, when private developers altered the moral of planning processes, the arrangement changed again, both rapidly and multiple times as changes occurred in several of the dimensions of the land policy arrangement. To put it differently, public- and private stakeholders became involved in spatial development processes, and their strategic mobilisation of rules and resources, were the cause of new alterations. Even though the arrangement altered, the 1990s are a relative stable period for the regional planning authorities in relation to the land policy arrangement. The role of the regional planning authorities has increased significant in the 2000s to present when they became involved in 'integrated spatial development' and the urban developments in 'spill-over' areas. This shows how the stabilisation of the arrangement, and the changes in the arrangement, are largely dependent on the urban developments. Although the changes to the rural objectives and the decentralisation of these objectives to the provinces have increased their ability to act in the land policy domain, rural development was less important to changes in the arrangement. Rural land development did not influence the arrangement to such an extent, as the strategic behaviour of private stakeholder in market-led housing development did. One of the reasons for this, is the profit which could be made with urban development. Rural land development, nature conservation, or recreational objectives have smaller budgets and do not turn into profit. This made implementation of these objectives less interesting to private developers, and consequently the land policy arrangement in relation to rural development less dynamic, than its urban counterpart.

Land politics and political momentum have been important in how the arrangement is shaped today. Up to the moment, at which, private developers became active in planning processes; the set of objectives to be implemented was largely inspired by the planning tasks and visions of national and local government. When private developers became involved, this changed, as the developers brought their own set of objectives inspired by business models and profit. From this point forward, land ownership became a strategy, thereby changing the arrangement, and likewise, changing the moral of spatial development processes. If a stakeholder owns land, he or she is able to get involved in land development processes, or even control the development. The course of history and the (re)shaping of the arrangement proves that land property is essential in Dutch planning processes, both enabling and constraining stakeholders and shifting power between stakeholders. The political debates and choices have both enabled and constrained the arrangement to evolve and stakeholders to strategically mobilize rules and resources, especially the private developers and the regional planning level.

The slow effectuation of regulation and instruments, such as pre-emption right, is considered a constraining factor from the point of view of the public interest. This can be explained by the strong property rights discourse, but also by the Dutch democratic system. In the Dutch democratic system, different political coalitions, with different political ideologies, take decisions. Between the 1980s and 2010s, the administration consisted of different coalitions, each with a unique mix of different political ideological ideas about the provision of social welfare, liberalism, etc. In relation to the delivery of planning objectives, political ideologies and the 'fear to sear wings' on the topic of property rights prevented new regulations to be effectuated quickly. However, political decisions at national level have enabled regional governments to get involved in spatial development processes and to use land policy instruments; thereby adding to the planning powers of public stakeholders and their abilities to interfere in private rights. This shows the importance of the roles that politicians and governmental agencies arrogate to public and private stakeholders in the arrangement. Changes in the arrogated roles in the 1990s in relation to urban development, for example, have largely determined the shape the arrangement has today. This underlines the importance of political choices in the arrangements, and how these choices are implemented *via* laws and policies. Furthermore, the example shows how the strategic use of the laws and instruments, especially by private stakeholders who have more creative space to strategically use these laws, sparks new political debates on the essence of planning and the role of government in these processes.

The choices of national government aimed at integration of policy fields and active land development as instruments to provide integration at the regional planning level, has influenced the planning powers of the regional government. The initial decentralisation objectives of national government related to rural land development and only enabled the provinces to become stakeholders in rural development processes. When additional changes in planning and land laws in the 2000s created opportunities to become involved in urban development, several of the provinces took the opportunity. The findings show, land acquisition opportunities have added to the power regional governments can mobilize to deliver planning objectives in the public interest. Especially now the national government has retreated from spatial planning and leaves it to the regional planning level to define (a larger part of) the planning objectives in the public interest. And also how this will spark new changes in the arrangements is objective for further research.



## **Delivering planning objectives through regional-based land use planning and land policy instruments: An assessment of recent experiences in the Dutch provinces**

# 4

### **Abstract**

This chapter evaluates the extent to which the introduction of four new regional planning and land policy instruments in the Netherlands improves the delivery of regional planning objectives. Based on case study research, the chapter identifies why and to what extent the Dutch regional authorities, the provinces, have adopted these new instruments and assess whether or not the instruments offer opportunities for improving the delivery of regional planning objectives. The study shows that regional policies and plans are often implemented without considering their consequences for national or local planning objectives. As a result, the instruments may not address current policy delivery needs, and may even compound local policy failures. The chapter concludes that the use of such instruments should be accompanied by a more thorough discussion of regional planning tasks and objectives, and a debate on the role of regional authorities within the multilevel governance setting.

**Keywords:** land policy, planning objectives delivery, regional planning, regional-based land development instruments, the Netherlands

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#### 4.1 Introduction

Urban and regional planning is seen as 'a place shaping and space mediating mechanism' (RTPI, 2008) through interventions in the land and property markets. From an economic perspective, government intervention should be directed at regulating deficiencies and correcting market imperfections and externalities (e.g. through the provision of collective goods) to serve the public interest (Pigou, 1932; Webster, 1998; Webster and Lai, 2003; Buitelaar, 2007). However, planning is often more ambitious. Besides simply eliminating market failures to create efficiently organized urban environments (Jacobs and Paulsen, 2009), planning seeks to develop or reshape sustainable spaces to deliver prosperity and social progress. In pursuing this agenda, planners establish a number of planning objectives that combine and balance divergent priorities, such as protecting open space, promoting economic growth and advocating social justice (Campbell, 1996; Healey, 2002; Albrechts, 2004; Janssen-Jansen, 2011). These objectives are the *raison d'être* for interventions in the organisation of spaces. Many studies have evaluated the outcomes of these interventions to determine the effectiveness of the delivery of planning objectives in governance processes (Driessen, 1997; Needham et al., 1997; Faludi, 2000; Brody et al., 2004; Healey, 2007; Moroni, 2010; UCL and Deloitte, 2007; Van Assche et al., 2012). However, most of these studies focus on the local level, not the regional level.

As both the spatial margins and the conceptual parameters of Cities expand, the scope of housing markets, labour markets and mobility patterns shifts from a local to a regional level, making the regional planning level, the level between the local and national levels, increasingly relevant for efficient and effective spatial policy-making (Cochrane, 2002; Kantor, 2006). While planning at the city-regional or metropolitan scale is often seen as important for achieving objectives that transcend local authority boundaries (Janssen-Jansen and Hutton, 2011; Levelt and Janssen-Jansen, 2013), these city-regional levels often lack clear-cut administrative boundaries and rely on informal and voluntary collaboration between local stakeholders. Alongside this bottom-up, network approach to regional governance, there has also been a tendency to scale down planning tasks from the national level to more formal regional tiers of government, often at a much higher scale than the city-regional or metropolitan levels. In the UK, for example, the need for stronger regional coordination of planning processes, implementation mechanisms, expenditure and associated policy actions was one of the key triggers for attempts to decentralize tasks from the national to subnational tiers of government (Roberts and Baker, 2004). It is often argued that these subnational regional levels of governance are needed to bridge the gap between national policy design and local policy implementation (Salet et al.,

2003; Alden, 2006; Pearce and Ayres, 2006; Allmendinger and Haughton, 2010; Janssen-Jansen and Woltjer, 2010; Cochrane, 2012). Although both bottom-up and top-down regional arrangements have experienced varying degrees of success, the continuing focus on the supra-local or regional level in planning, and the need for policy implementation at these regional levels, make it increasingly important to improve the understanding of how best to deliver regional policy objectives.

Over the past decade, several countries have attempted to improve the delivery of planning objectives at their respective regional levels by embedding new regulations, policies and policy instruments in their planning systems (Albrechts et al., 2003; Spaans, 2006; Giannakourou, 2006; Hooghe et al., 2010; Allmendinger, 2011). The resulting output and outcomes of these system changes in regional governance processes have been investigated in several studies. Some sought to identify improvements in the interaction between plan and implementation (Louw et al., 2003; Janssen-Jansen, 2008; Van der Veen et al., 2010), while others focused on policy management through the establishment of complex policy networks and negotiations in a governance setting (Louw et al., 2003; Klijn, 2008). Another group of studies focused on attempts to increase the problem-solving capacity of governments by modernizing government agendas, with or without regional reform (Calthorpe and Fulton 2001; Salet et al., 2003; Johnson and Pierce, 2004; Heinelt and Kübler, 2005; Kantor, 2006; Haran, 2010). Although many authors have evaluated the effectiveness of regional governance arrangements (Newman, 2000; Norris, 2001; Benneworth et al., 2002; Albrechts et al., 2003; Böcher, 2008; Danson and Lloyd, 2012), only a few have systematically investigated the effectiveness of policy instruments for the delivery of planning objectives by regional planning authorities with official planning powers. One example of a systematic study is the evaluation of the economic impact of Regional Development Agencies (RDA) spending on their UK regions of PricewaterhouseCoopers (2009). This is the topic of this article, which takes the Netherlands as a case study and its 12 provincial authorities as embedded cases.

The 12 Dutch provinces are the intermediate, regional level of government. They are democratically legitimized authorities, each with its own executive body and an elected provincial council. As the city-regional level of governance in the Netherlands is largely informal (establishing formal structures has been beset by difficulties for several decades), this chapter focuses on the provinces as the formal regional planning authorities. Recent changes in the planning system have given the provinces new regional-based planning and land policy instruments that should help them to play a lead role in delivering regional planning objectives.

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The purpose of these changes, most of which were introduced in the 2008 Spatial Planning Act, is threefold: intermediation between national and local planning authorities; coordination of policy implementation across multiple local authorities; and active consideration of policy objectives that transcend local boundaries, such as landscape quality and sustainability. The new instruments are the provincial zoning plan, the provincial pre-emption right, the land development plan and the expropriation of land. These instruments are used mainly to deliver planning objectives across a number of local authorities rather than at the level of the province as a whole. Thus, 'regional' in this chapter cannot simply be replaced by 'provincial'.

The aim of this chapter is to evaluate the extent to which the introduction of the four new regional-based planning and land policy instruments improves the delivery of regional planning objectives in the Netherlands. The chapter describes the degree to which the provinces have used the new instruments and their reasons for doing so. This provides insights into the constraints on and opportunities for the adoption and implementation processes. Then the chapter assesses whether or not the introduction of the instruments has improved the delivery of planning objectives at the regional level. This approach allows to draw conclusions from the Dutch experiences that could be useful for other countries which are reforming their (regional) planning systems.

### 4.2 Regional spatial planning in the Netherlands

#### ***The turn towards 'spatial development policies'***

The Dutch provinces (see Figure 1.4) differ in terms of population, landscape, degree of urbanization and land use. The provinces of Utrecht, Noord-Holland, Zuid-Holland, Gelderland and Noord-Brabant are more urban than the others. Their larger populations and consequently greater demand for housing and employment have resulted in high pressures on land in and around the urban areas. These differences in land use and pressure on land between the provinces has led to different regional planning objectives, such as improving the quality of landscapes and the role the province should play in regional development processes.

The Dutch provinces are in general smaller than other European regions at the intermediate level, but are considered to have a reasonable amount of formal authority. Hooghe et al. (2010) compared the regional government structures in several European countries and their formal authority by calculating a 'regional authority index.' The higher the value on this index, the more formal authority the regional governments have. The score for the Dutch provinces is 14.5, which is

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comparable with that of the Italian *Regioni a statuto ordinario* (14.0). This score lies between that of the German *Länder* (21.0) and the *Regions* in the United Kingdom (4.0). These calculations are based on data until 2006, which means that their relative positions may have changed since.

In the Netherlands, planning responsibilities have traditionally been shared between the national, provincial and local levels of government. However, the need for effective spatial policies at the regional level has been debated for many years (WRR, 1998; Dammers et al., 2004). Ultimately, this resulted in a substantial change in Dutch planning regulations and practice towards what is often referred to as 'spatial development planning' (*ontwikkelingsplanologie*) or 'area development' (*gebiedsontwikkeling*) (Louw et al., 2003; VROM et al., 2006; Korthals Altes, 2006a; Janssen-Jansen and Woltjer, 2010). This planning policy aims to devolve responsibilities by applying the maxim 'Decentralized where possible, centralized where necessary'. Besides land-use planning, this area-oriented planning approach aims to improve the overall quality of an area (infrastructure, recreation, nature) (VROM et al., 2006) and encourage collaboration between multiple public and private actors in development projects to integrate planning objectives and involve the market. Furthermore, area development processes often included formulas for financial redistribution and value capturing so that a proportion of the property development profits are reinvested in improving the quality of the area, for example by investing in natural habitat creation or restoration (Janssen-Jansen, 2008; De Jong and Spaans, 2009).

This planning approach called for new legislation and new relationships between governments and private stakeholders, which eventually resulted in a much more direct and strategic role for the 12 Dutch provinces (Janssen-Jansen, 2004; Woltjer, 2008). The 2008 Dutch Spatial Planning Act (*Wet ruimtelijke ordening*), in combination with a revision of the Expropriation Act (*Ontheffingswet*), reshuffled public planning powers and responsibilities between governmental levels and introduced new instruments for planning and land policy at the regional level (see for example Buitelaar and Sorel, 2010; Roodbol-Mekkes et al., 2012). Some national spatial planning tasks were devolved and some local land use planning powers were centralized. As a result of these changes the provinces began searching for a new role in the land use arena (Evers and Janssen-Jansen, 2010; Van Rij and Korthals Altes, 2010). This process was accelerated in 2010, when the newly elected conservative coalition government proclaimed that it would devolve spatial planning – both coordination and monitoring – to the provinces as much as possible (VVD and CDA, 2010; BZK, 2011). This has now been formalized in the recently published National Policy Strategy for Infrastructure and Spatial Planning (*Structuurvisie Infrastructuur en Ruimte*) (I&M, 2012).

For funding, the Dutch provinces rely predominantly on the national government, supplemented by a limited provincial tax base (on car ownership). The majority of the provinces have also raised money by selling their shares in power plants; in 2009 nine of them sold their shares in power plants for a total sum of 13 billion euros.

#### ***Provincial planning responsibilities in the Netherlands***

The new Spatial Planning Act, passed in 2008, introduced a clearer distinction between spatial planning policy and the implementation of that policy than existed before. Both national and regional planning authorities draw up a spatial strategy (*structuurvisie*) for their territory that includes their planning objectives. These documents are not legally binding and lower tiers of government are not obliged to include the objectives in their own policy documents. In relation to implementation, local authorities draw up land use plans (*bestemmingsplan*), which are legally binding. When provincial or national interests are at stake, a provincial government or national government department can draw up a zoning plan (*inpassingsplan*). This kind of plan, which can be imposed on local authorities or drawn up in collaboration with them, will be discussed in detail in section 2.3.

The provinces have several planning responsibilities, which include: maintaining and improving regional infrastructure, nature conservation and restoration, and land consolidation. Creating location for housing is part of the spatial strategy (*structuurvisie*). Many of the development projects that are central in the chapter involve a combination of landscape, infrastructure and housing objectives. The first – maintaining and improving regional infrastructure – has been a provincial responsibility since the 1920s, when the first motorized vehicles appeared on Dutch roads (Bosma, 1993). The improvement of infrastructure has often been accompanied by small land readjustment projects, for example to allow farmers to access their land without having to cross a main road. Land consolidation was added to the responsibilities of the provinces in the 1950s, although the national government remained a dominant actor in the preparation and implementation of land consolidation projects. During the 1990s this changed when tasks and responsibilities were increasingly decentralized to the provinces, including planning objectives in the field of nature conservation and restoration. In 2007, decentralization of responsibility for the Rural Areas Investment Budget (*Investeringsbudget Landelijk Gebied*) from the national government to the provinces (IPO et al., 2004) made the provinces accountable for the implementation of the National Ecological Network and the related land consolidations.

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The provinces have traditionally been involved in implementing development projects that transcend local authority boundaries. These projects may involve several new land uses. They are assessed against the provincial spatial strategy and for their impacts on the quality of the landscape, and are evaluated in terms of effective policy implementation. Often these projects involve collaboration between planning authorities at the national, regional and local levels and private developers. In many of these projects the province is the leading stakeholder and/or initiator, as it is presumed to have a coordinating role between multiple planning and policy levels.

As their responsibilities and involvement in development projects grew, the provinces abandoned their more traditional role of delivering planning objectives through regulation, which included tasks such as reviewing and approving or rejecting local development plans in favour of a stronger role in the implementation of regional development proposals. While they are still responsible for regional spatial strategies (*structuurvisies*), the introduction of the four new policy instruments has strengthened their direct involvement in planning processes and implementation, and consequently strengthened their powers and authority to deliver planning objectives at the regional level. During the past decade the provinces have been debating their changed planning powers and land policy responsibilities, and most have drawn up a land policy document to support direct involvement in planning processes. Some of the provinces have adopted a more direct role in planning processes than others. The most active provinces have even created development departments that coordinate this direct involvement in planning processes and actively acquire land for development purposes. Because of the differing views on delivering planning objectives and the direct or traditional (regulatory) role for the provinces in planning processes (Evers and Janssen-Jansen, 2010), it is assumed in this study that the provinces have taken differing approaches to using the new policy instruments. Therefore the provinces were embedded cases, to measure and explain the differences in policy implementation within a single planning system.

#### ***Delivering planning objectives via regional planning instruments***

The four new policy tools available to the provinces to initiate or facilitate planning processes to deliver planning objectives are the provincial zoning plan, the provincial pre-emption right, the land development plan (which includes cost recovery) and land expropriation. Before 2008, it was already possible for provinces to use land expropriation based on local land use plans, and to use the pre-emption right and cost recovery tools in collaboration with local authorities. The use of these tools has not yet been systematically analysed.

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The first tool, the provincial zoning plan (*provinciaal inpassingsplan*), can be used to initiate planning processes. These plans can be imposed on local authorities, but can also be drawn up in collaboration with them, in which case the province takes on the responsibility (and cost) of plan making. Furthermore, to implement their zoning plans the provinces may use the pre-emption right and land expropriation powers, reducing the need to negotiate or cooperate with the local authority.

The second tool is the provincial pre-emption right (*provinciaal voorkeursrecht*; the first right to acquire land). A province can designate an area for development, obliging landowners who decide to sell their land to offer it to the province first.

The third tool is the land development plan (*grondexploitatieplan*), which includes cost recovery mechanisms (*kostenverhaal*). Government agencies calculate all costs and returns in advance. Property developers can then apply to undertake a development, or a part thereof, and consequently know the potential profit in advance. The benefit of using a land development plan is that all costs relating to the development can be incorporated into the plan, including the costs of green spaces. However, as regional planning projects are often very complex (given the number of participants, the time span and supervision costs), in practice it is virtually impossible to draw up a land development plan.

The fourth tool is land expropriation (*onteigening*). If it proves impossible to acquire the land needed for a project through negotiation, and the land is needed for public use or interest, the province can initiate a legal procedure to acquire the land. However, this is a controversial measure because of its effect on individual ownership rights and it is seen as an *ultimum remedium*. Many provinces try to avoid the complicated legal proceedings by offering compensation to landowners exceeding the value of the land, for example by taking account of lost income and removal expenses.

### **Delivering planning objectives via voluntary land acquisition**

To deliver a broad range of planning objectives (infrastructure, land consolidation, nature restoration and regional development projects) the provinces can also pursue a strategy of voluntary land acquisition. Three types of land acquisition can be distinguished: task-specific acquisitions, anticipatory acquisitions, and strategic acquisitions. Task-specific land acquisitions are made to implement a local land use plan or provincial zoning plan, or a proposed amendment to these plans: the land is needed for a specific goal, such as infrastructure and land consolidation projects, and is usually used within one or two years after it is acquired. Anticipatory land acquisitions are made to support a development strategy, which is often laid down in a provincial spatial strategy

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or has been debated in the provincial council. The land thus acquired is set aside for three to five years before being used for projects implemented under the development strategy. Strategic land acquisitions are made without an explicit plan or development vision. The land is bought and held for five to ten years and can be used for many purposes, such as land exchange or development. If it becomes clear after several years that the land is not needed, it can be sold again.

The first type of land acquisition (task-specific) is often used for the more traditional planning processes, while the other two types (anticipatory and strategic) are mostly used to support direct involvement in planning processes. Figure 4.1 gives an overview of the land policy instruments for delivering regional planning objectives in the Netherlands.

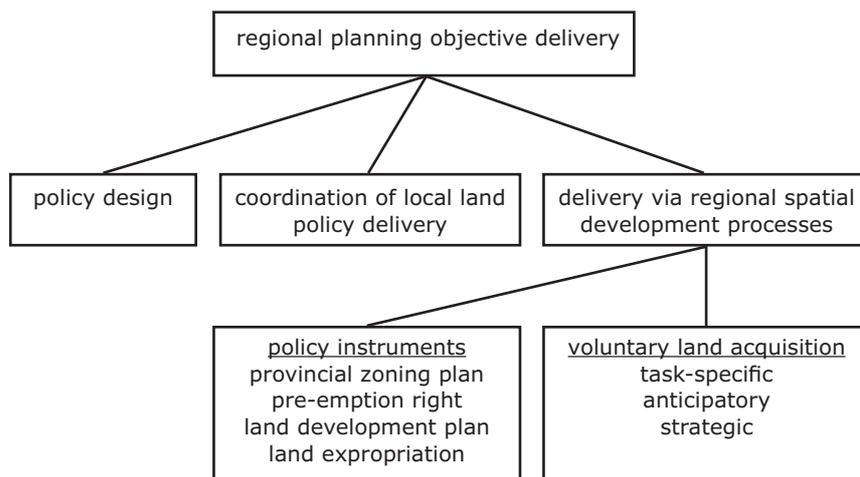


Figure 4.1. Overview of land policy instruments for the delivery of regional planning objectives in the Netherlands

### **4.3 Empirical evidence: The use of regional policy instruments**

The chapter analysed the extent to which the provinces have made use of the new policy instruments introduced in the 2008 Spatial Planning Act and have opted to actively take part in planning processes and projects, and to acquire land, and if so, why. Data for the study were obtained from an analysis of policy documents (e.g. the provincial land policy documents), interviews and a panel discussion with officers of the provincial land policy and/or spatial planning departments. In total, 22 provincial officers were interviewed and/or participated in the panel discussion. Additional data and examples were derived from a study of several Dutch regional development projects, interviews with 16 experts in the field of land policy in the Netherlands (Van Straalen et al., 2011) and a quantitative analysis of expropriation requests between 2001 and 2011 (*via* Royal Decrees).

#### ***The use made of the provincial planning instruments***

Several provincial zoning plans have been prepared and adopted to expedite the implementation of regional infrastructure projects that transcend local authority boundaries. For example, the province of Gelderland often prepares zoning plans for new infrastructure or improvements to existing infrastructure. These plans are used less often for regional development projects: until March 2011 six had been prepared for this purpose, one each by the provinces of Flevoland, Gelderland, Limburg and Zeeland and two by the province of Noord-Holland (Province of Gelderland, 2011).

The provincial pre-emption right has rarely been used in planning projects; only the provinces of Zeeland, Noord-Holland and Zuid-Holland have used it thus far. Since the pre-emption right is best used for development projects in combination with a zoning plan, the use of this right is likely to increase if the provinces make more use of zoning plans in future development processes.

The land expropriation tool has been used more often. This research shows that most of the provinces have used the expropriation tool to acquire land for improvements to infrastructure or for nature conservation and restoration. In the period between 2001 and 2011 provinces requested expropriation in 5–11 projects each year, while the total number of expropriation requests was for 49–88 projects per year. This research reveals that so far only the province of Zeeland has used this tool for regional development projects, on two occasions. It is too early to tell whether use of the instrument for this purpose will increase. Many regional development projects in other provinces are still at an early stage and the provinces are trying to acquire land on a voluntary basis.

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The land development plan, combined with the provincial zoning plan, has not been used by any of the provinces since its introduction, mainly because of the complexity of the projects. However, other cost recovery methods have been used. For example, several projects have used the 'red-for-green' principle (see also De Wolff and Spaans, 2010), which allows the provinces to capture part of the value increase from housing development (red) and use it for the development of nature reserves (green) on a voluntary basis. Table 4.1 summarizes the use of the planning instruments by the 12 Dutch provinces.

In summary, eleven of the 12 provinces have used the new regional planning instruments to deliver planning objectives, but not all to the same extent. Only Noord-Holland, Zeeland and Zuid-Holland have used three of the four available instruments, and one province (Drenthe) has not yet used any of them. Therefore, it may be concluded that the Dutch regional planning authorities have not implemented the instruments to their full extent. Bear in mind, the implementation of the instruments is only necessary when the provinces opt to deliver policy objectives through direct land development or participation in development projects. When they choose to take a more traditional, regulatory planning approach, as the province of Drenthe has done, the new instruments are of no use. Some of the interviewees indicated that using the new instruments would not be 'compatible with their intergovernmental relations culture'. There is no evidence that provinces that do not use the tools – or do not use them to their full extent – contribute less to the overall landscape quality or sustainability of regions, the latter being one of the regional planning objectives that transcend local boundaries.

***Provincial land acquisition***

The provinces can also be categorized according to their use of voluntary land acquisition. Table 4.2 shows their choices of acquisition options. All provinces have chosen to use task-specific land acquisitions, but differ in their use of anticipatory and strategic land acquisitions. The provinces of Drenthe, Flevoland, and Utrecht have chosen to use task-specific acquisitions only, while Limburg, Noord-Brabant, Noord-Holland, Overijssel, Zeeland and Zuid-Holland have also opted for a pro-active acquisition strategy.

Eight of the provinces used anticipatory and strategic land acquisition as instruments to implement planning objectives. These provinces used both task-specific and anticipatory acquisitions to implement short-term objectives (up to five years). Six of the provinces used strategic land acquisition to implement long-term objectives. Many of the interviewees indicated that they intended to use strategically acquired land, or in some cases anticipatorily acquired land, to trade in exchange for other land they want to acquire. Farmers with land within

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Table 4.1. Use of regional planning instruments by the provinces (2011)

<b>Province</b>	Provincial zoning plan (times used)	Pre-emption right	Land development plan	Land expropriation
<b>Source</b>	This research and quantitative data from the province of Gelderland (2011)	This research	This research	This research
<b>Period</b>	2008-March 2011	2008-2011	2008-2011	2001-2011
Friesland	3			3
Groningen	2			4
Drenthe	0			1
Noord-Holland	8	X		12
Flevoland	1			1
Overijssel	1			7
Gelderland	15			1
Utrecht	3			7
Zuid-Holland	8	X		26
Zeeland	1	X		4
Noord-Brabant	9			6
Limburg	4			8

Table 4.2. Voluntary land acquisition activities by the provinces

<b>Province</b>	Traditional involvement	Direct involvement	
	task-specific	anticipatory	strategic
Friesland	X	X	
Groningen	X	X	
Drenthe	X		
Noord-Holland	X	X	X
Flevoland	X		
Overijssel	X	X	X
Gelderland	X		
Utrecht	X		
Zuid-Holland	X	X	X
Zeeland	X	X	X
Noord-Brabant	X	X	X
Limburg	X	X	X

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the designated National Ecological Network have been offered these parcels as compensation or an incentive to relocate so that their land can be restored to natural habitat.

Our interview results also indicate that smaller strategic land acquisitions have been used for ad hoc planning activities. For example, one interviewee described how a parcel of land was acquired to facilitate the relocation of an industrial complex, a recently formulated provincial objective for which a new location was not specified. Another interviewee indicated that the best way to strategically acquire land was to attend informal gatherings such as receptions, during which information or tips on parcels to be sold in the near future can be acquired. This gave the interviewee the opportunity to acquire such parcels (strategically) before the property came onto the market. This indicates that provinces may take significant steps beyond the regulatory planning objectives referred to at the beginning of the article: government intervention in the land and property market to regulate deficiencies and correct for market imperfections and externalities.

It was surprising to find that most of the provinces were unable – but not unwilling – to provide detailed information about their land holdings, such as land area, location, date of acquisition and intended use. This lack of information can lead to awkward situations if other government agencies ask whether a plot can be used in a land consolidation project, in which case the province must determine when it acquired the land and why. As several interviewees explained, one of the tasks of the newly formed development planning departments is to draw up comprehensive databases on provincial land ownership.

In summary, the provinces acquire land for use as a strategic object in planning processes and as a supplementary instrument in the delivery of planning objectives. Many strategically acquired plots are used for trade in exchange for land for habitat restoration and land consolidation.

***Barriers to and opportunities for direct provincial involvement in planning projects***

Our research showed that the provinces had differing reasons for opting for a direct or a traditional strategy in planning processes, depending on the characteristics of the province and the preferences of provincial decision-makers. When asked to give their arguments for direct involvement in planning projects, the interviewees came up with several similar arguments, but each province had its own unique combination of perceived barriers and opportunities. These are summarized in Table 4.3.

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Table 4.3. Barriers to and opportunities for delivering planning objectives *via* direct land development

Barriers to direct involvement in planning projects as a strategy to deliver planning objectives	Political uncertainty
	No overview of the risks
	Lack of finances (small financial reserves or budget cuts)
	Low land dynamics, sufficient available land when land use plan is adopted
	Provincial culture: local authorities can manage themselves, no need to get involved in local authority business
	Organisational unwillingness to cooperate; fear of losing control in their own departmental domain
	Too many risks taken in the past
	Perceived risk of strategic land acquisition (political unwillingness after previous experiences with regional development projects)
	Lack of knowledge
Opportunities for direct involvement in planning projects as a strategy to deliver planning objectives	Political ambition of a member of the provincial executive
	Political willingness of the provincial council
	Provincial culture: strong will to cooperate; high level of ambition
	High land dynamics/demographic pressure
	Implementation of objectives laid down by national government
	High number of different land uses or stakeholders
	Projects spanning multiple local authorities (often including many stakeholders, political unwillingness to cooperate with one or several local authorities, or the request by a local authority that the province draw up a provincial zoning plan)
	Reduce funding/make a profit, despite the declaration that 'land policy is not a goal in itself, it is a measure/instrument to achieve a goal' in every provincial land policy document
	Experimentation: the tools are there, so why not use them? This argument is used particularly by wealthier provinces

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The most important reasons for opting for or rejecting direct development strategies were the political ambitions of the provincial executive and approval or rejection by the provincial council, the financial situation of the province, knowledge (or lack of knowledge) of direct land development strategies, the complexity of a development and the perceived financial risk of being directly involved in regional development projects. Taken individually, however, none of these reasons are decisive.

The perceived lack of knowledge in one province might not be an impediment in another. For instance, the province of Noord-Holland became involved with such projects long before it was properly equipped to do so, and developed the necessary skills and structures during the course of these projects. Their justification for this approach included arguments such as learning by doing, the need to implement national objectives, and ensuring the financial independence of the province. In essence, most provinces have exploited different opportunities to experiment with the newly acquired instruments and planning powers, while others, especially provinces with failed projects, pointed to the barriers to justify avoiding direct involvement in land development and instead sought to implement planning objectives through regulatory means. Nevertheless, the interviews reveal that all regional planning authorities had one aspect in common: they were confident about the strategy they had chosen, whether this was direct or traditional involvement.

#### **4.4 Evaluation: Has the delivery of Dutch regional planning objectives been improved?**

##### ***Development planning at the expense of coordinated policy delivery***

Our research question was whether the four new planning and land policy instruments have helped to improve intermediation between national and local planning authorities, improve the coordination of policy implementation at the local planning level, and facilitate active consideration of policy objectives that transcend local boundaries, such as landscape quality and sustainability. One striking result of this study is that the provinces all seem to have abandoned – at least partly – their strategic planning role in favour of direct land development. Some provinces have even changed the name of their spatial planning department to 'spatial development department'. This reflects the continuing turn towards 'spatial development policies' in the Netherlands, as re-emphasized in the recently published National Policy Strategy for Infrastructure and Spatial Planning (I&M, 2012). The four regional-based instruments have supported this turn to development.

Although the need to address long-term planning goals and the delivery of policies *via* provincial regulatory measures and local implementation is growing, the provinces have mainly used their new powers to enable and manage specific development projects and area development initiatives rather than to coordinate local delivery of policy objectives at the sub-regional level, for example for housing development and the allocation of industrial sites. In general, the provinces appear to have shifted their focus from strategic spatial planning towards short-term planning goals. Moreover, they have taken risks in order to gain a profit from development initiatives. Evidence from a case study of a regional development project in the province of Noord-Holland indicates that its emphasis on the profits to be gained from land assembly is undermining its steering and coordinating role (Van Straalen et al., 2011).

The provinces have also not been entirely successful in their role of mediating between national and local planning authorities, particularly in cases where local authorities are unwilling to implement certain national policies (often small communities that have to accommodate significant urban development). Although not specifically addressed in the interviews, it seems that provinces choose to implement such policy objectives by imposing provincial zoning plans, rather than entering into a wider debate about the feasibility of the objective with both national and local planning authorities.

#### ***Strategic use of the new instruments***

Some striking differences between the provinces were found regarding their use of the new instruments and the new planning powers they confer (see also Evers and Janssen-Jansen, 2010). An important factor in choosing direct involvement instead of regulatory involvement as a strategy to deliver planning objectives is political ambition. The interviewees indicate that strong leadership is the basis for gaining approval from the provincial council to deliver planning objectives by taking the initiative in planning projects. Furthermore, the province must be in a healthy financial position and have full knowledge of the policy instruments and their pros and cons. Nevertheless, a lack of knowledge of the potentials of the instruments, and of direct involvement in general, has not prevented all the provinces from pursuing a more interventionist approach. Some have taken an experimental approach where they believe that knowledge will be gained during the process, especially those with a larger financial reserve obtained from the sale of shareholdings in power plants. The fact that the province of Zuid-Holland has been directly involved in planning processes, even though it can be considered to be one of the 'poorer' provinces (with Drenthe and Flevoland) that had few or no shares in power plants, can therefore be largely attributed to the high land dynamics in that province.

The experimental approach to using the new instruments may also be a reason that many regional projects have faced difficulties during the planning and implementation process and many development projects have come to a standstill. Red-for-green projects have become particularly difficult to implement, possibly also because public and private stakeholders must make pre-investments without any guarantee of a return. Many of the problems can be explained by a lack of cooperation between government agencies, reduced demand for new housing and budget cuts due to the financial crisis. However, some developments would not have been feasible even without the financial crisis because they were excessively optimistic due to the buoyant housing market before 2008 (Janssen-Jansen, 2010). It can be argued that the new regional planning powers have led to 'provincial megalomania', comparable to the processes at the local level and the 'develop as much as possible' strategies pursued by local authorities prior to the economic downturn (Janssen-Jansen, 2010). Provinces with an ambitious executive willing to take risks in a buoyant market encountered pitfalls because the projects lacked a proper business case. Profits were not as high as expected, it was hard to cooperate and negotiate with private stakeholders, and risks were often not distributed efficiently between actors.

In response to the stalling or even cancellation of regional development projects all over the Netherlands, the provinces have realized that if they want to effectively deliver policy objectives they need to improve their knowledge about these practices, or more generally, about direct involvement in planning projects. Several of the provincial councils that strove for more direct involvement in projects are now hesitant about committing themselves to new projects. This is not only because of the difficult economic circumstances, but also because they realize that they do not have the required know-how to implement the projects successfully. This is also reflected in the desire expressed by the provincial interviewees for more interprovincial consultation on the use of the new planning instruments.

#### ***Direct or traditional involvement in planning projects?***

Due to the long time span (> 20 years) of many regional planning projects, the risks are difficult to estimate and the influence of stakeholders' land policy strategies are hard to predict (Van Woerkum et al., 2011). An example of a regional project with a long time span is the Bloemendalerpolder 'red-for-green' project in Noord-Holland, which includes multiple land use changes (urban development, habitat restoration, relocation of a national motorway). The initial idea for this project dates back to 1992. The plan-making process started in 2001, culminating in 2009 in a masterplan. The province of Noord-Holland was the project initiator and wanted to use a provincial zoning plan to start the formal planning procedures.

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The economic setback meant that the masterplan and agreements with private stakeholders needed to be revised, resulting in a new plan and agreement, which are expected to be signed in the autumn of 2012. The formal planning procedure will then begin with the preparation of local land use plans. Construction work is expected to start in 2016.

Currently the projects most likely to succeed in the shorter term appear to be those that involve single land uses or a single stakeholder, such as infrastructure projects and habitat restoration and the establishment of nature reserves. More complex projects for comprehensive development are less likely to be successful. The 'single land use approach', however, does not always benefit the quality of the surrounding region. The question then is whether plans can be implemented using other planning instruments, such as regulatory planning instead of land acquisition and direct involvement.

Our study suggests a twofold answer. A regulatory approach seems appropriate for provinces or areas with low land dynamics (without extensive land acquisition by private property developers). In these cases plans are usually for relatively small developments or areas where land can be acquired easily, and are detailed and ready to implement (task-specific land acquisition). Regulation might not always be sufficient in areas or provinces with high land dynamics. The new regional planning instruments can then be effective in maintaining a balance between private and public stakeholders, but this depends on the specific circumstances, including market demand and other factors. Strategies for negotiating a beneficial deal with private developers will involve establishing pre-emption rights or strategically acquiring land. In addition, regional policy instruments like the provincial zoning plan can be used to settle disputes between local authorities. By assuming the leading role, the province can ensure delivery of regional policy objectives. In general, therefore, these planning instruments can be considered an extension of the regional planning toolbox, in line with the political goal of decentralization (strengthening regional government). However, to really contribute to delivering planning objectives that go beyond regional land development, the provinces must use these instruments more critically to ensure they do not replicate the past failures resulting from the 'development as much as possible' behaviour of local authorities.

### ***Proper consideration of the use of direct land development is needed***

It seems that until the economic setback none of the provinces questioned their direct role in land development. They accepted the planning instruments and land policy tools without considering the purpose of the tools in relation to their new autonomous role. In some cases, regional development practices became vehicles for experimentation and the pursuit of personal fame, leading to

the breakdown of planning processes and loss of social benefit. Development-led planning even became the *raison d'être* of some provincial planning departments, at the expense of their regulatory tasks.

Given that the national government's rationale behind decentralizing responsibilities to the lowest possible planning level is that this is the best way to facilitate the effective delivery of policy objectives, one could argue that the provinces should give way to local authorities when projects do not transcend local boundaries or when a more traditional regulatory approach is sufficient. For example, many proposed housing projects are not backed by a clear demand and in many provinces the number of planned housing projects exceeds the regional demand. From a regional planning perspective, the regional planning authority should regulate these developments – a role that is not consistent with seeking to profit from development. Furthermore, it is important to give careful consideration to regional spatial planning before pursuing an active regional land development policy or using land policy tools. Some of the questions to be asked before starting new development projects are: Can the project be justified from a regional policy objective perspective? Can these policy objectives be delivered without active intervention by the province? Is provincial supervision needed to ensure sustainability or quality? And finally, is the province capable (in terms of knowledge, financial capacity and risk assessment) of actively engaging in land development?

#### **4.5 Regional spatial planning and the delivery of planning objectives**

What lessons could the Dutch experiences offer for other countries reforming their planning systems to enable effective delivery of regional policy objectives? This research has shown to what extent four new land policy instruments – the provincial zoning plan, the provincial pre-emption right, the land development plan (including cost recovery), and land expropriation – have been adopted by regional planning authorities to improve or accelerate the delivery of their planning objectives. These instruments were introduced to improve intermediation between national and local planning authorities, to increase the coordination of policy implementation at the local planning level, and to strengthen consideration of policy objectives that transcend local boundaries, such as landscape quality and sustainability.

Due to the long time span of the projects, the ambitious ways, in which, the provinces used the instruments and the current economic downturn, it is difficult to fully assess the actual effectiveness of the new instruments, particularly

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over the longer term. Nevertheless, it is concluded that the availability of the instruments triggered their use, although sometimes resulting in fragmented delivery of planning objectives and over-development (for example of locations for offices and housing). This could be because the provinces were unfamiliar with the instruments or overenthusiastic about their new planning powers. Alternatively, their use of the instruments may also be a reflection of the serious attitude with which the provinces embraced their new role. Depending on the extent to which the provinces succeed in giving substance to their new role in the near future, this could lead to a permanent shift in the distribution of tasks and responsibilities between planning authorities.

Although these regional-based instruments are relatively new, the process of decentralizing national spatial planning and giving the provinces greater planning responsibilities started more than a decade ago with the introduction of new national policies. Therefore the introduction of the instruments is viewed as a further step in the process of increasing the role of regional planning authorities. But given the often fragmented delivery of planning objectives, it is argued that the provinces have tended to refocus on plan implementation over regulations. They use the four policy tools as implementation instruments. They do not perceive them to be part of their increased autonomy, which would allow them to adopt a more integral approach to policy design, assessment and implementation. This could be seen as a missed opportunity for more comprehensive policy delivery.

For this reason the lesson is drawn, that reforming planning systems should be accompanied by an analysis of the intentions and practices of regional planning authorities. Are the changes proposed going to be implemented as intended? What should ultimately be achieved? How can 'pragmatic' adoption be prevented? The Dutch experiences show that the regional planning authorities have not only used the tools to strengthen their position, but also see them as a way to increase the possibility of making financial gains. This comes at the expense of their role as a mediating authority to safeguard planning objectives that transcend local boundaries – one of the reasons for introducing the instruments in the first place. However, the outcomes can ultimately conflict with the national government objectives of intermediation and increasing the coordination of policy implementation.

As a consequence, a second lesson is the need to continue the debate on planning tasks and responsibilities following introduction of the new regional planning instruments. The analysis shows that the use of development-oriented instruments can become a goal in itself, without consideration of the ultimate consequences, for example for the outcomes and aims of policies at other planning levels.

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As a third and final lesson, and a topic for future research, the chapter stresses the debate on the implementation of policy objectives *via* other planning levels. The Dutch example shows that the implementation of regional planning objectives by the provinces is not always as effective as anticipated. They need to take a broader, more integrated view that goes beyond their own objectives. For countries still reforming their systems, other choices, such as implementation *via* national government, creating a new planning authority, or creating room for less formal regional collaborations, might prove to be more effective given their existing planning regimes or the objectives in mind.



## **Stakeholder preferences and interaction: how stakeholders choose land policy strategies in Dutch regional spatial development processes**

# 5

### **Abstract**

Stakeholders are considered active agents, who use land laws, policies, instruments, and land ownership, as strategic tools to deliver planning objectives. As development processes increasingly aim at the regional planning level to deliver planning objectives, the need arises to examine the behaviour of regional planning authorities and understand the choices and decision-making of these stakeholders in development processes, for instance to model this behaviour. This chapter aimed to advance the empirical understanding of stakeholders interaction and strategies at the regional planning level, to add to the underlying set of assumptions in decision-making models. The chapter examines two case studies at the regional planning level in the Netherlands, to understand the interaction between stakeholders and how this influences the strategies of stakeholders. The analysis of stakeholder behaviour draws on social theories of agency-structure duality (Giddens, 1984) to examine the stakeholder behaviour. The findings of this study suggest that regional planning authorities opt for similar strategies as other public planning authorities, leading to a measurable pattern in the use of strategies in spatial development processes which might not be rational, but is reoccurring. Finally, land ownership is pinpointed as most reoccurring and universal pattern as basis for development strategies.

**Keywords:** Land Regulation and Policy, Spatial Planning, Stakeholder strategies, The Netherlands

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## 5.1 Introduction

In the past years, several European countries have embedded new regulations, policies, or instruments in their planning systems to improve the implementation of planning objectives at regional level (Albrechts et al., 2003; Hooghe et al., 2010; Allmendinger, 2011; Stead, 2013). The results of regulatory and instrumental changes have been assessed in several studies, focused on policy formulation and learning (e.g. Lloyd and Peel, 2007; Marsden et al., 2012; Primdahl et al., 2013), interaction between plan and implementation (e.g. Stead, 2012; Mills et al., 2014), or the problem-solving capacity of governments (e.g. Allmendinger and Haughton, 2010; Gunn and Vigar, 2012; Halleux et al., 2012). Others have examined how stakeholders strategically (inter)act in spatial development processes (e.g. Samsura et al., 2010; Gerber, 2012; Van der Krabben en Jacobs, 2013; Kerselaers et al., 2013). Many of these studies acknowledged that policy changes and policy implementation result from some form of agency, but did not explore this agency; how (individual) stakeholders decided to implement policies, or how they acted strategically in planning processes to deliver planning objectives. Understanding how (regional) planning processes are shaped as a result of stakeholder strategies and interactions, is essential, as stakeholders are active agents, who use land laws, policies, instruments, and land ownership, as strategic tools for implementing policies and to influence the strategies of other stakeholders. How stakeholders choose to interact – and which land policy instruments they choose to assist land acquisition strategies in these processes – influences the results of the processes, and likewise, the successful delivery of planning objectives. Furthermore, understanding stakeholder interactions aides the (theoretical) modelling of decision-making in spatial development processes, land use patterns, and evaluating the effects of changes in regulation or land policy instruments (e.g. Samrura et al., 2010; Fürst et al., 2010; Sohl and Glaggett, 2013). In addition, the attention to policy implementation at regional level, increases the need to examine the strategies of stakeholders and their choices for land policy instruments in regional spatial development processes. Although empirical literature on the interaction between stakeholders has broadened, too little is still known to accurately model these interactions or the choices (public) agencies make in relation to the use of land policy instruments and land acquisition strategies (Samura et al., 2010).

This chapter aims to broaden insight into stakeholders' interactions and land acquisition strategies at regional planning level and add to the empirical basis necessary to model the decision-making processes of stakeholders in spatial development processes. It addresses the questions: How do stakeholders interact in regional spatial development processes? What strategic choices do regional planning authorities make concerning land acquisition in these processes? And

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how did these strategies come about? The chapter examines spatial development processes at regional planning level, and focuses on regional planning authorities as mediums to provide for the delivery of policy objectives.

## **5.2 Stakeholders: agency and structure**

To assess the interaction between stakeholders in spatial development processes, and their strategic use of regulation and instruments, this chapter draws on the principle of agency-structure duality, as introduced by Giddens (1984). Stakeholders interact in spatial development processes, and apply meaning – *agency* – to certain rules, resources, and instruments – *structures* – to deliver planning objectives *via* these processes. This implies that the strategies of stakeholders are socially constructed and “filled with power” to achieve planning objectives in spatial development processes (Healey, 1997a). Stakeholders are simultaneously constrained or enabled by these structures (e.g. legal rules, regulatory procedures) and can reproduce these structures (e.g. land policy reformulation): a duality of structure. Power, in this context, is relational and dispositional: it “*depends on the capacity [of stakeholders] to mobilize power in interaction and simultaneously how stakeholders are positioned, mediated by rules and resources which determine what agents can achieve*” (Arts and Van Tatenhove, 2004, p. 350). Therefore, the choices of stakeholders are considered a result of the instruments and strategies at hand, the interactions between stakeholders, the power stakeholders’ mobilise, and the rules and resources that mediate the interactions.

Recent studies of stakeholder behaviour in planning and development processes address the information upon which, stakeholders base their strategies, the rationality of the behaviour of stakeholders, and how stakeholders use both public policy instruments and land ownership as strategy in these processes. Samsura et al. (2010) sought to identify key strategic decisions of land and property development projects with the use of game theory. Their study showed that stakeholders often interact without complete information about the position and strategies of other stakeholders. They suggest that playing multiple games could generate social learning by other players. This would widen the information base of all stakeholders and gives them the opportunity to adjust own strategies to those of other stakeholders. This implies that inexperienced stakeholders need time to become acquainted with strategies of other stakeholders, and act accordingly in development processes. In this context, Janssen et al. (2013) analysed the preferences and adaptive behaviour of stakeholders when choosing retail locations and negotiating consensus with other stakeholders. They

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concluded that stakeholders are willing to adapt their preferences to meet the preferred options of other stakeholders. But still, the preferred strategies need to be combined and negotiated to reach consensus in decision-making; simple adaptation is not enough to reach consensus.

This argument relates to a reticence of Samsura et al. (2010) in relation to the behaviour of stakeholders and modelling this behaviour. Samura et al. (2010) pointed out that stakeholders do not behave rationally, and decision-making models require adaptation to incorporate emotional and intuitive behaviour of stakeholders. Akram (2012) also addressed this topic, and argued that stakeholders do not use their full potential and options when interacting; they act unconsciously and on the basis of habit. Structural-agential interaction, thus, should not only focus on how structures enable and constrain stakeholders, but also understand to what extent stakeholders act unconsciously or on the basis of habit. Research of Gerber (2012), who studied land acquisition strategies of land trusts in Quebec, at least showed that conservation Non-Governmental Organisations (NGOs) positioned themselves within the broader regulatory context to complement their acquisition strategies. Those studied relied on both land acquisition and public policy instruments to meet their objectives, and adapt their strategies accordingly. Thereby, the research indicated that not all stakeholder behaviour and strategies are necessarily habitual, and that stakeholders continuously adapt their strategies to adapt to changes in rules, resources, or variation in strategies of other stakeholders.

The findings presented in this chapter are based on two case studies carried out in the Netherlands, that is, the regional spatial development processes involved in the creation of Lingezege Park, and that of Bloemendalerpolder. Both development processes faced regulatory changes and contextual changes during negotiations and decision-making phases of development that influenced stakeholder strategies. In the Netherlands, the role of the regional planning authorities - the Provinces - has increased since the 1980s. Initially this increase was limited to rural land development (Van den Brink and Molema, 2008; Van den Brink, 2009), but when the regional scale was increasingly required for the delivery of both urban and rural planning objectives in the 2000s, the role of provinces in urban spatial developments increased likewise (Kantor, 2006; Korthals Altes, 2006a; Janssen-Jansen and Hutton, 2011). Development processes now focus on regional planning level for the delivery of planning objectives, and include a wider variety of land use changes and cooperation between stakeholders than was common in the traditional forms of land use planning (Louw et al., 2003; Needham, 2006; Korthals Altes, 2006a; Roodbol-Mekkes and Van den Brink, forthcoming). The cooperation between stakeholders in these processes

is, however, not evident. The relationship between stakeholders has become competitive, and the shifting focus to the regional planning level has increased the number of inexperienced stakeholders in the spatial development processes.

Since the focus shifted to regional spatial development, the provinces have gained additional planning powers to deal with changed planning practice and to become better equipped for the implementation of planning objectives at regional level. Two major regulatory changes include the 2007 Rural Development Act and the 2008 Spatial Planning Act. Changes in the legal system made the provinces responsible for the implementation of rural policies, which include the development of natural areas (National Ecological Network), recreational opportunities in the countryside, and the improvement of the landscape for agricultural purposes. Additionally, new legislation created additional planning powers and land development instruments for the provinces. Despite the fact that not all provinces have opted to use the new instruments, and differences in provincial cultures and politics have led to different preferences and choices to use the instruments (Van Straalen et al., 2013), all provinces have reconsidered their spatial development strategies with the instruments in the “back of their minds” and have adapted the manner, in which, they interact in regional spatial development processes. Therefore, the two case studies present the opportunity to assess the (changed) interaction between stakeholders and how they select their land acquisition strategies during development. The next section of this chapter explains the case study approach and the different units of analysis in the cases. Afterwards, both cases are described and analysed separately. The chapter ends with a reflection on both cases and a discussion of the results of the study in relation to the understanding of stakeholder interactions, behaviour, and strategies.

### **5.3 The case study approach**

To study the variety of interactions and strategies of stakeholders in Dutch regional development processes, an exploratory and adaptable methodological design was used, which was modified during the course of the research. The use of this design enabled initial exploration in a broad manner and focused and framed the research during analysis. Empirical events and experiences were studied in a qualitative manner to pursue leads and potential analytical ideas about them (Charmaz, 2006). Two case studies were chosen to provide context-dependent knowledge, which is essential for understanding events that cannot be understood by “general rules” (Flyvbjerg, 2001). The research design allowed investigation of the cases in an iterative manner, and permitted the exploration of

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the richness and extensiveness of the different cases, rather than focussing on a few selected variables (Yin, 2009).

The study comprises of two different cases - Lingezegeen Park and Bloemendalerpolder (see Figure 1.4). The case studies were conducted in different provinces in the Netherlands to obtain a broader oversight of the projects and the stakeholders involved in these regional planning processes, and to assess the variation of provincial strategies to implement policies. The cases were chosen based on differentiation within the designed future land use, applied land acquisition strategy, duration of the planning process, and location of the project. The Lingezegeen Park development consists of 1500 hectares. The planning objectives include nature conservation, the development of recreational opportunities, and the protection of open space. The consortium in charge of the development comprises of public stakeholders from national, regional and local planning and land development authorities. The province of Gelderland is the leading stakeholder. The Bloemendalerpolder project consists of 490 hectares. The planning objectives include housing (one third of the area), nature conservation and recreation (two thirds of the area), improvement of infrastructure, and water security. The consortium for this development consists of both public and private stakeholders. Public stakeholders include national-, regional- and local planning authorities. Private stakeholders include several property developers, who owned land in the area prior to the start of the development process.

Empirical data derived from provincial and municipal policy documents, project plans, newspaper articles, and 12 open-ended interviews with various public- and private stakeholders involved in the cases. Interviewees included aldermen and policy advisors of municipalities, sectoral managers of provinces, an account manager and a strategic advisor of national governmental agency, and a strategic advisor of a private property developer. The interviews were held between 2009 and 2012; four interviews were conducted by a Master's Degree student as part of a thesis research in 2012 (Ter Heegde, 2012). Besides addressing the individual cases, the interviews also focused on land policies and strategic choices of governmental planning authorities in general. In addition to content-based analysis of stakeholder interactions and land acquisition strategies in both spatial developments, the interview results and the interviewees' responses were used to establish a framework for the subsequent case study and interviews, consequently constructing a network of interrelated opinions on certain topics, such as the choices made by provinces in regards to their strategies when deploying instruments or acquiring land. The analysis of the empirical data focused on the stakeholders involved, how these stakeholders interacted, which planning and land policy instruments they chose to implement

planning objectives, the rationale behind these choices, and how strategies were adapted in interaction with other stakeholders, or when the context of the project changed, for example due to the economic setback of 2008.

#### **5.4 Lingezege Park: top-down development by public stakeholders**

Lingezege Park, is located in an urban region in the East of the Netherlands. The Park was created to prevent over-urbanization and to protect open space in the urbanized region between the Cities of Arnhem and Nijmegen. In 2008, the agricultural area between the Cities was designated as a National Buffer Zone, by the responsible ministry and the province of Gelderland. The objective of the buffer zone-policy is to prevent expanding Cities from interconnecting, to preserve open space (i.e. farmland, nature areas and recreational areas) and to provide recreational opportunities in the open areas (VROM, 2006). When the Park was designated as National Buffer Zone, various public stakeholders (from national-, regional- and local planning authorities and agencies), formed a consortium to transform the agricultural open space into an accessible regional recreational park.

In 2007, the consortium presented a master plan for a 1,500-hectare regional park. The core objective of the plan was a spatial development process compartmented into two phases: the development of a green framework as backbone to the plan, followed by the implementation of a larger programme. The green framework was designed, financed, and implemented by the public stakeholders of the consortium. In the northern part of the green framework for the Park, several major land use changes were proposed, including the development of a city park, an ecological zone, and a recreational lake. Because of the major land use changes, the land needed for the development is proposed to be acquired from the landowners. In the southern part, the green framework proposes to provide lines of trees and natural roadsides along publically owned roads, which makes land acquisition for this part of the park unnecessary. The larger programme (second phase) slowly fills the framework with additional development of nature, green areas, rural estates and small rural shops. The programme is to evolve over time, with the help and finances of local entrepreneurs and on occasion *via* public-private partnerships. The phased implementation of the project has a financial purpose to enable the province and municipalities to raise enough resources together to construct the backbone of the Park. However, development of the entire programme, including all related land acquisitions, would prove too expensive. Therefore, the consortium opted to start the implementation of the Park *via* a green framework. The development of large parts of the northern area

of the Park is included in this framework, because of the extensive reconstruction of the area and the land acquisition needed to secure the development. The consortium did not entrust the land owners or the market with the responsibility to provide for this, non-profitable, part of the Park.

### **Stakeholders and development strategies**

The stakeholders in Lingezege Park can be divided into three categories: public stakeholders, future users of the park and the current landowners. The public stakeholders are united in a consortium to progress decision-making during the design and implementation of the Park. Different interviewees indicate that the consortium is an essential device in the implementation of Lingezege Park, as it ensures that various stakeholders commit to the development process. "Without the Committee," one respondent argues, "The different municipalities would play a waiting game." The leading stakeholder in the consortium is the province of Gelderland, the regional planning authority. The province relies on a facilitating role to provide for the development of the Park. The province opted for this role to maintain the good relations between the different planning authorities in the area. This resulted in a strategy to start, coordinate, and invest in the development, but to leave the content-related decisions to the different municipalities involved. As the leading stakeholder, the province could also have relied upon their own land policy instruments and acquisition strategies, but it has stated that the use of these instruments would affect the relations between the municipalities and the province within the project. It concluded that the municipalities would feel that they had been brushed aside. Therefore, municipalities provided for the legal planning framework *via* the local land use plans. As the municipalities are in charge of the legal implementation of the park, it is also up to them to choose whether or not to use other land policy instruments in the implementation of the project, for example, if and when to use compulsory purchase instruments. At the start of the project, both municipalities considered compulsory purchase a valid choice for Lingezege Park. An interviewee indicated that land in the North of the Park proved difficult to acquire voluntarily, and that, if necessary, use of compulsory acquisition would be an option. In the consortium, it was decided that, when the local land use plan was enforced, the possibility to use compulsory purchase instruments would be put to a vote in the municipal councils to decide on the actual use of the instrument.

The future users of Lingezege Park are represented in an advisory board for the consortium. The advisory board consists of various interest groups, for instance, related to the recreation at the lakeside and sport fishing. This board informs the consortium about the wishes and needs of future users, and comments on the plans for the development, such as the master plan and the environmental

impact assessment. One of the interest groups (a recreation board) owns part of the land for the lake, to be constructed in the northern part of Lingezege Park. The third group of stakeholders, the current landowners, are informed about the development of the Park by the consortium. When land is needed for the development, the consortium will contact the land owners to acquire their land. The reasoning of the public stakeholders to exclude the land owners from the consortium or advisory board was twofold: the first phase of the development does not allow for agricultural land use in the Northern part of the Park, and will not affect the agricultural land use Southern part of the Park too excessively. The land owners do not agree with this reasoning of the public stakeholders. Twenty-five of the agricultural landowners in the area have organised themselves into an action committee opposing the development, to open up consultation with the public stakeholders. The Committee consulted with the consortium to give its views and opinions on the development and the damage the development would bring to agricultural land, livestock and the profits of these land owners. The ultimate objective of the land owners was to stop the most damaging part of the development. The Committee also used slogans on billboards near public roads to draw attention to their views. One of the boards reads: "Lots of chatter with others' money and property" (*Veel babbels met andermans geld en eigendommen*).

#### ***Land acquisition and development process***

In 2008, the province of Gelderland gave the DLG (Government Service for Land and Water Management) the task of acquiring the roughly 370 hectares that are needed for the development of the green framework. The DLG was chosen as acquisition agency for two reasons. Firstly, the DLG was at that moment in charge of delivery of objectives for nature conservation and recreational opportunities, and secondly, DLG already owned land in the area, as result of a previous land consolidation project. This meant that the DLG had both the connections and opportunity to persuade land owners to exchange land or sell land for the realisation of the Park. However, the farmers' action committee broke off the consultations early in 2008, as it felt unheard by the consortium. The consortium would not adapt the plans according to the wishes of the farmers. Additionally, the 2008 regulatory changes which granted provincial planning authorities the power to acquire land compulsorily influenced this decision. The farmers lost confidence in honest consultation and negotiations, when the power balance between the planning authorities and land owners changed and it became clear that all planning authorities involved could rely on compulsory purchase to acquire the land. In 2010, the DLG had acquired 300 hectares in the area; of these, 100 hectares will be used for the actual development, whilst 200 hectares will be used as trading objects, offered to landowners in exchange for the plots that are needed for the development.

To acquire the final plots, the consortium opts to use compulsory purchase. Both involved municipalities started a compulsory purchase procedure in 2012. However, the requests for a Compulsory Purchase Decree issued by the Crown, necessary to start the procedure, were withdrawn by both municipalities soon after. The requests were withdrawn, because of omissions in the preparations of the procedures. In the Netherlands, public authorities seeking compulsory purchase must have started negotiations with the land owners to purchase the land, prior to the request for compulsory purchase to the Crown. In this case, the DLG, not the municipalities, negotiated with the land owners. Because the municipalities did not specifically ask DLG to negotiate deals on their behalf, written down in the agreement between the different public authorities involved, the municipalities did not meet the requirements for using compulsory purchase procedures. Momentarily, the municipalities started clearing the omission *via* additional negotiations with land owners, and afterwards, the compulsory purchase procedure will be restarted. Although correcting the omission will not set the project back for years, the initial strategy of the consortium, (especially that of the province of Gelderland) to ask DLG to acquire the land, did not match with the strategy to leave the legal framework and choices to use land policy instruments to the municipalities.

Besides the internal difficulties, the project also faced contextual changes. These include the economic setback, a counterproductive new national infrastructure project, and changes to nature conservation policies. This last change has had the most influence on the strategic choices of the public stakeholders involved. In 2012, the initial nature conservation policy was abandoned by national government in favour of a new agreement between national government and the provinces. The new agreement includes deregulation of delivery of the policy objectives to the provinces. The budget for delivery of the objectives was, likewise, decentralised, but only after a substantial budget cut. The province of Gelderland, faced with the budget cut, decided to go through with the project and invest with its own finances, rather than withdraw, part of the promised financial contribution. This decision ensures that the project can be realised in the forthcoming years.

### **5.5 Bloemendalerpolder: from power relations to mutual attraction**

Bloemendalerpolder is a regional spatial development of 490 hectares in the metropolitan area of the Randstad, in the West of the Netherlands. Due to urban pressure in the metropolitan area, the responsible ministry for spatial planning excluded the Bloemendalerpolder from the Green Heart National Park in 2004.

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The Green Heart is one of the largest green open spaces in the Randstad; its status as a National Park protects the area from urbanization. The Dutch Lower Chamber agreed to the exclusion of Bloemendalerpolder on the condition that not more than a maximum of one third of the area becomes built-up. The ministry designated the Bloemendalerpolder region as a potential location for 4500 of the 15,000 urban residences that were needed in the northern part of the Randstad, based on 2004 estimations.

The land use changes in the Bloemendalerpolder include urban development, improvement of regional infrastructure, and the development of recreational space and nature areas. The master plan for the Bloemendalerpolder project assigned one third of the area for housing development and infrastructural projects, and two thirds to nature and recreational space. The project was designed as a so called 'red-for-green project', which means that property developers involved in the project would have to reinvest part of their profit from the housing development (red) in the development of nature and recreational areas (green). Furthermore, green development will start prior to red development, requiring a pre-investment of the property developers in the project.

**Stakeholders and development strategies**

In the Bloemendalerpolder development, the key stakeholders are cooperating in a consortium. The consortium is a cooperation between the province of Noord-Holland, the municipality of Weesp, several ministries (represented by the National Real Estate and Development Agency) and several property developers (represented by two private consortia). The municipality of Muiden, within which borders part of the proposed development, chose not to be involved in the public-private partnership. The municipal council of Muiden did not sign the initial agreement between the different stakeholders in 2007, because of the large amount of housing proposed for construction in the municipality. Together with a second development in Muiden (the restructuring of a former gunpowder factory), the development of Bloemendalerpolder would double the amount of housing in Muiden.

The province of Noord-Holland plays a prominent role in the development. Although its role was already prominent from the start of the project, the newly gained planning powers (as a result of regulatory changes in 2008) allowed the province to provide for the legal framework for the development and enforce municipal cooperation in the project. The province had planned to draw up a regional zoning plan ('*inpassingsplan*') for Bloemendalerpolder, to impose the development on the municipalities and, thereby, secure development. Even though the province showed bold decisiveness, the municipalities felt unsatisfied

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with this decision, especially about their possible contribution to the project (Van Rooy, 2009).

The property developers participate in the consortium because they own land in the Bloemendalerpolder. To avoid project disintegration through the effect of too many voices, interests, and opinions from, both the different ministries and property developers, agreed to participate in the project *via* a representative body, which would align their interests and standpoints in preliminary consultation sessions. During the consortium meeting, a representative of the different groups would act as spokesperson. After the meeting, the spokesperson would consult the other members of the group to agree on decisions made in the consortium meetings. Finally, the future users of the area should be kept up to date *via* local media and information leaflets, but direct communications with citizens is lacking (Van Rooy, 2009).

### **Land acquisition strategies**

In this project, land ownership has been an important strategy included in the development. All property developers involved in the consortium acquired land prior to the start of the project to secure their participation in the project. As a result of national housing and planning policy in the 1990s and a flourishing economy, property developers were able to acquire land before the start of the development without taking major risks. Moreover, due to a self-development clause in the Pre-emption Right Act, shown *via* case law, any landowner with appropriate means and skills could rightfully develop his or her own plot, preventing application of the pre-emption right or compulsory purchase by public planning authorities. Even though their positions as land owners in the polder were strong, the private developers adopted an obedient attitude at the start of the development to secure the involvement in the development and maintain good relations throughout the process.

The land acquisition strategies of private developers influenced public stakeholders. To secure an even position in negotiations between the public and private stakeholders, and exercise power in the development, public stakeholders also actively acquired land in the area. The public stakeholders feared complicated and tough negotiations with private stakeholders, if the private stakeholders owned all the land. According to the public authorities, the consequences of the self-development clause would impede a swift planning procedure. Additionally, the "red-for-green principle", which required investment from property developers, might not be operational if the private developers owned all the land. The province could not secure this investment by private developers *via* cost recovery, because the necessary land policy instrument - the land development plan - was lacking

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before 2008, and the municipality of Muiden was not cooperative. Therefore, the public stakeholders also started to acquire land for the development of the project, as soon as the polder was withdrawn from the Green Heart. Consequently, most of the plots required for the development of Bloemendalerpolder were already in possession of either private- or public stakeholders in the consortium. One of the interviewees, employed at one of the involved public stakeholders, estimated that 75% of the required land was already in the possession of the partnership in 2011: public stakeholders own 40% and private stakeholders own 60% of the acquired land. Because all stakeholders participate in the project, land is conceived as financial input to the project. The value of the input will be calculated based on the number of hectares and the value of these hectares per stakeholder.

Although the members of the consortium already own most of the plots required for the development of Bloemendalerpolder, some plots still have to be purchased to secure the development. If the owners of these plots are not willing to sell their land, the compulsory purchase instrument will be used to acquire the land. Depending on the new use, either national government (for the national infrastructure included in the project) or the province of Noord-Holland will acquire the land compulsorily. This distinction is made because the infrastructural improvements are considered of national interest, whilst the housing and nature conservation objectives are of regional interest, which requires a different level of governmental authority to request to use the compulsory purchase procedure at the Crown. This strategy reveals additional insights into land acquisition requirements for the compulsory purchase procedure, which was lacking in the Lingezege Park case.

***The development process during economic setback***

In 2010, when the master plan was approved and the consortium agreement was signed, the project seemed to have made a good start. However, economic setback interfered with the implementation of the project. In 2011, the private developers concluded that the development would not be feasible, if the public stakeholders continued to insist on pre-investment in the development of natural and recreational areas. The private stakeholders threatened to withdraw from the project. The public stakeholders did not have another choice than to renegotiate the deal with private developers, since the developers owned a majority of the land in the project. Similarly, the limited (financial) resources of the province of Noord-Holland forced the province to reconsider their role in the development. Land ownership of both the public- and private stakeholders created a mutual dependency between them. From a provincial point of view, this dependency was not solvable *via* the use of land policy instruments, such as pre-emption right or compulsory purchase. The use of these instruments would be too expensive

and cause a large delay in the implementation of the project. This “eye-opener” caused the province to exercise more restraint in their role as leading planning authority in the project.

However, all parties involved wished to continue the development, even though they needed the other stakeholders to comply with their new set of requirements for the implementation of the development. This led to renegotiation of the original agreement between the stakeholders in the consortium. In 2012, a new agreement was presented, which included the renegotiated deals between the public- and private stakeholders. The new agreements are more in line with the wishes of the municipality of Muiden (e.g. less housing) and the municipality is now re-joining the project. Furthermore, the pre-investment in the green development was cancelled; the “red and green” land uses will now be developed simultaneously. Also, the time span of the project was changed. The implementation of the project will take additional time, to prevent saturation of the housing market in the area, which could slow down the project even more.

The legal planning framework for the project will now be arranged by both municipalities *via* the local land use plan. The province will not draw up a regional zoning plan. This also means that the municipalities are in charge of using the land policy instruments, including compulsory purchase; except for part of the infrastructural work, which are in provincial- or national interests and secured *via* these planning authorities. In essence, the project has returned to a more traditional planning approach, in which, the municipalities draw up the legal framework and set requirements for the plan, whilst the private developers realise the residential areas, as set in the requirements. The province will be responsible for the development of the natural and recreational spaces, as is in accordance with the deregulation of the ILG-objectives from the national- to regional governments, but this is also more in line with their traditional role in rural land development.

### **5.6 Reflection on the Lingezege Park and Bloemendalerpolder cases**

The stakeholders involved in both developments, the interaction between the stakeholders, and their choice for (land acquisition) strategies differs. Although this is to be expected, considering the choice of the cases, it does point out that stakeholders choose different strategies to implement planning objectives under different circumstances. Since each project in the Netherlands is unique, as regards size, objectives, and political environment (Needham, 2007),

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and varies in participating stakeholders, it could be argued that the interaction between and strategies of stakeholders differs. Which stakeholders are involved and how these stakeholders interact determines how the project manifests. Although the strategies differ between the processes, it may be expected that the planning objectives for each process will be delivered, i.e. both Lingezege Park and Bloemendalerpolder will be developed in the coming decades. Based on this observation, it could be argued that different development processes need different strategies to succeed, a single strategy would not suffice for all development processes. For example, the role of the provinces in both cases: the facilitating role of the province of Gelderland in the development of Lingezege Park is enough to secure the development of the Park and thereby implement the planning objectives. In the Bloemendalerpolder case, the direct development strategies of the province of Noord-Holland were, initially, needed to start the project and secure the development, despite the reluctance of the municipality of Muiden to cooperate. The difference in attitude between stakeholders (public and private) could lead to a more direct or facilitating role of the involved regional planning authority.

Furthermore, the provinces adapt their strategies to meet the planning objectives of the project and secure them throughout the development. When assessing the Bloemendalerpolder case, it could be argued that the adaptation of the provincial strategy, when the project stalled, is an example of social learning of the provinces. Rather than pressing private developers to stick to original agreements, they renegotiated the joint development strategies. In essence, this could be understood as replaying the game to reach a more informed decision, as Samsura et al. (2010) suggested. It also shows provinces have the ability to break through habit or unconscious behaviour. The renegotiations show how the provinces reviewed the strategies they used and the strategies which could bring new potential to the development and choose new strategies which are better suited the progress of the development. With this assessment they used a larger portion of their creative space (Akram, 2012), than they operated prior to the economic setback.

The results of the case studies also show the importance of the rules and resources, and how these constrain and enable stakeholders. The regulatory changes in 2008 have enabled the provinces to adapt direct development strategies and use their planning powers to enforce cooperation. Whether or not the provinces choose to use these strategies is dependent on their preferences (e.g. political climate, culture), and how development processes will be implemented in the forthcoming years. The decline of the economy has, in this respect, been a valuable reflexive mechanism. In essence, the lack of

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financial resources constrained the stakeholders and forced them to reconsider their strategies. It showed the provinces that cooperation is not unlimited, and reminded the provincial councils that strategies opting for mutual attractiveness and closed business cases are as valuable as direct development strategies and active land acquisition.

The study also highlights the importance of land as a resource to secure implementation of regional planning objectives. Although property developers invested in land ownership long before the regional planning authorities entered the urban housing market they continued this behaviour – which point to habitual behaviour of the property developers – and affected provincial strategies. Land ownership of private developers forced public authorities to use similar strategies when regulatory measures failed. The case of Bloemendalerpolder is a clear example of this strategy, where both private stakeholders and public authorities invested in land to exercise power. Land ownership allowed them to implement their planning objectives, without having to compromise their objectives or interests in the negotiations. One of the interviewees underlined the importance of land as a resource in development processes. During the interview in 2010, the interviewee stated that Lingezege Park should be included in the anti-crisis plan that was debated at the national level. The respondent wanted to have the project included in the anti-crisis plan, to be able to acquire land more swiftly and thereby secure the development sooner. The idea of the anti-crisis plan, was to break the link between the local land use plan and the compulsory purchase instrument. This broken link would allow compulsory land acquisition before the (local) land use plan was irreversible. However, soon after this interview, the Upper Chamber of Dutch Parliament rejected this aspect of the anti-crisis plan, due to its insensitivity towards the use of private property rights for the public interest.

For their part, farmers see the government's power to acquire land as threatening; they feel as though they have no control in these processes. The threat to these farmers is not limited to the loss of land alone, but also includes development on nearby plots of land. Such developments could affect crops, bring diseases to livestock, interfere with the farm's operational management, and prevent farmers from enlarging their properties. In both developments, the farming landowners were not involved in the consortia or advisory boards, and consultation was broken off. This, however, creates even more uncertainty among the farming landowners, as they do not know whether they can continue farming in the area or eventually have to sell their lands, voluntarily or compulsorily. In the Lingezege Park case, the differentiation between the green framework and the program even increased the confusion, as it is not clear what farmers are to

expect in the second phase of the process with respect to their farming strategies.

Lastly, land (or the lack thereof) is used in the political arena to decide whether to support a development or not. The first example concerns the development of Lingezege Park. The municipal council of Nijmegen, the City located at the south end of the Park, decided not sign the management agreement or contribute to the development of the park. There are two reasons, first the municipality did not own land in the development area of Lingezege Park and second their investment budget was dedicated to a large spatial development project (which included housing, recreational space and nature) at the south end of Lingezege Park. The second example concerns the Bloemendalerpolder project and the attitude of the municipal council of Muiden towards the project. While the mayor and executive board of the municipality were in favour of the development, the local council opposed the large-scale development of dwellings close to the City of Muiden. The council considered the open space too valuable in the public interest to construct houses in the area, and therefore did not intend to expand. In this case, the development of the project was within the municipal borders of Muiden, forcing the province of Noord-Holland to take the decision out of the hands of the municipal council to develop the polder. The need for urban land on a regional scale and the area's designation as the potential location of 4500 new houses by the national government, pressured the province of Noord-Holland to take a leading role as legal planning authority and decide that the land was not too valuable to be built on.

## **5.7 Discussion and conclusion**

This chapter aimed to broaden the conception of stakeholder interaction and behaviour in spatial development processes. The study shows that stakeholder strategies are dependent on the interactions of stakeholders when negotiating deals in the development processes, but also based on the strategies of stakeholders in previous processes or in anticipation to certain development processes. The habit to depend on certain strategies by specific groups of stakeholders, such as land ownership for private developers, influences development processes over a longer period of time. The reaction of other stakeholders to these strategies also takes a certain pattern, such as active land acquisition by public stakeholders. This pattern of interaction between stakeholders was only breached when new regulatory instruments became available and a major change occurred in the societal context of the processes (e.g. change in economic circumstances). This suggests that, although the behaviour of stakeholders might not be rational, it is to a certain extent reoccurring and thus can be modelled.

## *Chapter 5*

Additionally, even though circumstances have changed, both private and public stakeholders still own land, leading to the conclusion that in future processes land will still be used to influence the power balance between stakeholders. Both private and public stakeholders will weigh their strategic use of land policy instruments with their property rights, they complement each other. This suggests, when also drawing on the study of Gerber (2010) in Quebec, the mechanism of complementing land policy instruments with land acquisition strategies to exercise (planning) power exceeds the individual planning context of a State. As such, insights into how property rights are used as strategic devices in spatial development processes, and subsequently how these strategies influence the positions of and interactions between stakeholders, could enhance the forecasting capacity of decision-making models.

The question then rises to what extent are the strategies of stakeholders influenced by different structural elements, e.g. regulatory instruments (rules), land ownership and finances (resources), and overarching societal processes (discourses), and to what extent they are influenced by interaction with the other stakeholders (and how these stakeholders are constrained and enabled by structure)? Although this study does not provide a general answer to this question, it does conclude that as long as societal discourses or regulatory frameworks do not considerably change, the strategies of stakeholders and the interaction between stakeholders tend to show a reoccurring pattern in which successful strategies are repeated in new processes. Even when new stakeholders enter the (urban) planning arena, e.g. regional planning authorities, they opt for similar strategies as predecessors in these processes. When these processes are successful in relation to operationalization of resources (land, finances, tools) the strategies are repeated to the point of habit, creating a "blind spot" for other development alternatives, e.g. regulatory planning measures. These patterns keep reoccurring until new rules or discourses breach successful strategies and force reconsideration of development practices. Still, in these new circumstances, land ownership keeps its value and creates dependency between stakeholders. Leading to the conclusion that, off all structural elements in development processes, land ownership – thus property rights – is most vital in predicting stakeholder interaction and decision-making in spatial development processes.

## Compulsory purchase for biodiversity conservation in the Netherlands

# 6

### Abstract

Policy instruments are the building blocks of land use policies. Instrumentation of policies relates to values. Compulsory purchase is a direct government instrument that may be an effective way to implement policies of biodiversity conservation and the allocation of land for recreational use. It is, however, in many contexts, politically-controversial. The Netherlands' government has endorsed policies that involve compulsory purchase in up to 10% of land purchases. This chapter reviews if this 10%-ceiling can structure relationships between landowners and government agencies in such a way that it relieves constraints imposed by land availability for biodiversity conservation and the provision of recreational areas. The analysis consists of (1) the background of this 10%-ceiling, (2) the actual procedures of compulsory purchase, by analysis of Royal Decrees, (3) the actual compulsory purchases, and (4) the indirect instrumental effects of the use of this instrument. The chapter concludes that the 10%-ceiling does not lift the constraints of land availability, but does influence the relationship between stakeholders, the implementation of biodiversity objectives, and land policy strategies. Nevertheless, compulsory purchase may provide possibilities to acquire land necessary for a consolidated natural area.

**Keywords:** biodiversity conservation, land policy, property rights, compulsory purchase, The Netherlands

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## 6.1 Introduction

As part of our natural capital, the conservation of biodiversity is an important policy issue. Based on the idea that the existing network of reserves is not large enough to maintain biodiversity, land purchases are an important part of a programme to conserve biodiversity (James et al., 2001).

*"Biodiversity is a public good and thus is not supplied in sufficient quantities by individuals acting in their own self-interest. (...) Conservation initiatives in the United States, Australia, and most of Europe increasingly emphasize more direct incentives: land purchases, leases, and easements, as well as financial incentives such as performance payments and tax relief." (Ferraro and Kiss, 2002, p. 1718).*

However, public policy instrumentation does not include a politically-neutral set of tools to complete the job efficiently and effectively (Peters, 2002). Policy instruments are 'bearers of values' (Lascoumes and Le Galès, 2007, p. 4), and the choice of instruments may influence the structure of the policy more than the expression of its aims (Hood, 2007; Lascoumes and Le Galès, 2007). This also applies to the choice of instruments to conserve biodiversity, or to improve recreational facilities in peri-urban rural areas. Allowing compulsory purchase for these matters means farmers are not those who decide to cease farming at a certain location under certain circumstances, but gives governments power to do so. This makes the values of biodiversity conservation and recreational facilities (for urban inhabitants), as delineated by the authorities, superior to individual farmers' decisions. Allowing this instrument of compulsory purchase has a very strong political dimension, which may affect its actual use. Instruments, such as compulsory purchase, 'produce specific effects, independently of the objective pursued' (Lascoumes and Le Galès, 2007, p. 3).

This chapter analyses such a situation of compromise, in which, the national authorities of The Netherlands (MSP and MF, 2001) have indicated that provinces implementing national policies on biodiversity conservation and the development of recreational facilities, may acquire a maximum of 10% of the area necessary using compulsory purchase proceedings. Although landowners cannot stop compulsory purchase once the 10%-ceiling has been reached, the ceiling has played a significant role in debate and argumentation behind the use of compulsory purchase for the conservation of biodiversity, recreational areas and landscape. The question this chapter poses is whether setting such a 10%-ceiling to the use of compulsory purchase is a feasible option to overcome land-availability constraints in relation to the aims of biodiversity conservation and the development of recreational facilities.

The next section of the chapter positions this within the context of academic literature on land availability constraints and on the use of policy instruments. The section 'Method and context', introduces the research methods and the structure of the compulsory purchase instrument in The Netherlands. The fourth section, presents the findings and the final section reflects on the outcomes.

## **6.2 Land affordability constraints and the sociology of public policy instruments**

The relevance of this chapter is twofold. Firstly, this study investigates if the potential, moderate use of compulsory purchase helps to ease land availability constraints in relation to biodiversity conservation (and additional recreational facilities). Secondly, it reveals insights into the way, in which, the instrument of compulsory purchase structures behaviour and choices. More precisely formulated, the potential use of compulsory purchase for up to 10% of the areas destined for biodiversity conservation, or recreational facilities.

### ***Land availability constraints***

Although Ehrlich et al. indicate that "...we are still in the early stages of developing the scientific basis, and the policy and finance mechanisms, for integrating natural capital into land use and other resource decisions on large scales" (Ehrlich et al., 2012, p. 70), there is some evidence that suggests that land acquisition may be an effective option to preserve biodiversity (Snyder et al., 2007; Miller et al., 2009; Sanders and Gerritsen, 2011; Butsic et al., 2012).

The interaction between the land market and policies to conserve biodiversity is strong. Land purchases take place under market conditions and affect the outcome of the biodiversity conservation programme (Armsworth et al., 2006). Knight et al. indicate that "...the effectiveness of land acquisition initiatives depends fundamentally upon two constraints, to which, biological data provides no answers: availability of (1) funds for purchase of protected areas, and (2) lands for acquisition." (Knight et al., 2011, p. 2623).

There are also alternative options suggested, which will not be evaluated in this chapter. One of these is to accept the constraint of lands available for nature conservation and show flexibility in relation to the areas for purchase. After all, a regional conservation design is just 'the plan of the day' (Pressey et al., 2013, p. 166), which will be progressively updated in due time. However, this may impede goal achievement (Knight et al., 2011). Other alternative options address the willingness to sell of land managers, such as by paying premium prices (Armsworth et al., 2006; Knight et al., 2011), which has, of course, impact

on the other constraint referred to above - land affordability. Yet further options are to refrain from 'direct government' (Leman, 2002) by land acquisition and choose an indirect government-approach by making contractual arrangements with private landowners in relation to the conservation of biodiversity, such as by conservation easements. This option is dependent on the willingness of land managers to allow these easements and the consequent enforcement of them in interplay between landowners and managing authorities, which may be an issue in practice (Kozich and Halvorsen, 2012). Besides these, other options have been suggested to address biodiversity *via* zoning, easements, or in urbanizing areas (e.g. Doremus, 2003; Alterman, 2010; Williams, 2012).

These alternative options are, however, less direct than compulsory purchase, as this instrument is especially suited to address an owner not willing to sell land. Compulsory purchase of land for biodiversity conservation may be an effective way to eliminate the constraints imposed by willingness-to-sell. Depending upon the local legal context, the conservation of biodiversity by the assembly of land may be considered as a public utility that provides the grounds for the use of compulsory purchase. However, in an actual policy context, biodiversity conservation may not be the only and highest objective that a government pursues, i.e. these goals may be 'typically undervalued' (Ehrlich et al., 2012, p. 70). Biodiversity may not have the same standing as railroads, major highways or defence facilities, i.e. national security, in using compulsory purchase to address unwilling landowners. One of the reasons for this is that there are different, often conflicting, views on the governance and use of the natural world (Purdy, 2012).

Also for recreational facilities, which are considered to address public health problems including sedentariness and obesity by enabling and tempting people to make more active life choices, public access of private land for recreational activities is an issue (Howley et al., 2012). This chapter provides extra insights into this dilemma between, on the one hand, effective conservation of biodiversity and recreational areas and, on the other hand, constraints of private property rights to deal to use massive compulsory purchase to overcome the problem of unwilling landowners.

### **Public policy instruments**

Within the academic field of public policy, many different definitions exist for public policy instruments. According to some of the numerous definitions, compulsory purchase is not an instrument at all. Brukas and Sallnäs, for example, use in a recent article in *Land Use Policy* the following definition: "...a policy instrument is a deliberate structured effort by governors to solve a policy problem by modifying actions of the governed." (2012, p. 606). Although this definition includes the use of compulsory purchase as threat to motivate landowners to

follow policies, it excludes the use of compulsory purchase as direct governmental instrument to acquire land from a non-consenting landowner. This chapter follows a wider-ranging definition, which includes the latter use of compulsory purchase. Salamon defines, for example, a tool or instrument of public action as 'an identifiable method, through which, collective action is structured to address a public problem' (2002, P. 19).

This definition emphasises that the interesting question is not "when does a given legislated rule cause the intended results", but "what difference does the law make in a concrete situation of behavioural choice?" (Griffiths, 2003, p. 19). This latter question hints at the values associated with instruments, such as compulsory purchase. Within legal academic debate there is a long tradition of normative debate on the use of compulsory purchase and the conditions in which, and by whom, this is allowed. The fierce political and academic debates following the *Kelo*-ruling of Supreme Court of the USA on the meaning of the concept of *public use* in relation to planning interests (Blomley, 2007), is a recent example. The conditions under which compulsory purchase is allowed tend to vary, based on jurisdiction-specific particularities. However, some common norms have emerged, which relate to aspects, such as compensation, equal treatment, public utility and proceedings that prevent planning blight. These norms can be found in the principles of international investments law (in many bilateral and multilateral treaties between States; see Dolzer and Schreuer, 2012) and the First Protocol of the European Treaty of Human Rights (Loof et al., 2000; Ploeger and Groetelaers, 2007). On all of these aspects, national jurisdictions, but also policy makers, may find their own weighting of interests, showing the normative variations between legal systems and instruments used for public policy implementation.

Moreover, Lascoumes and Le Galès highlight the relational nature of policy instruments as a device 'that organizes specific social relations between the State and those it is addressed to' (2007, p. 4). This relational addition matches the analysis of norms and values, as property rights exist as "the relations among people concerning the use of things" (Weimer, 1997, p. 1). Thus, the instrument of compulsory purchase organizes or structures relationships concerning land (and land availability). This structuration affects the position of all actors in these relationships. Rules about the use of compulsory purchase affect both the content and limitations of private property rights in relation to the State, as they constrain and enable the role of the State versus holders of private property rights. In respect to these relations, the compulsory purchase instrument relates not only to land owners whose land is compulsorily acquired, but also to other actors in the relationship. Between pure, direct government intervention, i.e. the land is actually purchased compulsorily based on a court decision, and pure, indirect government intervention, which happens in cases where the instrument

structures behaviour without that it has been used, or even expected to be used, there are many situations in-between, in which, authorities take steps which might head towards compulsory purchase, but has not resorted to compulsory purchase itself; for example, because the landowner and authority establish a deal. In these 'in-between' situations, the social relations between the State and landowners are also organized by the strategic use of compulsory purchase as a policy instrument. Furthermore, the use of the instrument in previous planning processes may impact the expectations of landowners in subsequent planning processes. These effects are referred to as the indirect effects of the use of compulsory purchase as a policy instrument (see also Griffiths, 2003).

### **6.3 Method and context**

#### ***Method***

This chapters' core question has been answered in four parts. Firstly, the 10%-ceiling to compulsory purchases in the context of Dutch rural land development policies was questioned. Secondly, the actual use of the compulsory purchase proceedings was investigated. Thirdly, the direct effects of this instrument relating to land acquired by use of this instrument were studied. Fourthly, the indirect effects of this instrument in the previously introduced 'in-between' situations were reviewed.

The first question was answered by analysing policy documents and evaluative reviews and additional open-structured interviewing. *Via* policy document analysis, the standpoint of different governmental agencies towards the (strategic) use of compulsory purchase was defined. Both evaluative reviews of central government and land policy documents of provincial planning authorities in The Netherlands were studied. Afterwards, interviews were held to test and elaborate on these standpoints. As such, the interviews provide insights into the interpretations of policies by professionals, and contribute to knowledge about actual planning practices and compulsory purchase procedures. Seventeen interviewees (see Appendix A), from different provincial governmental agencies and the (national) Government Service for Rural Areas (DLG) were asked their view on the compulsory purchase tool and their strategies of employing (land policy) instruments in planning processes, in particular, about the compulsory purchase tool and the 10%-ceiling. These interviews also posed questions relating to the other research parameters of this chapter. Some of the respondents were interviewed several times between 2010 and 2013.

The focal point in this chapter is the second question, relating to the actual use of the instrument. Compulsory purchase in the Netherlands follows a funnel-shaped procedure, which is introduced in the context section below. The most important source for this was Royal Decrees of compulsory purchase, which were systematically analysed. These decrees, which must be published in the *Staatscourant* to get into force, provide full coverage of compulsory purchase at this stage of the proceedings. The analysis includes all royal decrees between 2001 (publication of national report on land policy, in which, the 10%-ceiling was introduced) and 2012. The emphasis on these Royal Decrees is founded for the following reasons. Firstly, it is the only primary data on compulsory purchase that is centrally available. To elaborate, there are no central registry of governmental decisions to apply for compulsory purchase to the Crown, not all court cases concerning compulsory purchases are presently published centrally, and the Dutch Land Registry Agency has no specific marking that enables a swift selection to land transfers based on compulsory purchase orders. Secondly, the Royal Decrees provide a considerable amount of information relating to proposed land use, landowners, and the area. The analysis of compulsory purchase, therefore, centres around this data. The analysis includes all Royal Decrees between 2001 and 2012; the number of procedures started, the land use for which the procedure was started, the party requesting the decree, and (between 2007 and 2012) the amount of hectares to be purchased.

For the third question, about the actual compulsory purchases based on a judgement by the courts there is (as has been indicated above), no central source, as is the case with the Royal Decrees. Furthermore, the legal procedures attached to judicial compulsory purchase, such as subsequent proceedings, can progress for several years. Mostly because authorities may wait two years to bring cases to the courts and land owners can subsequently appeal the court decision, making it hard to trace actual compulsory purchases of land, based on a known Royal Decree. Therefore, the interviewees (introduced in relation to the first research question) were asked to provide additional information on the actual hectares of land, per project, to be acquired compulsorily. Notably, most of these respondents were not able to provide solid data on the number of hectares actually acquired compulsorily *via* a Court judgment. Reasons for this include that the data of separate projects was not centrally registered, other organisations were responsible for the compulsory purchase procedure, or data was not yet available. The respondents were able to give an estimation of the percentage of the hectares acquired in relation to the 10%-ceiling. Additionally, five experts in the field of land policy in The Netherlands (see Appendix A) were interviewed, to provide additional information and to validate the findings.

Also for the fourth question, the study used qualitative data-gathering, including both policy document analysis and open-structured interviewing of the respondents as introduced above. Finally, other studies towards compulsory purchase (in The Netherlands) were sought to supplement the data.

**Context: The funnel-shaped process of compulsory purchase in the Netherlands**

The idea that a 10% maximum of compulsory purchase is sufficient to overcome constraints in land availability relates to the build-up of processes of compulsory purchase in The Netherlands. This instrument may only be used if it is necessary for public utility (see also Wijting, 2000). Amicable co-operation of landowners with authorities is preferred, and the authorities must make efforts to reach a negotiated agreement. What are these steps or stages of the compulsory purchase procedure?

Firstly, there must be a 'title' (*titel*) according to the Dutch Compulsory Purchase Law). This title may, for example, be a land use plan (title IV), dike improvements (title II), infrastructure works (title IIa), or a land consolidation project (title VII). In relation to compulsory purchase based on a land use plan (title IV) there is a preference for property owners to implement the plan themselves. Therefore, land can only be compulsorily acquired if landowners are not willing to implement the plan, in a way that fits to the specifications given by the authorities. Land owners, therefore, may feel pressured to contact the authorities to make agreements about implementing the plan according to these specifications. Local authorities must be aware of the limitations of the compulsory-purchase instrument and may realize they must make this agreement if the landowners follow their policies. The price paid may be derived from the expected compensation paid at an actual compulsory purchase. After all, compulsory purchase will fail if local authorities are not willing to co-operate with owners that are willing and able to implement the plan, based on specifications set by the authorities.

A second stage is that the Crown weights the interests of the authority willing to purchase the land with the interests of the present owners and users. If the interests of the authority (public utility) outweigh the interests of the land owners, a Royal Decree for compulsory purchase is issued by the Crown. Before this moment the authorities seeking compulsory purchase must have started negotiations with the land owners to purchase the land. As a certain amount of time elapses between the decision of the authority to acquire land compulsorily and the Royal Decree issued by the Crown, negotiations may continue during this process.

### *Compulsory purchase for biodiversity conservation in the Netherlands*

A third stage is that the Court decides about the compulsory purchase and the compensation to be paid. Before this step is reached, amicable negotiations must be held. This procedure must be started within two years after the Royal Decree is issued. The compensation is, as the word already indicates, full: "Compensation, in itself, means a full indemnification or remuneration to the owner for the loss or damage to his property, which has been taken for public use." (Mangone, 2002, p. 209). Alongside market value, the compensation includes other damages related to the intervention in present land use, such as the costs for relocating farming activities elsewhere.

The certainty that compulsory purchase will be inevitable grows during these stages. This may structure behaviour of both landowners and authorities and bring them to a negotiated agreement. Therefore, besides using compulsory purchase as a tool for speedy land acquisitions for public purposes, it can be used as a tool to pressure landowners. The idea that a swift compulsory purchase procedure would stimulate landowners and authorities to make deals was probably one of the intentions of the law when it was established in 1851, or it can be considered to be part of the first principle of timely land acquisition *via* compulsory purchase (Sluysmans, 2011). The threat of using the compulsory purchase tool helps to effectuate 'voluntary' land sales.

For urban land uses, prior research provides some insight in this funnel-shaped process. A survey by Groetelaers (2004; see also Groetelaers and Korthals Altes, 2004) shows that for 11% of all housing developments a compulsory purchase plan was drawn up (necessary for the administrative procedure). At the time of this particular survey, four percent of the land in new housing development areas was acquired compulsorily. Based on estimations for the remainder of the project, the final percentage of areas, in which, land will be acquired compulsorily is expected to be three percent. In approximately eight percent of housing developments, part of the land is acquired on a voluntary basis after the compulsory purchase procedure was started. Therefore, in the context of new housing developments, conformance with national planning policies (Korthals Altes, 2006a) could be reached with a share of compulsory purchase far below a 10%-ceiling. However, the context of housing development in a booming market, i.e., in which co-operation with the authorities may result in direct profits, may conclude differently from a situation, in which, amicable bargaining may result in compensation for simple costs, such as the land acquisition policies for biodiversity conservation.

## 6.4 Findings

### ***The 10%-ceiling***

The policies of biodiversity conservation in the Netherlands are based on a decision made in 1990 to develop a National Ecological Network (NEN). National government agreed to establish a linked system of protected areas for the protection of biodiversity (Jongeneel et al., 2012) in 2018. An essential part of the programme is land acquisition, i.e. purchasing 130 thousand hectares of agricultural land to convert to nature. Policy documents show that at the end of 2009, 51% of all land acquisition was established (IPO and MANF, 2010; Jongeneel et al., 2012).

Initially, the objective was to acquire all parcels without compulsory purchase, as result of a strong lobby from the agriculture sector, during the decision-making procedure. However, *via* land consolidation projects, some form of compulsory purchase was possible. Since the 1970s, it is accepted that land consolidation projects, which have to be supported in a vote by a majority of the landowners, include not only improvement of the area to promote agricultural production, but also the allocation of land for ecological and recreational purposes (Van den Brink and Molema, 2008). Part of these land uses could be realised by acquiring land in the consolidation area, so the authorities could get land allocated as well. Another part, could be realised *via* deductions of land, up to five percent, that were allowed on the allocation of land to the landowners. Initially, this five percent was used for the improvement of infrastructure (such as, roads, waterworks), but gradually these deductions also were used for broader objectives, such as biodiversity and recreational infrastructure. Therefore, the five percent deductions, can be seen as a first step towards compulsory purchase for biodiversity. The interviewees indicate that between 1994 and 2001 the five percent was interpreted as the maximum for compulsory purchase for biodiversity objectives.

In 2001, *via* the national land policy (MSP and MF, 2001), the 10%-ceiling was introduced, legitimating an amount of compulsory purchase that enabled the government to meet the objective of realise the NEN in 2018, but would not, or to a low extend, interfere, with the operational efficiency of the agricultural sector. Remarkably, the government never documented a precise definition of this 10%-ceiling: should it be applied to all voluntary purchases with compensation (before or during stage 1 of the procedure), the parcels listed in the Royal Decree (stage 2 of the procedure), or the parcels acquired compulsorily *via* a decision of Court (stage 3 of the procedure)? This is important, as it enables different stakeholders to interpret the 10%-ceiling in their own way.

The policy objective to develop the NEN operates in a context of decentralisation of policy implementation to the provinces. In 1993, the Minister

of Agriculture and the provinces closed a decentralisation agreement. Since then, the provinces have played an increasingly central role in the planning of green areas (Korthals Altes, 2006b). The agreement also stipulated that further steps would be taken and that, meanwhile, the (national) government Service for Rural Areas (DLG) would operate as agency working for the provinces. In 2003, national and provincial authorities, including water authorities, took a further step and arranged to operate in an integrated and area-oriented approach. The provinces were granted full responsibility for implementing the national rural areas objectives, as introduced in the 2007 Rural Area Development Act (WILG, Wet Inrichting Landelijk Gebied). These policies are generally known as ILG-policies, and the responsible authorities - the provinces, DLG, and the Ministry - operate as partners. The ILG-policies cover targets for biodiversity conservation and development of recreational areas, as well as, several other aims relating to rural development.

The arrangements, between all partners and stakeholders concerned with the Rural Development Act, include, and reconfirmed, the 10%-ceiling for compulsory purchase, as set in the 2001 Land Policy Report (MSP and MF, 2001). As the powerful agricultural lobby framed the debate about compulsory purchase as being a sacrifice of fine agricultural land for the purpose of nature and recreation, the 10%-ceiling, was eventually more narrowly interpreted within the agreements, as a maximum for both compulsory purchases and amicable purchases based on compensation schemes. The 10%-ceiling is effectuated *via* a fund for all objectives of the Rural Area Development Act. The fund does not provide the financial means to compensate additional costs of acquiring land *via* compulsory purchase above the 10%-ceiling.

A mid-term review of the rural development programme in 2010 (IPO and MANF, 2010), showed that the budget for land acquisition was nearly reached, while relatively less land than expected was acquired. Also, the land-use change from agriculture into nature or recreational area was not progressing according to the targets (see Table 6.1). This evaluation, in combination with the budget cuts and decentralisation plans of an incoming national government, resulted in a reassessment of the NEN and the agreements between the ILG partners.

In early 2013, the reassessment of the policy objectives to provide for the NEN resulted in new agreements between national governments and provinces, downloading funds and responsibilities for the organisation and the implementation of the NEN to the provinces. Officially, this also includes the decision whether or not to involve DLG, but the budget for the realisation of the NEN will not be conveyed in monetary terms, but in amount of hectares in DLG's possession. Most importantly, it also involves provincial discretion about a 10%-maximum for compulsory purchase, leaving space for a less strict interpretation.

Chapter 6

Table 6.1. Land acquisition and development for the main objectives of the ILG (IPO and MANF, 2010)

	<i>Total amount to be acquired (ha)</i>	<i>Amount acquired mid-2010 (ha)</i>
<b>National Ecological Network</b>		
Land acquired	20,734	12,501
Nature developed	65,781	29,940
<b>Recreation opportunities near Cities</b>		
Land acquired	3,754	1,242
Recreational purposes developed	6,379	3,793

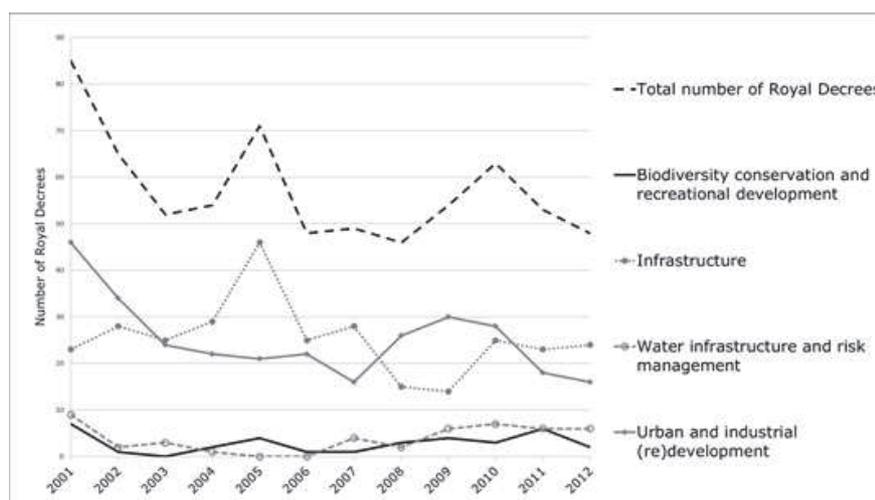


Figure 6.1. Dutch Royal Decrees issued for compulsory purchase between 2001 and 2012

**Compulsory purchase proceedings**

The compulsory purchase instrument is used for different land uses in the Netherlands, such as infrastructure, housing, and nature and landscape development. Biodiversity conservation and recreation has a minor share (0 to 11% of the Decrees) in the use of compulsory purchase (Figure 6.1).

Local authorities issue the most requests for compulsory purchase, followed by national government (see Figure 6.2). The growing number of provincial requests in 2011 may relate to the 2008 changes in the Spatial Planning Act, which provided the provinces with more land-policy powers. For biodiversity conservation and recreational development, the national government has the most requests for compulsory purchase (see Figure 6.3). The impact of the decentralisation of the ILG-objectives in 2007 is also visible, as the provincial authorities also used compulsory purchase powers for biodiversity conservation and recreational development in 2011 and 2012. Provinces mostly use compulsory purchase for infrastructure purposes, the only province that requested Royal Decrees for compulsory purchase of land for nature purposes was the province of Zuid-Holland (Figure 6.4). DLG's requests for Royal Decrees (all related to ILG-purposes) largely take place for projects in the Province of Zuid-Holland (between 2001 and 2012: one request for projects in the provinces of Overijssel, Utrecht and Limburg, two requests for projects in the province of Noord-Holland and 12 requests for projects in the province of Zuid-Holland).

Although the compulsory purchase instrument is used on different occasions for the development of nature by green-sector planners, i.e., provinces or DLG, the use of the instrument is controversial. The Advisory Council for the Rural Area (RLG, 2008) advised in its report - 'the mythology of compulsory purchase', to use compulsory purchase for biodiversity conservation (the NEN) more often, as it considered there to be few negative side-effects and that the administrative procedure would cater for compensation, accelerating the ILG-policies. It advised to relax the 10%-ceiling for compulsory purchase. In an official reply, national government stated that it did not see any reason to revise the governmental policy. They agreed that the pressure on land in the western part of The Netherlands was indeed high, but there was no requirement to open up discussions before the mid-term review of the ILG in 2010 (MANF, 2008).

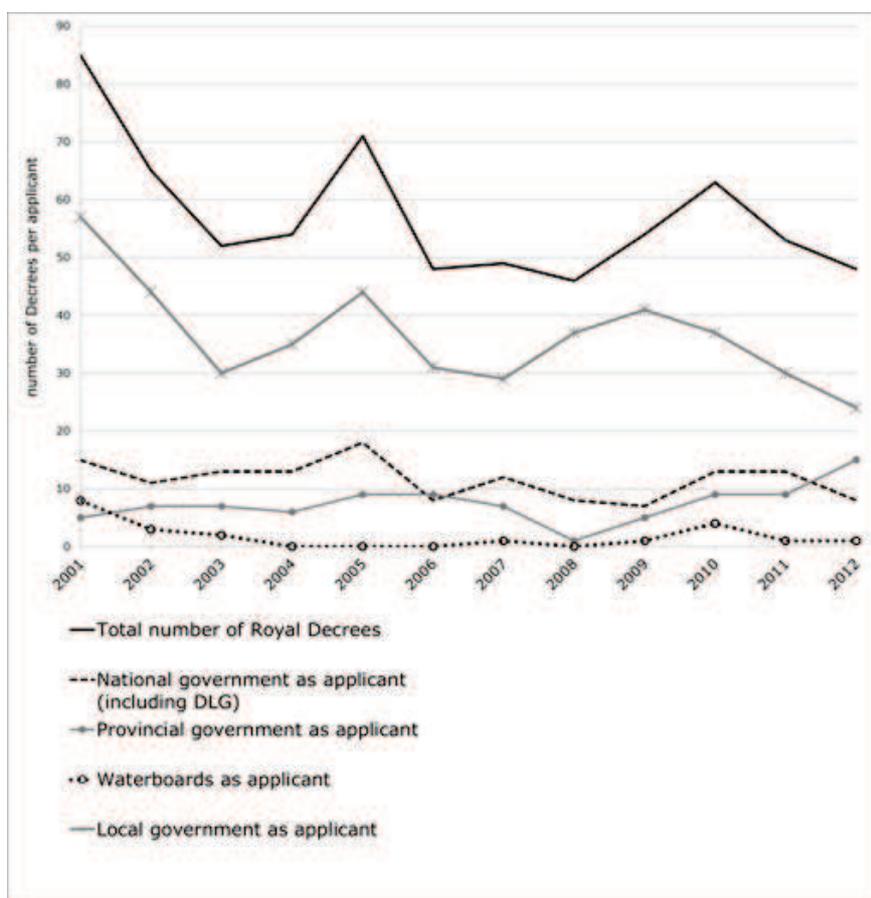


Figure 6.2. Dutch governmental authorities requesting Royal Decrees issued for compulsory purchase between 2001 and 2012

Compulsory purchase for biodiversity conservation in the Netherlands

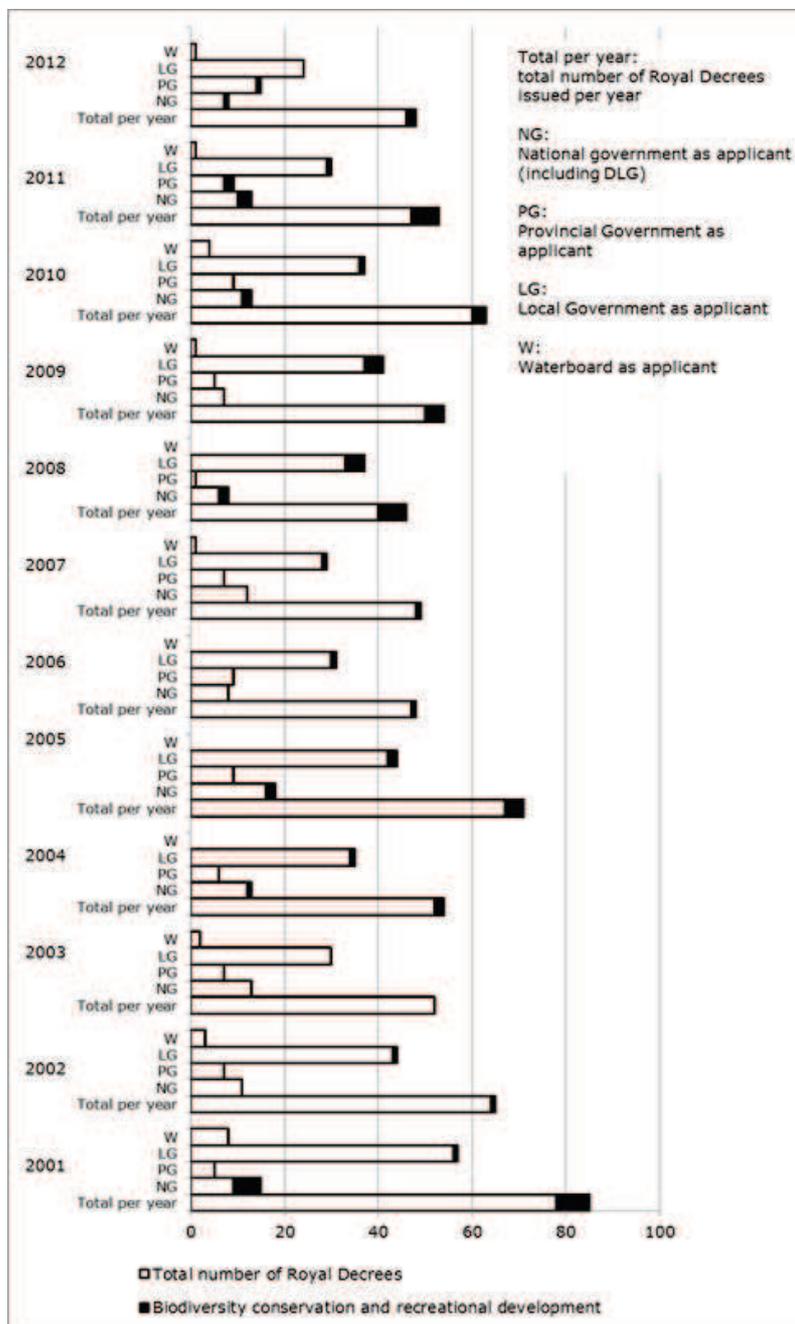


Figure 6.3. Comparison of the total number of Royal Decrees issued for compulsory purchase per year and for the purpose of nature conservation and recreational development; per governmental authority, between 2001 and 2012

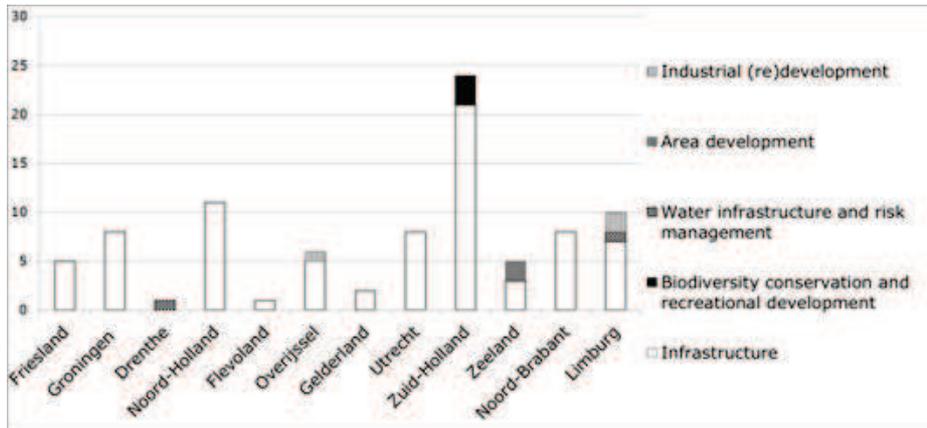


Figure 6.4. Provincial requests for compulsory purchase to the Crown, per province between 2001 and 2012

**Actual land acquired**

The mid-term review (IPO and MANF, 2010) shows that one percent of the land for the NEN was acquired *via* compulsory purchases or by amicable purchase with compensation in anticipation to compulsory-purchase proceedings; for development of recreational areas this was six percent. For the remaining period of the ILG, until 2013, the provinces expected must higher shares of compulsory purchase, i.e., up to 13% per year for the NEN and 51% per year for recreational areas. In particular, the urban provinces in the west of the Netherlands expect an increase in land purchased compulsorily, because of the high land dynamics near their urban areas. The total area of land acquired, for a price based on compensation according to the compulsory purchase rules, is expected to be no more than 12%. However, this exceeds the established 10%-ceiling.

To provide some additional perspective, the number of hectares in the Royal Decrees (see Table 6.2) is small compared to the total number of hectares transacted per *annum*. Furthermore, the actual number of hectares acquired compulsorily is even smaller, as amicable purchases occur between the moment Royal Decree is issued by the Crown and the actual compulsory purchase of land by a Court judgment. Interviewees indicated that even during the procedure in court, parcels of land are acquired amicably during the process of gaining a final

compulsory purchase judgement,. One interviewee from the province of Zuid-Holland, provided additional data on the compulsory purchases for ILG-projects in this highly dynamic region in the Netherlands. The share of the area acquired compulsorily within these projects ranges between 17% and 30%, so above the 10%-ceiling. However, the interviewee added that many other projects are implemented without the use of compulsory purchase, which keeps compulsory purchase below the 10% ceiling within the province of Zuid-Holland.

**The indirect effects of the (possible) use of compulsory purchase and the 10%-ceiling**

Respondents interviewed indicated that compulsory purchase is used, and operates, as tool to convince landowners to sell land to the government. An important additional incentive is that unlike a normal acquisition, based on offers that have already been made by the selling parties, compulsory purchase proceedings make it possible to offer compensation for moving operations of, e.g., the farm to another location. Interviewees also point out that this incentive, in light of the 10%- ceiling to compulsory purchase for biodiversity, triggered implementation of new policy instruments. The province of Overijssel, for example, operated a subsidy scheme between 2009 and 2011 that enabled grant compensation to land owners within the boundaries of the NEN, to relocate their business outside the boundaries of the NEN (Province of Overijssel, 2009, 2011). The subsidy scheme was tailored to European State aid rules (CEC, 2007) and aided the province of Overijssel in avoiding compulsory purchase, a provincial objective in the realisation of the NEN.

Table 6.2. Area of agricultural land, agricultural land transacted, land, for which, an Royal Decree was issued

	Area of agricultural land		Area of land for which a Royal Decree for compulsory purchase was issued		
	total (in ha)	transported (in ha)	total (in ha)	compared to total area (in %)	compared to agricultural land transported (in %)
2007	2073571	29030	1135	0.05	3.9
2008	1960357	27445	756	0.04	2.8
2009	1748214	24475	446	0.03	1.8
2010	1872319	21459	282	0.02	1.3
2011	1858393	20503	267	0.01	1.3

## Chapter 6

The Overijssel case shows that the compulsory purchase instrument and the compensation requirement attached to it, are used in various ways, not only by using the instrument itself. The shadow of potential use of this instrument, therefore, structures the relationships between parties. The decentralisation of the implementation of the NEN, will further widen variation in compulsory-purchase practices, including the shadow cast by potential instrument use; especially now that the 2007 agreements between national government and the provinces has been abandoned and the provinces are no longer bound to a strict interpretation of 10%-ceiling by this agreement and the additional funds. The provinces are still bound to the National Land Policy of 2001, but as indicated above, the 10%-ceiling can be more widely interpreted in this document. Some provinces, like Overijssel, have indicated they will avoid use of compulsory purchase for the realisation of the NEN. Others, including the province of Zuid-Holland, have indicated they will do what is necessary to implement the NEN, even if this would mean exceeding the 10% maximum. The respondents of the province of Zuid-Holland would like to see the NEN as a project, including clear deadlines, rather than upholding the idea of a process, commencing at its own pace *via* voluntary land acquisition. This involves setting a time path for the different parts of the NEN in their province to develop the components within a set timeframe, and by making use of the available policy instruments, including compulsory purchase. This, however, does not involve commencing compulsory purchase for all land immediately, because the current (extended) NEN-deadline of 2021 leaves time for voluntary land purchases in many areas.

### 6.5 Discussion and conclusion

The instrument of compulsory purchase structures relationships between the State and private landowners. It provides rules about what public players can demand from private parties, and it provides insights in the alternative to a negotiated agreement between both parties. The research shows that decentralisation of the ILG-projects to provincial planning authorities, resulted in different implementation strategies between the provinces. Correspondingly, the use of land policy instruments, including compulsory purchase, differs between the provinces. Thus, the relationship between the State and private landowners varies by province, and likewise, the chance that compulsory purchase loosens land availability constraints.

The differences between the provinces are not primarily an issue of technical failure of the instrumentation of the policies, but relate to different choices provinces make between the implementation of the NEN versus the value of private property rights of farmers and other landowners. Some provinces

preferred voluntary land purchases only, others make use of land-consolidation projects (in combination with land purchases) to assemble land for biodiversity conservation and recreational areas, yet others have used compulsory purchase, such as Zuid-Holland or DLG. Although the province of Zuid-Holland (in which the Cities of Rotterdam and The Hague are located) is the most (densely) populated province of the Netherlands and, consequently, it is more complex to implement policies for green areas in this pre-dominantly urban environment, there are also other provinces, such as Noord-Holland (Amsterdam), Utrecht (the City of Utrecht) and Noord-Brabant (Eindhoven, Tilburg, Breda, etc.) where high urban densities contribute to land availability issues that potentially could be addressed by using compulsory purchase. So far, the other provinces have not used compulsory purchase or asked DLG as partner to arrange the compulsory purchase proceedings.

These differences between the provinces endorse the application of the sociological theories of instrumentation, also in relation to legal instruments, in planning processes. Instrumentation structures relationships between authorities and other players, affecting both. These effects do not only relate to factual circumstances, but also to the values that structure decisions and frame public debate relating to public policies. The acceptance of the use of compulsory purchase, to allow a maximum of 10%, did not incorporate stakeholder-doubt about the use of this instrument. The choice to grant compensation (payments higher than the value of property alone) without the use of the compulsory purchase procedure, can be seen as a consequence of the ceiling, in relation to the management agreements drawn up for the implementation of the NEN. Because of the perceived controversial nature of the instruments and the costs of the use of the instruments, governmental agencies often seek other ways to acquire land or implement their objectives. This can be considered an unintended effect of the 10%-ceiling. As such, the relationship between landowner and authority, in relation to property rights and compulsory purchase proceedings, differs between the provinces. In summary, although the compulsory purchase laws apply equally in all proceedings, as does the 10% ceiling, the behavioural choices of different provinces – confronted with biodiversity conservation, recreational objectives, and the protection of property rights – result in incongruent treatment of land owners in different parts of the Netherlands.

In confirmation with Knight et al. (2011), not only land availability, but also available funds, were a considerable constraint to land acquisitions for biodiversity conservation in the Netherlands. In relation to the 10%-ceiling for compulsory purchase, the study shows that both land availability and land affordability are affected by the ceiling. The adopted attitude and ambitions towards conserving biodiversity affected land availability. Although the 10%-ceiling was meant

to open up the discussion, both in national and provincial politics, to use the compulsory purchase tool for nature development, the ceiling, likewise, created a notion to proceed with caution. Many provinces have therefore adopted an implementation strategy without the use of compulsory purchase. Furthermore, the Dutch practice shows that the effects of rules, or in this case an agreement between authorities regarding the use of an instrument, exceed the boundaries of that rule (see also Griffiths, 2003). Compulsory purchase does not only affect the interests of the parties that agreed to use compulsory purchase, or the landowners addressed by this compulsory purchase, but also has a wider impact. This impact is significant as the 10%-ceiling, and its underlying negotiations, influenced not only the affordability of the NEN, but also the implementation of biodiversity objectives in The Netherlands in general.

Land affordability is affected in two manners. Firstly, land affordability is affected by the extra demand for land to be acquired on the market. The budget for the realisation of the NEN, within the Investment Fund for Rural Areas (ILG), is grounded in the principle that in only 10% of the purchases the market value are exceeded by compensation. To minimize the impact on the market, the policy is to acquire less than one third of agricultural land supplied on the open market. The premises that this impact can be minimized in this way can be doubted, i.e., extra demand has an impact on the price (Luijt and Van der Hamsvoort, 2002; Cotteleer et al., 2008; Jongeneel et al., 2012). Besides, in the Dutch context, little agricultural land is available on the market (Korthals Altes and Van Rij, 2005) and closeness to urbanized areas may impact land availability and prices (Cotteleer et al., 2008). Compulsory purchase was not able to overcome this problem, i.e., in the context of low land availability, market prices will rise considerably, if an authority aims to buy a considerable share of the land, adding to the scarcity of land available on the market.

Secondly, the budget did not account for the fact that land-price inflation exceeded the development of the consumer-price index, which affected land affordability. The voluntary nature of the implementation of the NEN has created a lengthy land-purchasing process. The budget – set in 1994 and revised in 2007 and 2012 – is not sufficient to purchase all required plots of land, because the hectares of land became more expensive than expected. The 2012 reassessment of the NEN dealt with this issue by decreasing the number of hectares necessary to implement the NEN (e.g. creating smaller passages). This does not cater (as the interviewees confirm) for payment of compensation for large parts the NEN, affecting land availability.

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Finally, an absolute 10%-ceiling may be less effective than having no ceiling, as a 10%-ceiling must not hamper the conviction that compulsory purchase proceedings will follow, if landowners will not voluntarily sway and negotiate a deal. The advantages of deal making for both landowners and authorities, is that deals provide more room for tailored solutions, including land swaps for alternative sites from the land banks available to the authorities, whereas compensation in compulsory purchase is only monetary.

In conclusion, the 10%-ceiling to the use of compulsory purchase has indeed a longer yardstick, as it made the instrument available and as such effectuated its pressure mechanism in planning processes concerning the implementation of biodiversity objectives and negotiated deals for land transaction. The ceiling did not result in a timely acquisition of the land for biodiversity goals, i.e., the NEN. So, the study shows that the 10%-ceiling has had a considerable effect on the implementation of the NEN, but did not, as intended, increase land availability, or affordability.



## Reflections and recommendations



On paper, land policies are reflections of the willingness and ability of governments to acquire property rights in the public interest. Meaning is given to these policies *via* their implementation and (re)formulation by public stakeholders. Public stakeholders *use* land policies (rules and resources) and land acquisition strategies to acquire land for the delivery of planning objectives in the public interest, and public stakeholders *reproduce* land policies to better serve this purpose. As such, land policies are both aims for and tools in spatial development processes. In both planning- and policy literature, the process of implementation and (re)formulation of land policies, and how (public) stakeholders both are influenced by, and simultaneously influence, land policy dynamics is studied (e.g. Van Dijk and Beunen, 2009; Alterman, 2010; Samsura et al., 2010; Davy, 2012; Hartmann and Needham, 2012; Van der Krabben and Jacobs, 2013). Although insights are gained on the (un)successful delivery of planning objectives, the strategic choices and decision-making processes of stakeholders, and the dynamics of land policies, it is argued that still little is known about stakeholders' strategies, interactions, and decision-making mechanisms or their influence on land policy dynamics. This thesis' objective is to contribute to the scientific and societal knowledge on public stakeholders' decision-making, its underlying mechanisms, and how stakeholders' choices and interactions influence land policy dynamics, as expressed in the following research question:

*On what basis do public stakeholders choose to apply land policies and interact in regional spatial development processes, and how, over time, do these practices influence land policy changes?*

Agency-structure duality (Giddens, 1984) is a key concept in this study and refers to the way, in which, agency is both bound by structure (rules, resources) and is able to reproduce structure. This duality can also be found in spatial development processes. Stakeholders mobilize power when interacting with other stakeholders, but are simultaneously constrained or enabled by structure, i.e. rules and resources (Arts and Van Tatenhove, 2005). Literature (e.g. Nadin and Stead, 2008; Bakewell, 2010; Akram, 2012; O'Boyle, 2013; Stead, 2013) debates the ways that structures frame stakeholders and how

stakeholders deliberately exercise space created by these structures. The analysis builds upon this by using four thematic lenses to study different aspects of the relation between (public) stakeholders' decisions, interactions, and land policy dynamics. The lenses relate to policy implementation and (re)formulation, the differentiation between policy aims and policy tools, the interaction between stakeholders, and the instrumentation of policies. Each of the thematic lenses focuses on a different part of Dutch regional spatial development processes and the decision-making and interactions of the provinces within these processes. The research reveals several interesting patterns and insights into the influence of public stakeholders' interaction (e.g. communication, competition, negotiation, inclusion and exclusion) and choices with regards to land policy dynamics and *vice versa*. The theoretical and methodological approach of the study will now be discussed. Next, it will be revealed what the lenses show. This will be followed by sections that discuss the scientific relevance and the societal relevance of the findings. The reflections and recommendations will be concluded with suggestions for further research.

### **7.1 Methodological reflection**

The studies' empirical orientation, inspired by grounded theory and interpretive analysis, brought the opportunity to study the choices of the stakeholders with an open mind. Stakeholders' interpretation of certain events and processes provided guidance for the collection of data and distilling patterns afterwards. The open-structured interviews allowed the interviewees to talk freely and express their ideas, opinions, and interpretations of the processes and more, in general, on the evolution of spatial development and the planning profession in the Netherlands. The rich and thick descriptions obtained as a result of the different case studies, policy documents analysis, and interviews proved a valuable set of data to derive patterns and subsequently link these patterns to existing theories in planning and policy sciences. Although, the descriptions are detailed, the derivation of patterns meant losing some of the specificity of the data and the richness of the interviewees' descriptions in this thesis' findings.

The use of the lenses improves the collection and triangulation of data in and between the different studied processes and practices. The use of lenses to study both processes of policy implementation and (re)formulation, has enabled focus in the analysis of data, to examine different interpretations of events, and equally, to point out some deficiencies in the collection of data. The additional collection of data on the actual use of the Dutch compulsory purchase procedure is an example of the latter. The additional quantitative data has improved the triangulation of the data derived from the interviews. Interviewees had difficulties estimating the extent, to which, they used the compulsory purchase procedure,

even though they could give accurate accounts of the considerations in use of the instrument. Combining the results of the interviews with the quantitative data increased insight into the way, in which, stakeholders perceive their use of the instrument and the actual use of the instrument. In turn, this shed light on how stakeholders interpret their own choices and the choices of other stakeholders in spatial development processes. Nonetheless, the choice for these specific lenses influenced which case studies are examined and in which direction the collection and analysis of data headed. The advantage of these specific lenses is the focus on content, rather than on methodology. This allowed flexibility and addition of methods throughout the study. A methodological focus, for example, using the different dimensions of the policy arrangement approach, would have framed and narrowed the research earlier in the data collection process. Ultimately, this would have influenced the richness of the collected data negatively and would have derived different knowledge on land policy dynamics. This knowledge would, for example, be more focused on the policy arrangement, policy change and stabilisation, or the influence of certain structures on agency. The research would have been less focused on the agency of individual public stakeholders, how they comply with their institutions and organisations, or how they decide on land policy strategies to deliver planning objectives in the public interest.

Each lens required a different sort of understanding of land policy processes, and, therefore, needed a different sort of case to meet the objective of the lens. The variety of cases, e.g. provinces, development processes, compulsory purchase procedures, had both advantages and disadvantages. Most importantly, the variety allowed collection of wide-ranging empirical data, all adding to the understanding of the phenomenon of land policy dynamics. Simultaneously, the wide-ranging empirical insights made comparison between the cases difficult. For instance, a study of four or five spatial development processes in different provinces would have allowed a more structured comparison between different practices. This would, however, have reduced the understanding of the choices of provinces or the instrumentation of a single policy instrument. In relation to this thesis' objective the latter was more important, which resulted in a wider variety of cases to understand the studied phenomenon, even though it compromised a vigorous and in-depth comparison between the cases. Nevertheless, the choice for these lenses, and the coherence between them, was deliberate. The focus on both land policy implementation and (re)formulation increased the understanding of the cyclic policy process as put forward in the policy-action continuum, see Figure 1.1. Furthermore, the additional differentiation between policy aims and policy tools and between interaction and instrumentation, allowed elaboration on specific aspects of this cyclic process. Especially, how these aspects affected the cyclic process and to what extent public stakeholders contributed to these effects *via* their land policy strategies.

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Choosing the agency-structure duality (Giddens, 1984) and the policy arrangement approach (Leroy and Arts, 2006; Liefferink, 2006; Veenman et al., 2009) as the thesis' theoretical analytical basis proved very useful in examining the creative space of stakeholders and how stakeholders are constrained or enabled by public policies and larger societal structures. There is, however, one remark to be made in relation to the concept of power. In the division between different dimensions (actors, rules, resources, discourse), power is linked to resources. During the analysis of the land policy arrangement, this conceptualisation of power proved insufficient. The experiences acquired during this research suggested that power should also be placed along with the 'rules of the game'-dimension. Whilst land policy instruments can be considered resources in spatial development processes, their application in these processes exceeds their use as resources. This is shown, for instance, in the examination of the ways that compulsory purchase pressures stakeholders long before the actual procedure commences. Furthermore, the 10%-ceiling initiated provinces to seek other resources and instruments to deliver nature conservation objectives. This suggests that the power of (in)formal rules exceeds the resources-dimension. Therefore, power has been placed under both dimensions.

Although the methodological choices of the research had its advantages to study land policy dynamics and stakeholders' choices and interactions, the methodology also had its limitations. Firstly, the focus on one specific country made the study highly context-dependent. Even though case studies, and interpretative research in general, led to in-depth understanding of specific social phenomena, which cannot be understood by 'general rules', this type of research design does lead to context-dependent understanding of a phenomenon (Yanow 2000; Flyvbjerg, 2001, 2006). Comparison of the patterns, distilled in the study, to International literature on land policy dynamics, interaction, etc., enhanced the International comparative character the study. Likewise, the patterns added to the scientific understanding of the phenomenon, partially overcoming the context-dependency of the study. Secondly, the study was limited in the collection of data on the land transactions in the spatial development processes of Lingezege Park and Bloemendalerpolder. Also, the insight into the actual number of hectares of land acquired compulsorily in the Netherlands was limited. As the data was not publically available or free of charge, it was not possible to acquire this data. Even though the interviewees provided detailed insights into the choices of public stakeholders, the additional data would have further enriched the study and the valorisation of interviewees' interpretation of the processes and choices.

## **7.2 Land policy dynamics and stakeholder (inter)action**

The land policy arrangement rapidly changed from the 1980s onwards, shortening periods of stabilisation, as the analysis of stabilisation and alterations in the land policy arrangement indicates. In other words, the content and organisation of the particular policy domain was unstable and altered over time (Arts and Leroy, 2006). According to Arts and Leroy, new stabilisation occurs after alteration in one or several of the dimensions of the policy arrangement, i.e. discourse, rules, resources, and actors. For land policies, these new stabilisations occur after changes in the political discourses, the effectuation of these changes *via* regulation and instruments, and the increased selectivity of national government as illustrated in Chapter 3. The change to a more market-led system and the slow effectuation of land policy instruments particularly influenced the subsequent spatial development processes and the implementation of land policy tools. The political decision to enable private stakeholders and, over time, empower the regional public stakeholders, changed the land policy arrangement and decreased stability in the arrangement.

The changes in the land policy arrangement from the 1980s onwards, empowered private developers and constrained and changed the agency of public stakeholders. The changes enabled private stakeholders to invest in land without major risk-taking. Land ownership is highlighted as an important strategy in several analyses, as it changed the course of spatial development processes. Simultaneously, the changes constrained the agency of public stakeholders involved in urban development. Initially, this change did not influence the agency of the provinces, as they mainly focused on rural land development. When the provinces became involved in spatial development processes that included housing in the 2000s, they were constrained in a similar way as the municipalities experienced in urban developments. Not only were the provinces constrained by the property rights of involved private developers, but also by their lack of knowledge and skills in these processes. In the Lingezege Park case, for instance, difficulties occurred when local land owners were not willing to sell their land, and the preconditions for the compulsory purchase procedure were not met due to failures in the negotiations prior to this procedure.

The novice position of the provinces in spatial development processes was also indicated by their lack of reflection on land policy and planning objectives as their agency increased. The provincial councils lacked debate on their increased autonomy, planning tasks, and planning objective delivery within the multilevel governance setting. The provinces did not opt for regulatory strategies or objective delivery *via* the local planning level, which could have made them less dependent on land acquisition strategies and land ownership to deliver planning

objectives in the public interest. Furthermore, the strategies used by the regional planning authorities are similar to those used by other governmental authorities at the national- and local level, strengthening the idea of path dependency of institutions and stakeholders. Consequently, the land policy instruments may not have improved the delivery of planning objectives, and may even have compounded local failures in the delivery of planning objectives, as shown by the analysis of the (re)formulation and implementation of (new) land policy tools at the regional planning level.

When extending the reflection to the (re)formulation of land policy tools and their subsequent implementation in spatial development processes (instrumentation), the findings show that all the provinces considered the use of new land policy instruments. In essence, the provinces deliberated if the use of the instruments would improve their power in spatial development processes. Politics and provincial culture are found to be most important in the considerations to use direct development strategies, as shown by the barrier and opportunities of direct development strategies. Based on their deliberations and political decision-making, some of the provinces changed their strategies, others did not. Several of the provinces which already adopted a more direct development strategy, and cooperated with both public- and private stakeholders, felt that their positions and practices were strengthened by the instruments. Alternatively, the provinces with a regulatory strategy or who focused on delivery of planning objectives *via* cooperation with other public stakeholders, did not perceive the new instruments as a necessity. As such, differences in spatial development processes and the delivery of planning objectives *via* these processes, is a result of provincial choices and not the technical failure of the instrumentation of policies. However, the instrumentation of policies did influence the interaction between stakeholders, the delivery of planning objectives, and the land policy strategies public stakeholders chose to implement the objectives. This is, for example, shown by the pragmatic installation of the 10%-ceiling to compulsory purchase for nature conservation objectives by national government. Provinces made tailored solutions to deal with the 10%-ceiling and the (political) reluctance to acquire land compulsorily in the first place. The findings put forth that the 10%-ceiling did not lift the constraints of land availability for nature conservation at the regional planning level, in fact, that it even hampered the pressure public stakeholders could apply in negotiating deals with land owners.

In relation to these negotiations, and other forms of interaction in spatial development processes, the strategies and choices of public stakeholders are dependent on these interactions to come to a negotiated deal. The cases of Lingezen Park and Bloemendalerpolder show how the provinces adapted their strategies to meet the objectives of other (public) stakeholders in the consortia, or

to force the delivery of the planning objectives in these development processes. The Lingezegeen Park development had a top-down approach, but whilst the province initiated the project, it closely cooperated with national governmental agencies and local municipalities to secure the redevelopment of the area and acquire the land needed for the development of the park. In the Bloemendalerpolder development, the consortium consisted of both public- and private stakeholders. Many of the participating private stakeholders owned land in the polder, as a strategy to gain access to the urban development of the polder. Initially, the province was the leading stakeholder and used its power, and direct development strategies, to force municipalities to cooperate in the project. The economic setback in 2008 changed the strategy of the province. Land ownership of both the public- and private stakeholders constrained the partnership and led to mutual dependency to redevelop the polder and to prevent financial losses. This realisation made all stakeholders cooperate, and made them seek for mutual attractions in the process, rather than competition, to deliver the planning objectives and interests of private developers *via* the spatial development process.

### **7.3 Path-dependency, rationality, and stability in land policy dynamics**

There are several patterns to distil as the contribution of the research to planning and policy sciences, when combining the findings derived from the different empirical insights. These patterns include (1) path-dependent decisions of public stakeholders in spatial development processes, (2) the need to differentiate between the use of public policies and property rights by public stakeholders in spatial development processes, and (3) stabilisation and change at the basis of land policy dynamics.

#### ***Path-dependent decisions of public stakeholders in spatial development processes***

Public stakeholders do not fully utilise the creative space they have, even though land ownership has increased their space of in spatial development processes. Both path-dependency and habits or unconscious behaviour have decreased the space that public stakeholders operationalise. The analyses show patterns of habit and path-dependency, as stakeholders relate to the dominant planning culture and the political paradigms of the provincial council when they seek political approval. Thereby, they rule out certain other strategies which might be equally successful, but which do not fit the (political) visions of, for instance, an institution willing to cooperate with private developers or land owners in spatial development processes. This shows that stakeholders do not always utilise their

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creative space, but do act out of habit or (un)consciously adapt to the culture of the organisation. As such, institutional path-dependency is part of the structures that enable or constrain public stakeholders in using certain strategies or land acquisition practices. This thesis, therefore, joins with the critics on the theory of Giddens (1984), for instance, expressed by Wang (2008), Bakewell (2010), and Akram (2012), and concludes that agency does not always consciously or deliberately utilise structure.

Three different factors are at the basis of every public stakeholder's considerations to use a set of land policy strategies: culture, politics, and wealth. Various public planners base their strategies on the likelihood that their political councils will approve of their plans, largely to keep procedures running swiftly. This means that they take into account decision-making in previous spatial development processes, thereby, reinforcing previous decision paths, and enhancing path-dependency. In their search for approval of their strategies, public planners rely on strong politicians to push forward alternative strategies not conformant to the dominant planning culture of the institution. If these politicians lack strong leadership, strategies keep within the dominant culture. Wealth also motivates change or the use of direct development strategies. Several of the Dutch provinces sold their shares in energy companies, leaving them wealthier than others who did not hold such shares. The provinces that sold their shares are more willing to invest a portion of their funds in experimenting with direct development strategies. The differentiation in funds and strategies between public stakeholders and within different spatial development processes is, however, not by definition a negative feature. Planning objectives do get implemented, although according to the planners involved, not always most efficiently or effectively. The provincial evaluation of the (un)successful delivery of planning objectives leads to varied utilisation of structure and of the operationalisation of creative space between spatial development processes, resulting different strategies for different practices. For instance, between the implementation of land uses (e.g. infrastructure and nature conservation), between different locations (e.g. Bloemendalerpolder and Lingezege Park), or in the use of land policy instruments (e.g. when compulsory purchase is used).

Furthermore, the strategic use of land ownership by public stakeholders is reoccurring, as land ownership increases the creative space, and the power, public stakeholders can mobilize in spatial development processes. Solely reliance on instruments proved insufficient to provide for socially-desirable land use, especially if the pressure on land was high and the desired land use non-profitable, for instance, in nature conservation. In these situations, regulatory planning power was inadequate and direct development strategies were necessary to provide for the desired land uses. However, this resulted in a pattern of active land acquisition

and direct development strategies to provide for objectives in the public interest. This pattern of active land acquisition by public stakeholders seemed legitimate in the eyes of the interviewees to provide for the public interest, but it is also less transparent than operating with regulatory strategies. However, this might also be an advantage for planning authorities. Planning authorities are faced with an increasing amount of regulation, which can both constrain and enable their agency, or result in unintended effects. Land ownership, on the other hand, provides direct power over the disposal of land, creating more possibilities to swiftly act in the public interest. Especially when local or regional politics allow for public land development companies within their organisation, operating with their own (revolving) funds, or setting up a system of land banking.

***The rationalities of public stakeholders' use of public policies and private property***

Public stakeholders should understand the use of policy tools and property rights in spatial development processes as different rationalities, which need to be more strictly separated in spatial development processes, as they are based on different core principles. Public stakeholders use both land policy instruments and land acquisition strategies to deliver planning objectives in the public interest. Nowadays, direct development strategies, including both operationalisation of policy tools and land acquisition, are seen as valid choices to deliver objectives in the public interest. However, these ownership-led strategies are not undisputed, and can even be considered controversial, as they reach far beyond the neo-liberal ideas of market regulation as primary task of governments (Pigou 1932; Webster, 1998; Webster and Lai, 2003; Buitelaar, 2007). Nevertheless, public planning is more ambitious than correcting for market imperfections or externalities. Planners pursue an agenda to reshape sustainable spaces, deliver prosperity, and progress Society, thereby, formulating planning objectives for the protection of natural spaces, promoting economic growth, and advocating social justice (e.g. Campbell, 1996; Albrechts, 2004). These planning objectives are delivered in spatial development processes with the support of the land policy and land ownership, and bring together different clustered, overlapping, or competing policy domains.

Public stakeholders view private property as an extension of their public powers and as a way to lengthen their 'yard stick' for planning objective delivery in the public interest. The decision to interfere in property rights is often viewed in line with public policy instruments. For instance, as voluntary land acquisition, or at least starting negotiations with private land owners, is a precondition to start the compulsory purchase procedure; which leads them to believe, land acquisition is yet another tool in the planners' toolkit in spatial development processes. This perspective on property rights collides with the social perspectives that these

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rights are the outcome of establishing societies and the exchange of individual freedom for citizen rights and responsibilities, including property rights (Davy, 2012). When property rights become tools in planning processes, the boundary between private rights and the public interest fades, whilst property rights reflect individual's homes, businesses, incomes, and investments. Therefore, the use of public land policy instruments and property rights should be understood as two different rationalities, each with their own core principles and place within Society.

The difference in core principles of the use of public policy and private property in spatial development processes is summed up in Table 7.1. The different principles in the table are derived from this thesis' core concepts, including agency, structure, and interaction. As identified above, there is a difference in planning scope, in which, public policies relate to plan-led planning, private property strongly relates to ownership-led planning. Although the latter is considered controversial, at least in Dutch spatial development, both forms have converged. Using property rights as public resources to deliver planning objectives in the public interest is in essence ownership-led planning. Planning can be considered ownership-led when public stakeholders plan in favour of one land owner, namely the State (i.e. the public interest). The emphasis that is put on land ownership in spatial development processes, and how both public and private stakeholders acquire land prior to the establishment of the regulatory land use plan, indicates plans could favour ownership of the State. Secondly, relating to the structural properties of rules and resources, both rationalities have different legal origins and rely on different resources. Public policy is regulated in public law, while private property is regulated via private law. Additionally, public policy relies on authoritative resources directed at the co-ordination of the activity of human agents, while the use of private property is considered allocative, directed at the control over material products or aspects of the material world. This also influences if, and how, stakeholders can operationalise these properties. Public policies are less accessible to private stakeholders, whilst land ownership is equally accessible to public- and private stakeholders. When considering agency and interaction, public policies often constrain both public- and private stakeholders, while private property increases the ability to exercise creative space. This in turn also affects how stakeholders interact in development processes, whilst public policies are instrumental and have a strong regulatory component, private property is competitive and leads to negotiations in spatial development processes. If planners fail to distinguish between these differences, or even view property rights as instrumental, this hampers well-considered interference in private rights for the public interest.

Table 7.1 rationalities of public policy and private property in spatial development processes

<b>Principles</b>	<b>Rationalities</b>	
	<b>Public policy</b>	<b>Private property</b>
Planning scope	plan-led	ownership-led
Law (rules)	public	private
Sort of resources	authoritative	allocative
Control over resources	public	public and private
Accessibility to stakeholders	low (public only)	high (inclusive)
Use of agency	constraining or enabling	enabling
Interaction	instrumental	competitive (negotiation)

#### ***Stabilisation and change at the basis of land policy dynamics***

Land policy dynamics are cyclic processes which are influenced by multiple factors and take place in several arenas. As spatial development processes and policy debates occur simultaneously and throughout time and space, land policy dynamics are continuously influenced, which is visualised as a cyclic process. To understand how land policy arrangement stabilise or change, it is relevant to distinguish between several processes, which each have their own pace and dynamics in the cycle. Spatial development processes (policy implementation) have a different time span as policy (re)formulation processes. Moreover, whilst occurring simultaneously, these processes take place in different arenas. As such, different stakeholders decide on the (re)formulation of land policies and the implementation of land policies.

Nevertheless, stakeholders influence stabilisation and changes in land policy arrangements. Not only do stakeholders influence these dynamics via spatial development processes, but also *via* their influence on larger societal processes and changes in adjoining policy arrangements. When examining the pressure public- and private stakeholders in spatial development processes are able to put on the land policy dynamics, the findings show that their influence primarily lays in the adaptation and implementation of the land policy tools. Public stakeholders have (re)formulated land policy instruments several times to adapt to changes circumstances in spatial development processes, such as market-led development. Furthermore, both public- and private stakeholders have been able to implement their (planning) objectives with the support of these instruments, whereby the instrumentation of policy tools does not always occur as intended when policies

are (re)formulated by public stakeholders. In relation to (re)formulation of land policy tools, the fact that politicians do not want to 'sear their wings' on the topic of compulsory interference in private rights, results in slow effectuation of policy instruments and constrains public stakeholders in spatial development processes. This does, however, indicate interference in property rights for the public interest is still a delicate topic outside the planning arena.

Besides the influence stakeholders have on the arrangement, changes in the arrangement are the result of (re)formulation of adjoining policy arrangements. As land policies provide support to implement planning objectives, these adjoining policy arrangements influence the planning objectives, for which, land is needed, how land policies will support the implementation of these objectives, and how markets need to be regulated to stimulate or restrict certain actions of stakeholders. Stabilisation or change in land policy arrangements is, therefore, reactive to stability and change in these adjoining policy arrangements. For this reason, the legitimisation to interfere in private property rights as basis of the normative model of land policies, does not change due to stakeholders actions in spatial development processes but as a result of stakeholders influence on larger societal processes, i.e. economic growth, social justice, sustainable spaces. How planning objectives in the public interest are decided upon, and how governments decides to implement these objectives, has a far reaching influence on land policy dynamics.

#### **7.4 Relevance for spatial development practice**

The findings have several implications for stakeholders interacting in spatial development processes, and governmental planning authorities seeking to deliver planning objectives *via* the interference in private property rights. The societal relevance and recommendations for development practices are grouped under four headings: trial-and-error, time, autonomy, and the evolution of spatial development.

Firstly, public planners and politicians should realise that they operate under different rationalities when applying land policy tools or using land acquisition. Both demand different knowledge and skills to operationalise, and address private land owners in a different manner (i.e. more competitive or more protective). Provinces continuously use trial and error strategies for the delivery of planning objectives and the operationalisation of land policies to support the delivery. Strategies are adapted continuously to guarantee successful delivery of (public) planning objectives. This is a result of shortened stabilisation of land policy arrangements, continuous differentiation in stakeholder's interests

and strategies in spatial development processes, and the competitive relation between stakeholders. A similar process was witnessed by Gerber (2012) in his examination of strategic behaviour of non-governmental organisation opting for nature conservation in Canada. Adaptation of strategies is a necessity, but it hampers the ability to learn from previous processes. Stakeholders should either search for planning approaches that are not system dependent to improve the ability to learn, or find ways to diminish the competitiveness of public- and private stakeholders.

The trail-and-error strategies of public stakeholders not only affect public stakeholders, but also have effect on private stakeholders. Active land acquisition strategies, lengthy development processes, and abundant planning objectives, make it difficult for private land owners to gain insight into the moment that their land is needed in the public interest. Alongside this, they do not know whether this might involve a voluntary negotiated deal or compulsory acquisition of the land. This subsequently influences the willingness of stakeholders to sell their land, as, for example, shown in the Lingezege Park case, where consultations between land owners and public authorities were broken off. More transparent development processes, less lengthy projects with clear boundaries, and timely insights in planning procedures and land acquisition strategies (including compulsory purchase procedures) could improve the cooperation of different stakeholders when land is needed in the public interest. This includes how transparent public stakeholders operate in relation to their interference in private property rights and if land owners are fairly compensated for their losses. As expressed, land policies reflect upon and legitimise how far governments are able and willing, to go in pursuing the public interest *via* the interference in private property rights. Legitimization of choices is a necessity, especially in relation to proportional interference in private property rights and just compensation (Van der Molen, 2013). As land policies are given meaning *via* their implementation in spatial development processes, the legitimisation of choices is not limited to the policy documents themselves, but also involved the decisions and (inter)actions of public stakeholders during spatial development procedures.

This raises the second point, how lengthy development processes distort land policy dynamics. Policy (re)formulation affects development processes, as policy implementation and (re)formulation occur simultaneously, and spatial development processes often span a long period of time. New regulation and the division of budgets and planning tasks between different planning authorities influences the strategies stakeholders choose to deliver planning objectives. As such, there is an incongruity in the perception of time in spatial development processes and the direction, in which, Dutch land policy is heading. The focus on direct tools to interfere in property rights would imply politicians and planners seek

swift delivery of planning objectives. However, the focus of spatial development processes provides a different reality, as these are defined as processes and not as projects. Deadlines for meeting policy targets are set for 30 years ahead in time and the delivery of planning objectives can take decades. This is, for instance, influenced by the political desire to not influence the market in land for the delivery of nature conservation and recreational objectives. Even though, land acquisition by public stakeholder will always influence the land market to some extent, for instance, as the result of transaction costs or rising land prices due to acquisition of several parcels of land in the same area. As such, the decisions to implement planning objectives with the support of land policies over a prolonged period of time, is affected by the (re)formulation of land policy tools. Which eventually distorts the relation between policy implementation and (re) formulation, and might mean the policy arrangement cannot stabilise.

Thirdly, regional planning authorities need to be aware of their creative space and to consciously consider whether or not a larger part of their creative space could be and should be utilised. In examining the choices of strategies of the regional planning authorities in the Netherlands, and in essence how they build their identity, it was fascinating to observe how their strategies mirror those of the national and local planning authorities to a certain extent, see Figure 7.1. For those more rural objectives, e.g. nature conservation, recreation, spatial quality, the strategic choices closely relate to the land development strategies of the (former) Ministry of Agriculture, Nature and Food Quality and the National Governmental Service for Land and Water Management (*Dienst Landelijk Gebied*) previously responsible for the delivery of these objectives. Similarly, the delivery of urban objectives closely depicts the direct development strategies practiced by the municipalities. This, of course, is very understandable, as the provinces closely cooperate with both national- and local governments to deliver the objectives, and when considering successful strategies of the other governmental tiers in the past. However, it also suggests that when it comes to spatial development, the provinces are still in search of their own identity. Although the public stakeholders use new instruments at hand to strengthen their existing strategies, they do not perceive new instruments as part of their increased autonomy. Thereby, they miss the opportunity to adopt a more comprehensive strategy towards the delivery of planning objectives, not solely focusing on their own capabilities but also on those of other planning levels. As such, the regional stakeholders do not utilise their creative space to its full potential. It could be suggested that, given the opportunity, changes to land policy instruments should be accompanied by a similar discussion related to the division of tasks between governmental planning tiers. This could involve deviation from the path taken to this moment, and reconsideration of the direct development strategies and regulatory planning activities.

In relation to the previous point, a last trend can be distilled as a rural-to-urban movement. When viewing this regressive movement of urban development in relation to development of urban agriculture and guerrilla gardening in Cities, one could argue the urban-to-rural movement is reversing. The merger of both rural- and urban development in the Netherlands originates from integrative aims to secure multiple planning objectives in a single process in a more cost-efficient manner. Furthermore, the merger was inspired by the growth of Cities, expanding to the urban fringe and the rural surroundings. The regional planning level, in this respect, is increasingly sought to deliver the integrated planning objectives (Allmendinger and Haughton, 2010; Janssen-Janssen and Hutton, 2011; Stead, 2013). Due to the recent economic setback and population decline in several parts of the Netherlands, voices are behind reconsidering further expansions in the urban fringe and focus planning efforts at the redevelopment of inner-cities or brown-field locations (see for example, Janssen-Jansen et al., 2012). In the coming decades, the public interest could (once more) focus on urban quality, green space in Cities, and sustainable development, thereby, creating a new rural-to-urban movement. This new movement requires different consideration of the interference in private property rights, as the ownership situation in Cities is much more scattered than in the rural surroundings. Furthermore, it would be fascinating to observe how the movements between rural- and urban land development, as sketched in Figure 7.1, would develop. If rural land development (partially) continues its descending motion to the local level, or if urban land development would more and more become a regional planning activity. Additionally, in relation to governance settings and regulatory planning, which planning levels would interact in the implementation of the new rural-to-urban planning objectives in the public interest and whether these planning levels would opt for regulatory planning, using restrictions and incentives, or if they would once more rely on direct development strategies and active interference in (scattered) property rights. And finally, what effects the rural-to-urban movement will have on the land policy dynamics.

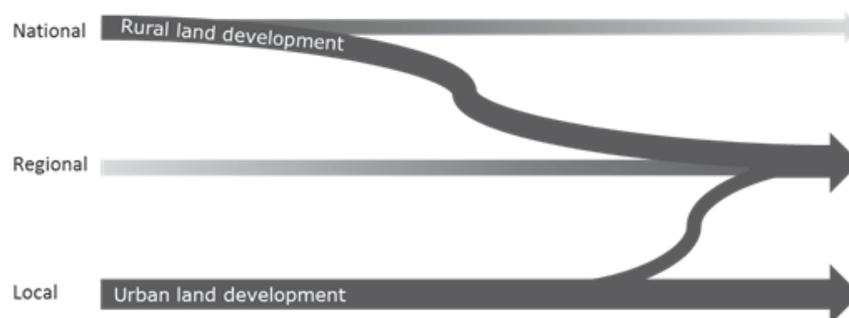


Figure 7.1 new division of planning tasks between Dutch tiers of government

### 7.5 Suggestions for further research

Firstly, there are two methodological choices which leave open questions to address in further research. One is related to the choice to look at a single planning context, the second relates to the choice to focus on qualitative empirical research. To complement this research, it would be fascinating to study similar events and land policy dynamics in other planning contexts. This would increase insight into the capability to model stakeholder decision-making behaviour: how, and to what extent, stakeholders' utilise their creative space in other planning contexts and under different property rights regimes. As for different research approaches, this thesis took a broad approach in collection of data and studying different cases. To understand the rationale behind stakeholder strategies and to fully comprehend to what extent the decision-making behaviour of stakeholders is rational, it is essential that additional research will study individual land transactions or the sociological and political reasoning resulting in specific stakeholder's actions.

Secondly, studying the political arena, in which, decision-making is dependent on political coalitions and windows of opportunity provides an additional perspective to research focusing on land policy dynamics from the perspective of active stakeholder strategies. This would add to the comprehension of land policy dynamics and help answer the questions about the ways, in which, land policies gain stability or alter due to certain political decisions. Additionally, research examining spatial planning processes where governmental authorities choose to implement objectives solely *via* the regulatory restrictions or positive incentives, may add to the current findings on direct development strategies that are used by governmental authorities to acquire land (compulsorily) from land owners. Such a study would not only provide additional insights in land policy dynamics, but could also increase the understanding of the different rationalities of stakeholders' use of public policies and property rights in such regulatory processes.

Thirdly, examining the relation between land policy dynamics and economic tides could reveal additional patterns in stability and alteration the arrangement of land policies. This would add to understanding reoccurring patterns in the arrangement in relation to the philosophies of property rights, social welfare, and market-led development. This thesis' findings suggest both the economic crisis of the 1970s and the flourishing times of the 1990s have affected how public- and private stakeholders use property rights to mobilize power in spatial development processes. Still, the effects of the 1970s crisis did not stop municipalities from acquiring land and investing in urban development processes, which resulted in similar, and even more extensive, effects in the current setback. Additional analyses could highlight how path-dependent governments operate after the current crisis, and if public stakeholders, once again, proceed towards direct development strategies and ownership-led planning.

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## Appendix A. List of interviewees and their use in different chapters

A: face-to-face interviews;

B: interviews *via* telephone;

C: panel discussions;

D: informal talks;

E: face-to-face interviews collected by MSc thesis student

<b>List of 17 interviewed provincial governmental officers</b>					
<b>Mark</b>	<b>Date</b>	<b>Province</b>	<b>Unit</b>	<b>Profession</b>	<b>Chapter</b>
A1	6-5-2010	P1	area development and land affairs	sectoral manager	3,4,5
A1	8-12-2010	P1	area development and land affairs	sectoral manager	3,4,5
A2	11-2-2011	P2	spatial planning and ILG	sectoral manager	3,4,5
A3	25-2-2011	P3	area development	policy advisor	3,4,5
A4	28-2-2011	P4	land affairs	sectoral manager	3,4
A5 A6	4-3-2011	P5	land development and real estate	project leader policy advisor	3,4
A7	4-3-2011	P6	land affairs	plan economist	3,4
A8 A9	8-3-2011	P7	real estate spatial planning, land policy	project leader policy advisor	3,4
A1	9-3-2011	P1	area development and land affairs	sectoral manager	3,4,5
A10 A11 A12	10-3-2011	P8	land affairs	policy advisor plan economist team leader	3,4
B1	11-3-2011	P9	spatial planning projects	policy advisor	3,4
C1	14-3-2011	Panel discussion with multiple provincial officers			3,4
A13	16-3-2011	P10	spatial planning, land policy	land manager	3,4
A14 A15	17-3-2011	P11	land development and land affairs	sectoral manager coordinator	3,4
D1	6-4-2011	P8	agriculture, nature, landscape	policy advisor	3,4,6
A15 A16	7-2-2013	P11	land development and land affairs	coordinator legal advisor	3,4,6

<b>List of 5 interviewed experts</b>				
<b>Mark</b>	<b>Date</b>	<b>Organisation</b>	<b>Profession</b>	<b>Chapter</b>
A18	28-4-2010	government service for land and water management (DLG)	account manager	3,4,5,6
A19 A20	4-5-2010	Netherlands environmental assessment agency	senior researcher senior researcher	3,4,5,6
A21	1-3-2012	government service for land and water management (DLG)	account manager	3,4,5,6
B2	23-2-2012	government service for land and water management (DLG)	strategic advisor	6

<b>List of 10 additional interviewed stakeholders for both spatial development cases</b>					
<b>Mark</b>	<b>Date</b>	<b>Case</b>	<b>Organisation</b>	<b>Profession</b>	<b>Chapter</b>
A22 A23	25-1-2010	1	municipality	alderman policy advisor	5
A25	26-2-2010	1	province	sectoral manager	5
A26	21-4-2010	2	government service for land and water management (DLG)	account manager	5
A27	26-4-2010	2	national property development agency (RVOB)	strategic advisor	5
E1 E2	19-4-2012	2	municipality	alderman policy advisor	5
E3	3-5-2012	2	national property development agency (RVOB)	strategic advisor	5
E4	23-5-2012	2	private property developer	strategic advisor	5
E5	29-5-2012	2	province	executive	5

## Summary

Property rights are part of planning systems and assist to weight individual rights to the need for land in the public interest. Alongside the constitutional framework, which determines the rights in land and how these rights can be circumvented, governmental agencies formulate land policies to determine how and when to interfere in these rights in spatial development processes. Land policies are normative models that reflect upon, and legitimise, how far governments are able and willing to go in pursuing the public interest *via* interference in private property rights. On paper, land policies reflect the considerations of governmental authorities between private rights and the public interest. Meaning is given to these reflections *via* the interaction of public- and private stakeholders, strategically applying land policies in spatial development processes. Public stakeholders *implement* land policies (rules and resources) to acquire land for the delivery of planning objectives in the public interest, and public stakeholders *(re)formulate* land policies to better serve this purpose. As land policies support the delivery of planning objectives in the public interest, they serve as both *aims for* and *tools in* spatial development processes. In planning and policy literature, the process of implementation and (re)formulation of land policies (land policy dynamics) and the influence that (public) stakeholders have on land policy dynamics is studied. However, it is argued that little is still known about stakeholders' strategies, interactions, decision-making mechanisms, or their influence on land policy dynamics. This thesis' objective is to contribute to the scientific- and societal knowledge on public stakeholders decision-making, its underlying mechanisms, and how stakeholders choices and interactions influence land policy dynamics. This is expressed in the following research question: On what basis do public stakeholders choose to apply land policies and interact in regional spatial development processes, and how, over time, do these practices influence land policy changes? The study focuses on regional spatial development processes, as the regional planning level is increasingly required to deliver planning objectives in the public interest. In addition, the study focuses on the strategic decisions of regional planning authorities in the Netherlands' provinces, because Dutch regional planning levels have relatively substantial formal authority.

Agency-structure duality - how stakeholders are both bound by and able to reproduce structure - formed a central concept in the interpretative research design of this thesis. Stakeholders mobilize power when interacting with other stakeholders, but are simultaneously constrained or enabled by these structures, i.e. rules and resources. To what extent structures frame stakeholders' decision-making and how stakeholders deliberately exercise the space created by these

structures is still debated in literature, and as such, form part of the analysis. The analysis builds on four thematic lenses to study different aspects of the relation between public stakeholders' decisions, interactions, and land policy dynamics. Two lenses relate to land policy (re)formulation (policy aims and policy tools) and two lenses relate to land policy implementation (interaction and instrumentation). Each of the thematic lenses focuses on a different part of Dutch regional spatial development processes and the decision-making and interactions of the provinces within these processes *via* case study research. Firstly, the dynamics of the land policy domain in the Netherlands (between 1985 and the present) and the reaction of Dutch regional stakeholders to (re)formulation of policy aims was studied. Secondly, the response of regional planning authorities to the (re)formulation of land policy tools was examined and how the provinces have implemented changes as the result of the 2008 Spatial Planning Act. Thirdly, it was observed how stakeholders implement policies and interact with other stakeholders in (regional) spatial development processes (Lingezege Park and Bloemendalerpolder). Fourthly, the instrumentation of land policies was analysed and the effects of instrumentation on the delivery of planning objectives were examined, in particular, the instrumentation of the Dutch compulsory purchase tool for the delivery of nature conservation objectives. Data was collected and analysed in an inductive and iterative manner, concentrating on the interpretation of public stakeholders' decision-making and interactions (e.g. communication, competition, negotiation, inclusion and exclusion) with other stakeholders. Empirical data derived from land policy documents, project plans for the cases of Lingezege Park and Bloemendalerpolder, newspaper articles, Royal Decrees of compulsory purchase, and 28 open-ended interviews with various stakeholders and experts in the field of land policy and spatial planning. The research revealed several important insights into the influence of public stakeholders' use of structures, interactions, and their influence on land policy dynamics.

Chapter 3, focuses on policy changes over time and how the (re)formulation of policies influences public stakeholders agency. This chapter emphasises the societal processes that increased provincial planning powers between the 1980s and 2010s, and, which influenced the implementation of planning objectives the assistance of land policy tools. The objective of the chapter was to analyse periods of stabilisation and alteration in the land policy arrangement, and how this affected the strategies of regional planning authorities in spatial development processes. Alterations in the arrangement can occur within four dimensions: discourse, rules, resources, and actors. The analysis shows how the arrangement rapidly changed from the 1980s onwards, shortening periods of stabilisation. The rapid alterations resulted from changes in political discourse, the effectuation of these changes *via* regulation and instruments, and the increased selectivity of national Government in relation to planning objective delivery. The changes

empowered private developers in spatial development processes, as it enabled them to invest in land without major risk-taking. Simultaneously, the changes constrained the agency of public stakeholders involved in these developments as they had to negotiate deals with private developers. Initially, this change did not influence the agency of the provinces, as they mainly focused on rural land development. When the provinces became involved in spatial development processes that included housing in the 2000s, they were constrained in a similar way that municipalities experienced in urban developments. Additionally, the power of the provincial planning level increased when the agency of national Government decreased due to decentralisation and the selection of planning objectives at the national planning level. The chapter concludes that the (re) formulation of land policy has indeed changed the agency of public stakeholders in spatial development processes, in particular, at regional planning level. The findings show that land acquisition strategies have dictated spatial development processes and land acquisition opportunities have added to the power regional governments can mobilize in spatial development processes to deliver planning objectives in the public interest.

Chapter 4 considers policy transformations, and focuses on the adaptation of land policy tools and its effects on the decision-making of public stakeholders. The chapter evaluates the extent to which the introduction of four new regional planning and land policy instruments in the Netherlands has improved the delivery of regional planning objectives. The land policy documents and spatial development practices of the 12 Dutch provinces were studied to identify to what extent the provinces adopted the new instruments, how the new instruments changed the agency of the provinces, and whether or not the instruments offered opportunities to improve the delivery of regional planning objectives. The study shows that all the provinces assessed the use of the new instruments and considered whether use of the instruments would improve provincial planning power in spatial development processes. Based on this assessment, some provinces changed their strategies, other provinces did not. Several of the provinces, which had already adopted a more direct development strategy and cooperated with both public- and private stakeholders in spatial development processes, felt that their positions and practices were strengthened by the instruments. Alternatively, the provinces with a regulatory strategy, and which focused on delivery of planning objectives with the support of other public stakeholders, did not perceive the new instruments as a necessity. The study also identifies barriers and opportunities of direct development strategies and concluded that politics and provincial culture are two important pillars in the consideration to use direct development strategies. Additionally, the study shows that even though provinces considered the use of the new instruments, they did not consider the instruments in relation to the increased autonomy of the provincial planning level. Consequently, land

policy instruments may not improve the delivery of planning objectives, and may even compound local failures in the delivery of planning objectives. The chapter concludes that a more thorough debate of regional planning tasks and planning objective delivery within the multilevel governance setting should be part of the (re)formulation of land policies.

Chapter 5 emphasises the effects of public stakeholders' decisions and interactions on the delivery of planning objectives. The chapter examines the use of land policy tools and land acquisition strategies in two specific spatial development processes in the Netherlands, Lingezege Park and Bloemendalerpolder. In both cases, the province was, at some moment during the process, a leading partner in the development consortia. Furthermore, in both processes, the consortia considered direct development strategies and active land acquisition valid options to deliver the planning objectives for both areas. In the Lingezege Park development, a consortium of public stakeholders opted to develop a regional park to prevent the open space between two large Cities becoming built up. This included the transformation of agricultural land use, to achieve nature conservation objectives and provide recreational opportunities. The project had a top-down approach, but whilst the province initiated the project, they closely cooperated with national Governmental agencies and local municipalities to secure the redevelopment of the area and acquire the land needed for the development of the Park. Difficulties occurred in the process when local land owners were not willing to sell their land and the preconditions for the compulsory purchase procedure were not met. However, successful delivery of the planning objectives is still foreseen in the near future, as the phased development permits infill of the park over an extended period of time and the province secured the budget for the development. The Bloemendalerpolder development was more urban-oriented than the Lingezege Park development. The polder was extracted from the open space policy in the West of the Netherlands to allow some urban development. The restriction for extraction was to limit urban development to 1/3rd of the polder, whilst 2/3rds of the polder would be designated for nature conservation and recreational opportunities. The developing consortium consisted of both public- and private stakeholders. Many of the participating private stakeholders owned land in the polder, as strategy to gain access to the urban development of the polder. Initially, the province was the leading stakeholder and used its planning powers, and direct development strategies, to force municipalities to cooperate in the project. The economic setback in 2008 changed the strategy of the province. To prevent financial losses incurred as a consequence of rent due to the land ownership of both the public- and private stakeholders, the consortia sought new, more cooperative, strategies to deliver the planning objectives in the spatial development process. This chapters' findings show that the strategies and choices of the provinces were dependent upon the interaction between

stakeholders to come to a negotiated deal. In addition, the strategies used by the regional planning authorities are similar to those used by national- and local governmental authorities, strengthening the idea of path-dependency in institutions and amongst stakeholders when adopting (decentralised) planning powers. The provinces did not opt for other, possibly more rational, strategies, which could have increased their creative space and made them less dependent on land acquisition strategies, or negotiated deals to deliver planning objectives in the public interest. Furthermore, the analysis of the cases highlights, once again, the use of property rights as a strategy to gain power in spatial development processes.

Chapter 6 closely examines how stakeholders translate policy aims to policy tools, i.e. the instrumentation of policies and its (un)intended effects on the delivery of planning objectives. The chapter focuses on the instrumentation of the Dutch Compulsory Purchase Act and how this influenced the delivery of nature conservation objectives by the Dutch provinces. The chapter examines if the 10%-ceiling to compulsory purchase for this planning objective could structure the agency of, and interaction between, the landowners and government agencies in such a way that it would relieve the constraints imposed by land availability. The analysis highlights the pragmatic installation of the 10%-ceiling, explains the funnel-shaped process of the compulsory purchase procedure in the Netherlands, and illustrates for which land uses in the Netherlands different governmental authorities choose to acquire land compulsorily. The analysis shows how provinces made tailored solutions to deal with the 10%-ceiling and the (political) reluctance to acquire land compulsorily in the first place. The chapter concludes that the 10%-ceiling did not lift the constraints of land availability for nature conservation at the regional planning level, in fact, that it even hampered the pressure that public stakeholders could apply when negotiating deals with land owners. However, the instrumentation of compulsory purchase for nature conservation objectives, and, in particular, the 10%-ceiling, did influence the interaction between stakeholders, the delivery of planning objectives, and the land policy strategies public stakeholders chose to implement planning objectives.

Chapter 7 brings the different empirical chapter together and reflects on the thesis' scientific- and societal relevance. As a contribution to planning and policy sciences, the thesis identified three patterns. Firstly, agency does not always consciously or deliberately utilise structure. The analyses show that public stakeholders act path-dependently or out of habit. It is argued public stakeholders decide their land policy strategies based on culture, politics, and wealth. Public stakeholders relate to the dominant planning culture and the political paradigms of the provincial council when they seek political approval for their land policy strategies. Furthermore, wealthier provinces opt for direct development

strategies and active land acquisition more easily than those provinces without larger financial reserves. When acting path-dependently, public stakeholders rule out certain strategies that might be equally successful, but which do not fit the (political) visions of, for instance, an institution willing to cooperate with private developers or land owners in spatial development processes. However, the differentiation in land policy strategies is a positive feature, as planning objectives do get implemented in these spatial development processes. In examining the strategies that public stakeholders decide upon, land acquisition is a reoccurring strategy, when solely relying on regulatory instruments is not sufficient to deliver planning objectives. The strategic use of land acquisition by public stakeholders increases their creative space, and the power they can mobilize in spatial development processes. Especially, when spatial development processes concern the implementation of non-profitable planning objectives, regulatory planning powers are insufficient to overcome land availability constraints.

Secondly, public stakeholders should understand the use of policy tools and property rights in spatial development processes as different rationalities, which need to be more strictly separated in spatial development processes, as they are based on different core principles. Public stakeholders view private property as an extension of their public powers, a way lengthen their 'yard stick' for planning objective delivery in the public interest. This instrumental perspective on property rights collides with social perspectives that these rights are the outcome of the establishment of societies and the exchange of individual freedom for citizen rights and responsibilities. Therefore, the use of public land policy instruments and property rights should be understood as two different rationalities, each with their own core principles and place within Society. Public policy instruments and property rights differ in legal grounds, type of resources, accessibility to stakeholders, use of agency, and mechanisms of interaction. Public policies originate in public law and comprise of publically controlled resources, only accessible to public stakeholders, and which constrain and enable public stakeholders in interaction with other stakeholders. Private property originates in private law and comprises of tradable rights accessible to both public- and private stakeholders, and in interactions between stakeholders, these rights lead to competition and negotiations. When planners fail to distinguish between the different rationalities, this hampers considerate- and balanced interference in private rights for the public interest.

Thirdly, land policy dynamics are reactive to stability and change in adjoining policy arrangements. Land policy dynamics are cyclic processes, which take place in several arenas. Different stakeholders decide on the (re)formulation of land policies and the implementation of land policies. As such, both processes – (re) formulation and implementation – have a different pace. As spatial development

processes require a long time span (over 20 years), the (re)formulation of land policies could interfere with the implementation of these policies and *vice versa*. As such, the influence of stakeholders in spatial development processes is not limited to implementation of land policies, but also influences land policy (re) formulation. Stakeholders also influence land policy dynamics *via* larger societal processes (e.g. planning culture, norms, and values), and changes in adjoining policy arrangements. For this reason, legitimisation to interfere in private property rights does not change due to stakeholders' actions in spatial development processes alone, but also as the result of stakeholders influence on adjoining policies, such as infrastructure, housing, and nature conservation policies. How planning objectives in the public interest are decided upon, how governments decides to implement these objectives, and how these objectives are weighted against individual property rights, influences land policy dynamics. For instance, how land policies support the delivery of these objectives, if land acquisition by public stakeholders is necessary to deliver the objectives, and how land markets need to be regulated to stimulate or restrict certain actions of stakeholders in relation to the delivery of the planning objectives.

The recommendations for planning and land policy practices include that public planners should search for planning approaches that are not system-dependent to improve the ability to learn, or have to find ways to diminish the competitiveness of public- and private stakeholders. The continuous trial-and-error strategies of public stakeholders, when seeking to deliver planning objectives, hampers social learning for spatial development practices and transparent (proportional) interference in private rights. In addition, although the provinces use new instruments to strengthen their land policy strategies in spatial development processes, they do not perceive new instruments as part of their increased autonomy. Thereby, they may miss the opportunity to adopt a more comprehensive strategy towards the delivery of planning objectives, including the capabilities of other planning levels and using their creative space to its full potential. It is fascinating to observe how the provinces mirror their strategies to those of the national- and local planning authorities, instead of building their own identity. To strengthen the delivery of planning objectives, it is suggested to engage in discussion not solely confined to the use of new land policy instruments, but also including the provincial identity and planning tasks. This discussion should include the division of planning tasks between governmental planning tiers, the responsibility for the delivery of these objectives *via* provincial- or local planning tiers, and if delivery of planning objectives in the public interest is best served with regulatory interference in private rights or (compulsory) land acquisition by public stakeholders in spatial development processes.



## Samenvatting

In hoofdstuk 1 komt de aanleiding, doelstelling en vraagstelling van deze thesis aan bod. Eigendomsrechten maken onderdeel uit van planningssystemen. Ze zijn van belang bij de afweging tussen individueel grondeigendom en het gebruik van grond in het publiek belang. Naast constitutionele wetgeving, waarin het eigendomsrecht is vastgelegd, formuleren overheden grondbeleid om vast te stellen hoe en wanneer er legitiem kan worden ingegrepen in eigendomssituaties tijdens ruimtelijke planvormingsprocessen. Grondbeleid kan worden opgevat als een normatief model. Op papier zijn grondbeleidsdoelstellingen slechts een afspiegeling van de afwegingen die overheden maken tussen private rechten en het publiek belang. Deze afwegingen krijgen pas betekenis wanneer publieke en private actoren interacteren en grondbeleid strategisch inzetten in ruimtelijke planvormingsprocessen. Publieke actoren *implementeren* grondbeleid (regels en middelen) om grond aan te kopen voor het behalen van planningsdoeleinden in het publiek belang. Daarnaast (*her*)*formuleren* ze grondbeleid om dit doel beter te dienen, samen wordt dit de grondbeleidsdynamiek genoemd. Omdat grondbeleid dient ter ondersteuning van het behalen van andere ruimtelijke beleids- of planningsdoeleinden in het publiek belang, is het beleid zowel een *doel voor als middel in* ruimtelijke ontwikkelingsprocessen.

In planning- en beleidsliteratuur wordt grondbeleidsdynamiek en de invloed van (publieke) actoren op grondbeleid bestudeerd. Desalniettemin, is er nog weinig bekend over de strategieën, interacties en beslissingsmechanismen van actoren, of hoe actoren de grondbeleidsdynamiek beïnvloeden. Het doel van deze thesis is om een bijdrage te leveren aan de wetenschappelijke en maatschappelijke kennis op het vlak van besluitvorming bij actoren, de onderliggende mechanismen, en hoe de keuzes van en interacties tussen actoren grondbeleidsdynamiek beïnvloeden. Dit leidt tot de volgende onderzoeksvraag: Op basis waarvan kiezen publieke actoren om grondbeleid in te zetten en om te handelen in regionale ruimtelijke ontwikkelingsprocessen, en hoe beïnvloeden deze processen veranderingen in het grondbeleid na verloop van tijd? De studie is gericht op regionale planvormingsprocessen, omdat het provinciale beleidsniveau steeds meer verantwoordelijkheden krijgt voor het implementeren van planningsdoeleinden in het publiek belang. Tevens richt de studie zich op strategische beslissingen door de provincies, omdat dit planningsniveau een relatief grote formele autoriteit geniet.

In hoofdstuk 2 wordt de onderzoeksaanpak uiteengezet. Structuratietheorie vormt een centraal concept in de interpretatieve onderzoekopzet van deze thesis. Structuratietheorie geeft aan hoe het handelen van actoren enerzijds gebonden is door structuren (zoals regelgeving, instrumentarium, en financiers) en hoe het handelen van actoren anderzijds deze structuren kan reproduceren. Tijdens planvormingsprocessen mobiliseren actoren verschillende structuren om een machtpositie te verkrijgen over andere actoren. Daarbij worden zij zowel beperkt als versterkt in hun handelen door deze structuren. Publieke actoren worden bijvoorbeeld versterkt in het handelen door de mogelijkheid de onteigeningsprocedure in te zetten, maar ze worden tegelijkertijd beperkt door de wettelijke bepalingen die vasthangen aan deze procedure. Evenzo kan het grondeigendom van een private ontwikkelaar de positie van deze actor in een planvormingsproces versterken, maar de positie van publieke partijen in dit planvormingsproces beperken. In hoeverre structuren de besluitvorming van actoren sturen, en actoren opzettelijk ruimte gebruiken binnen deze structuren, wordt in de literatuur nog bediscussieerd. Dit is daarom onderdeel van de analyse in dit onderzoek.

Om de verschillende aspecten van de relatie tussen de besluitvorming van actoren, de interactie tussen actoren en grondbeleidsdynamiek te bestuderen, beslaat de analyse in deze thesis vier thematische invalshoeken. Twee van deze lenzen relateren aan (her)formulering van grondbeleid (van beleidsdoelen en beleidsinstrumenten) en twee lenzen relateren aan de implementatie van grondbeleid (interactie en instrumentatie). Elk van de thematische lenzen richt zich op een ander gedeelte van Nederlandse regionale ruimtelijke ontwikkelingsprocessen en de besluitvorming en interactie van provincies in deze processen. Dit wordt gedaan door middel van case studie onderzoek. Allereerst wordt de dynamiek binnen het grondbeleidsdomein in Nederland tussen 1985 en heden en de reactie van verschillende provincies op de (her)formulering van grondbeleid in deze periode bestudeerd. Ten tweede wordt de reactie van provincies op de (her)formulering van grondbeleidsinstrumenten bestudeerd en hoe de provincies de veranderingen in het beleid hebben geïmplementeerd als gevolg van de nieuwe Wet ruimtelijke ordening uit 2008. Ten derde wordt geschetst hoe verschillende actoren grondbeleid implementeren en hoe interacties plaatsvinden tussen actoren onderling binnen (regionale) gebiedsontwikkelingen (Park Lingezegen en Bloemendalerpolder). Tot slot wordt de instrumentatie van grondbeleid geanalyseerd en zijn de effecten van de instrumentatie van grondbeleid bekeken in relatie tot het behalen van verschillende planningsdoelen.

In het bijzonder wordt daarbij gekeken naar de instrumentatie van het Nederlandse onteigeningsinstrumentarium voor het behalen van natuurontwikkelingsdoelstellingen.

De data voor het onderzoek is verzameld en geanalyseerd op een inductieve en iteratieve wijze. De focus ligt daarbij op de interpretatie van de besluitvorming en interacties (bijvoorbeeld communicatie, competitie, onderhandeling, betrekken en buitensluiten) van publieke actoren met andere actoren binnen ruimtelijke planvormingsprocessen. Empirische data is verzameld uit grondbeleidsdocumenten, projectplannen voor de cases Park Lingezegen en Bloemendalerpolder, krantenartikelen, Koninklijke Besluiten tot onteigening, en 28 semigestructureerde interviews met verschillende actoren en experts op het gebied van grondbeleid en ruimtelijke planvorming. Het onderzoek onthult verschillende belangrijke inzichten in de manier waarop publieke actoren structuren gebruiken, interacteren met andere actoren en de invloed die publieke actoren hebben op grondbeleidsdynamiek.

Hoofdstuk 3 richt zich op beleidsveranderingen door de tijd heen en hoe de (her)formulering van beleid het handelen van publieke actoren beïnvloedt. Dit hoofdstuk legt de nadruk op de maatschappelijke processen die het provinciaal planningsgezag tussen 1985 en 2014 hebben vergroot en welke de implementatie van planningsdoelstellingen, met behulp van grondbeleidsinstrumenten, hebben beïnvloed. Het doel van dit hoofdstuk is het analyseren van perioden van stabilisatie en verandering in het Nederlands grondbeleid en hoe dit de strategieën van provincies in ruimtelijke planvormingsprocessen heeft beïnvloed. Veranderingen in het beleid kunnen plaatsvinden in vier verschillende dimensies: die van het discours, de regelgeving, de middelen en de actoren. De analyse in dit hoofdstuk laat zien dat het grondbeleid snel veranderde vanaf 1980, waarbij de periodes van stabilisatie steeds korter werden. Deze snelle veranderingen werden veroorzaakt door veranderingen in het politieke discours, het doorvoeren van deze verandering in regelgeving en instrumentarium, en de decentralisatie van de realisatie van ruimtelijke doelstellingen. De veranderingen vergrootten de mogelijkheden voor private ontwikkelaars om actief te worden binnen ruimtelijke planvormingsprocessen, doordat het hen in staat stelde in grond te investeren zonder grootschalige risico's te nemen. Tegelijkertijd beperkten deze veranderingen het handelen van publieke actoren, omdat zij in ruimtelijke ontwikkelingen steeds vaker onderhandelingen aan moeten gaan en deals moeten sluiten met private ontwikkelaars. Aanvankelijk beïnvloedde deze verandering het handelen

van provincies niet, aangezien de provincies zich met name richtten op rurale gebiedsontwikkelingen (ruilverkavelingsprocessen). Toen de provincies betrokken raakten bij meer urbane gebiedsontwikkelingen rond het jaar 2000, werden zij op eenzelfde manier als gemeenten beperkt in het handelen in dit soort ruimtelijke processen. Daarnaast vergrootte het gezag van provincies toen het gezag van nationale overheid verkleind werd door decentralisatie en de afname van ruimtelijke doelen van nationaal belang. In het hoofdstuk wordt geconcludeerd dat de (her)formulering van grondbeleid inderdaad het handelen van publieke actoren in ruimtelijke planvormingsprocessen veranderde, met name op het regionale schaalniveau. De resultaten laten zien dat grondaankoopstrategieën ruimtelijke planvormingsprocessen hebben gedictieerd. Daarnaast laten de resultaten zien dat de mogelijkheid tot het aankopen van grond op provinciaal niveau heeft bijgedragen aan het inzetten van het gezag (of macht) van provincies in dit soort processen en daarmee aan het realiseren van ruimtelijke doelen in het publiek belang.

Hoofdstuk 4 richt zich op beleidstransformaties en focust op de aanpassing van het grondbeleidsinstrumentarium en de effecten daarvan op de besluitvorming van publieke actoren. Het hoofdstuk evalueert de mate waarin de introductie van vier nieuwe regionale plannings- en grondbeleidsinstrumenten in Nederland de realisatie van beleidsdoelen heeft verbeterd. De grondbeleidsdocumenten en ruimtelijke planvormingspraktijken van de twaalf provincies zijn bestudeerd om te bepalen in welke mate de provincies de nieuwe instrumenten hebben opgenomen in het beleid, hoe de nieuwe instrumenten het handelen van de provincies beïnvloeden, en of de instrumenten mogelijkheden bieden om de realisatie van planningsdoelen te verbeteren. De studie laat zien dat alle provincies het gebruik van de nieuwe instrumenten hebben overwogen in relatie tot het verbeteren van het handelen van de provincie in ruimtelijke ontwikkelingsprocessen. Op basis van deze afweging hebben verschillende provincies hun grondbeleidsstrategieën aangepast. Andere provincies hebben besloten dit niet te doen. Verschillende provincies met een actieve ontwikkelingsstrategie en samenwerkingen met zowel publieke en private actoren, hadden het gevoel dat het nieuwe instrumentarium de positie en het handelen van de provincie versterkte. Andersom beoordeelden de provincies met een meer regulerende strategie, die zich richtte op het realiseren van planningsdoelen met de steun van andere publieke actoren, de nieuwe instrumenten niet als noodzakelijk. De studie identificeert verschillende barrières en kansen voor actieve ontwikkelstrategieën en concludeert

dat de politieke en provinciale cultuur twee belangrijke pilaren zijn in de afweging tot het gebruik van deze actieve strategieën. Daarnaast toont de studie aan dat provincies, ondanks dat ze de inzet van het instrumentarium afwogen, zij dit niet deden in relatie tot de toegenomen autoriteit van het provinciaal planningsniveau. Als gevolg kunnen de nieuwe instrumenten niet het gewenste effect hebben op de verbetering van het realiseren van planningsdoelen. In sommige provincies leidde het nieuwe instrumentarium ertoe dat het falen in het realiseren van beleidsdoelen zelfs werd versterkt. Het hoofdstuk besluit met een aanbeveling dat een meer holistisch debat over regionale planningstaken en realisatie van beleidsdoelen binnen de '*multi-level governance setting*' onderdeel moet vormen van de (her)formulering van grondbeleid.

In hoofdstk 5 worden de effecten van besluitvorming en interactie van publieke actoren op het realiseren van planningsdoelen besproken. Het gebruik van grondbeleidsinstrumenten en grondaankoopstrategieën in twee specifieke gebiedsontwikkelingen in Nederland, Park Lingezegen en Bloemendalerpolder, wordt onderzocht. In beide projecten had de provincie, gedurende een deel van de ontwikkeling, de leiding in het consortium van betrokken actoren. Daarnaast kozen de consortia in beide processen actieve ontwikkelstrategieën voor het realiseren van de ruimtelijke doelstellingen. In de ontwikkeling van Park Lingezegen was het doel van het publieke consortium om een regionaal park te ontwikkelen om de open ruimte tussen de twee grote steden Arnhem en Nijmegen te behouden. De realisatie behelsde ook de transformatie van agrarisch grondgebruik naar natuur, zodat verschillende natuurdoelstellingen voor het gebied behaald werden en extra recreatieve voorzieningen ontwikkeld werden. Het project heeft een top-down benadering, waarbij de provincie het voortouw nam. De provincie werkte in dit proces nauw samen met de nationale overheid en gemeenten om de herontwikkeling van het gebied mogelijk te maken en om de gronden voor het park in bezit te krijgen. Moeilijkheden deden zich voor toen lokale grondeigenaren niet bereid waren om de gronden te verkopen en de criteria voor onteigening niet gehaald werden. Succesvolle ontwikkeling van het park op korte termijn is nog steeds mogelijk, omdat de gefaseerde aanpak van het project het toelaat een gedeelte van het park in een later stadium te ontwikkelen en de provincie het budget voor het park veilig gesteld heeft.

De gebiedsontwikkeling in de Bloemendalerpolder is meer stedelijk van aard dan de Park Lingezegen ontwikkeling. De Bloemendalerpolder is onttrokken aan het Groene Hart in het westen van Nederland om stedelijke ontwikkeling in het gebied mogelijk te maken. Deze onttrekking was

alleen mogelijk onder de voorwaarde dat slechts een derde van de polder bebouwd zou worden, de overige twee derde van de polder is bestemd voor natuurontwikkeling en recreatieve mogelijkheden. Het consortium in deze ontwikkeling bestond uit zowel publieke als private actoren. Veel van de private ontwikkelaars hadden grond in de polder aangekocht, als onderdeel van hun strategie om betrokken te worden bij de stedelijke ontwikkeling. Aanvankelijk had de provincie de leiding in het consortium, waarbij zij gebruik maakte van haar planningsgezag, instrumenten, en actieve ontwikkelstrategieën om de betrokken gemeenten te dwingen tot medewerking aan het project. Door de economische crisis vanaf 2008 heeft de provincie haar strategie herzien. Om grote financiële schade te voorkomen als gevolg van langdurige grondrente op zowel publiek als privaat grondeigendom in de polder, zocht het consortium naar een nieuwe, meer coöperatieve, strategie voor ontwikkeling en het realiseren van zowel rode als groene doelen. De resultaten van dit onderzoek laten zien dat, in beide processen, de strategieën en keuzes van de provincies om tot een deal te komen gebaseerd waren op de interactie met andere actoren. Daarnaast laten de resultaten zien dat de door de provincies toegepaste strategieën, vergelijkbaar zijn met de strategieën die gekozen werden door nationale en lokale publieke actoren in vergelijkbare processen. Dit versterkt het idee dat er een bepaalde mate van padafhankelijkheid bestaat binnen provincies en tussen verschillende (publieke) actoren wanneer men handelt in het belang van (gedecentraliseerde) planningsdoelen. De provincies kozen niet voor andere, mogelijk meer rationale, strategieën die de creatieve ruimte van de provincies had vergroot en hen minder afhankelijk had gemaakt van grondaankoop of onderhandelingen met private actoren. Ook laat de analyse van beide cases zien dat eigendomsrechten worden gebruikt als strategie om macht te verkrijgen binnen gebiedsontwikkeling.

In hoofdstuk 6 wordt onderzocht hoe actoren beleidsdoelen omzetten naar beleidsinstrumenten, of, met andere woorden, de instrumentatie van beleid en de (on)bedoelde effecten van deze instrumentatie op het realiseren van planningsdoelen. Het hoofdstuk focust op de instrumentatie van de Nederlandse Onteigeningswet en hoe deze instrumentatie de realisatie van natuurontwikkelingsdoelen door de provincies beïnvloed heeft. Er wordt geanalyseerd of de regel om voor natuurontwikkeling maximaal 10% van de grond aan te kopen op basis van de onteigeningswet, het handelen van, en de interactie tussen, actoren zodanig ondersteunt dat het beperkingen aan de beschikbaarheid van grond voor natuurontwikkeling opheft. De analyse benadrukt de pragmatische wijze waarop het 10%-maximum is bepaald, legt uit hoe de

tunnelvormige onteigeningsprocedure in Nederland is vormgegeven en illustreert voor welk grondgebruik in Nederland de verschillende publieke overheden kiezen voor onteigening. Het onderzoek toont aan hoe de provincies op maat gemaakte oplossingen bedachten in de omgang met het 10%-maximum en dat er (politieke) terughoudendheid is om grond te verwerven via onteigening. In het hoofdstuk wordt geconcludeerd dat het 10%-maximum de beperkingen aan de beschikbaarheid van grond voor natuurontwikkeling op het regionale schaalniveau niet opheft, en dat het zelfs als hinderend kan worden ervaren door publieke partijen bij het uitoefenen van druk op grondeigenaren bij de onderhandelingen over grondverkoop. Desalniettemin beïnvloedt de instrumentatie van de Onteigeningswet de realisatie van beleidsdoelen. In het bijzonder beïnvloedt het 10%-maximum, de interactie tussen actoren, en de grondbeleidsstrategieën die provincies kiezen voor de realisatie van beleidsdoelen.

In hoofdstuk 7 worden de verschillende empirische hoofdstukken samengebracht en wordt er gereflecteerd op de wetenschappelijke en maatschappelijke relevantie van deze thesis. Er worden drie patronen geïdentificeerd die een bijdrage zijn aan de state of the art in aanplanning- en beleidswetenschappen. Allereerst, actoren handelen niet altijd bewust of gebruiken structuren (bijvoorbeeld regelgeving, instrumentarium, financiën) niet altijd weloverwogen. De analyses tonen aan dat publieke actoren padafhankelijk of uit gewoonte handelen. Daarom wordt beargumenteerd dat publieke actoren hun beleidsstrategieën baseren op cultuur, politiek en budgettaire ruimte. Publieke actoren beroepen zich op de dominante planningscultuur en politieke paradigma's van de Provinciale Staten wanneer zij politieke goedkeuring zoeken voor grondbeleidsstrategieën. Verder kiezen rijkere provincies makkelijker voor actieve ontwikkel- en grondaankoopstrategieën dan provincies zonder een grote financiële reserve. Wanneer publieke actoren padafhankelijk handelen, sluiten zij strategieën uit die mogelijk even succesvol zijn maar niet passen in het (politieke) beeld. Bijvoorbeeld van een provincie die samenwerkt met private ontwikkelaars of grondeigenaren in ruimtelijke planvormingsprocessen. Toch is het verschil in grondbeleidsstrategieën een positief gegeven, aangezien planningsdoelstellingen wel gerealiseerd worden via gebiedsontwikkelingen. Wat betreft de verschillende gekozen strategieën is grondaankoop een terugkerende strategie wanneer gebruik van regulerende instrumenten niet voldoende lijkt. Het strategisch inzetten van grondaankoop vergroot de creatieve ruimte en autoriteit waarmee publieke actoren kunnen handelen binnen gebiedsontwikkelingsprocessen. In het bijzonder wanneer

ruimtelijke processen niet-winstgevend grondgebruik behelzen, zijn regulerende planningsstrategieën onvoldoende om beperkingen aan de beschikbaarheid van grond te overkomen.

Ten tweede moeten publieke actoren het gebruik van beleidsinstrumenten en eigendomsrechten begrijpen als twee verschillende rationaliteiten. Deze moeten beter gescheiden worden in planvormingsprocessen, aangezien beide verschillende kernprincipes hebben. Publieke actoren beschouwen privaat eigendom als een extensie van de publieke macht, een manier om de meetlat te verleggen bij het verwezenlijken van ruimtelijke doelen in het publiek belang. Dit instrumentele perspectief op eigendomsrechten botst met het meer sociale perspectief op deze rechten. In dit sociaal perspectief zijn eigendomsrechten de uitkomst van het vestigen van een samenleving en het inwisselen van individuele vrijheden voor burgerrechten en verantwoordelijkheden. Publieke beleidsinstrumenten en eigendomsrechten verschillen in juridische achtergrond, type middelen, toegankelijkheid voor verschillende actoren, manier van handelen en mechanisme van interactie. Beleid en beleidsinstrumenten vinden hun oorsprong in publieke wetgeving en bestaan uit publiek gecontroleerde middelen. Deze zijn alleen beschikbaar voor publieke actoren, welke beperkingen en kansen creëren voor publieke actoren in interactie met andere actoren. Privaat eigendom vindt zijn oorsprong in privaat recht en bestaat uit verhandelbare rechten die voor zowel publieke als private actoren beschikbaar zijn. In de interactie met andere actoren, leiden deze rechten tot competitie en onderhandeling. Wanneer planners geen goed onderscheid maken tussen deze rationaliteiten, hindert dit een gewogen en gebalanceerd ingrijpen in privaat eigendom in het publiek belang.

Ten derde is grondbeleidsdynamiek (de herformulering en implementatie van grondbeleid) een cyclisch proces dat plaatsvindt in verschillende arena's. Er beslissen andere actoren over de (her) formulering van grondbeleid dan die actoren die beslissen over de implementatie ervan. Daardoor hebben beide processen – (her) formulering en implementatie – een ander tempo. Doordat ruimtelijke planvormingsprocessen een lang tijdspad beslaan, vaak meer dan 20 jaar, kan de (her)formulering van grondbeleid interfereren met de implementatie van dit beleid en omgekeerd. Hierdoor beïnvloeden actoren in ruimtelijke planvormingsprocessen niet alleen de implementatie van grondbeleid, maar kunnen ze ook de (her)formulering van dit beleid beïnvloeden. Actoren beïnvloeden de grondbeleidsdynamiek ook via andere maatschappelijke processen. Daarom verandert de legitimatie

om in te grijpen in private eigendomsrechten niet alleen door de (inter)acties van actoren binnen ruimtelijke processen, maar ook als resultaat van de invloed van actoren op aanpalende beleidsterreinen, zoals infrastructuur, stedelijke ontwikkeling, en natuurontwikkeling. De grondbeleidsdynamiek wordt dus beïnvloedt door besluitvorming van actoren over het belang van verschillende planningsdoelen, de realisatie van deze doelen en de afweging van deze doelen ten opzichte van het belang van individuele eigendomsrechten. Bijvoorbeeld hoe grondmarkten moeten worden gereguleerd om bepaalde acties van actoren met betrekking tot het realiseren van deze doelen te stimuleren of beperken.

Het hoofdstuk sluit af met een aantal aanbevelingen voor de planning- en grondbeleidspraktijk. Planners moeten zoeken naar planningsstrategieën die niet systeem-afhankelijk zijn om op deze wijze mogelijkheid tot leren van voorgaande praktijken te versterken en om wegen te vinden die de competitie tussen publieke en private actoren verkleinen. De voortdurende *'trail-and-error'* strategieën van publieke actoren, wanneer men zoekt naar het optimaal realiseren van beleidsdoelen, beperken de mogelijkheden om te leren van gebiedsontwikkelingsprocessen en het transparant en proportioneel ingrijpen in private eigendomsrechten. Daarnaast zien de provincies, ondanks dat de nieuwe instrumenten de grondbeleidsstrategieën versterken, nieuwe instrumenten niet als een onderdeel van het toegenomen gezag. Daarmee missen ze kansen om een meer integrale strategie te hanteren bij het realiseren van beleidsdoelen. Dit behelst ook het benutten van mogelijkheden op andere planningsniveaus en het gebruik maken van de creatieve ruimte van deze niveaus. Het is fascinerend om te observeren hoe de provincies hun strategieën spiegelen naar die strategieën die gehanteerd worden door nationale en lokale planningsautoriteiten, in plaats van dat zij werken aan een eigen identiteit. Om de realisatie van planningsdoelen te versterken, wordt de suggestie gedaan om het debat rondom grondbeleid niet alleen te focussen op nieuw grondbeleidsinstrumentarium, maar om ook de provinciale planningsidentiteit en -taken hier onderdeel van uit te laten maken. Deze discussie moet zich op drie onderdelen richten. Ten eerste op de verdeling van planningstaken tussen de verschillende overheidslagen. Ten tweede op de verantwoordelijkheid voor het realiseren van ruimtelijke doelen via provinciale of lokale overheden. Ten derde op de vraag of de realisatie van deze doelen het meest gebaat is bij marktregulering en het stimuleren of beperken van private rechten of bij (gedwongen) aankoop van grond door publieke actoren in ruimtelijke planvormingsprocessen.

**Completed Training and Supervision Plan  
Fenje Martje van Straalen  
Wageningen School of Social Sciences (WASS)**



<b>Name of the course</b>	<b>Department/Institute</b>	<b>Year</b>	<b>ECTS (=28 hrs)</b>
<b>I. General part</b>			
Scientific Writing	Language Services	2010	1.8
Interdisciplinary Research: Crucial knowledge and skills	WGS	2010/2011	1.1
Supervising MSc thesis students	WUR	2011	1
Mobilising your - scientific - network	WGS	2011	1
Scientific Publishing	WGS	2011	0.3
Career Assessment	WGS	2012	0.3
Last stretch of the PhD program	WGS	2013	0
<b>II. Mansholt-specific part</b>			
Mansholt Introduction course	MGS	2009	1.5
'The interaction between land policy and spatial planning in The Netherlands'	WASS PhD day	2013	1
'An assessment of land policy strategies in Dutch metropolitan landscapes'	International conference AESOP, Helsinki	2010	1
'Planning for metropolitan landscapes: an assessment of Dutch regional land policy and development strategies'	International conference PLPR, Edmonton	2011	1
<b>III. Discipline-specific part</b>			
Proposal, based on pre proposal	LUP	2009	4
Regional Land Development	TU Delft, master	2009	4
Beleid / economie / recht RGO-domein	TU Delft, bachelor	2009/2010	4
PhD workshop AESOP	AESOP, Prague	2011	2
PhD seminar 'Ethics and Planning'	ESPI, Vienna	2011	0.6
Political Theory (ENP-35306)	ENP	2010/2011	6
Participatory approaches in planning, policy and development	WASS	2011	3
<b>IV. Teaching and supervising activities</b>			
Education activities (e.g. Courses: 'Land Policy and Regional economics' and 'Advanced Planning Research Methods')	LUP	2009/2013	2
Supervising MSc Students	LUP	2010/2013	2
<b>Total</b>			<b>37.6</b>

## **About the author**

Fennie van Straalen (1984) studied Landscape Architecture at van Hall-Larenstein, University of Applied Sciences, and Spatial Planning at Wageningen University. She finalised her master with a thesis on cross-border cooperation, with a focus on the Dutch-German border region. At the Land Use Planning Group she worked as a PhD-candidate on the topic of land law, land policies, and regional spatial development. The PhD-position resulted in this PhD-thesis entitled "Private property in public processes". Part of the research have been presented at several international conferences. Her work also included the participation in a science shop project, resulting in the publication "Van de grond". Furthermore, she cooperated in a number of teaching activities. These included guest lectures in land policy, lectures and supervision in the advanced research methods course, and the supervision of several bachelor and master theses. Currently, she is working as junior-assistant professor at the Human Geography and Planning department at the University of Utrecht. Her field of research includes land policy, regional spatial development, and sustainable development.

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