A discourse analysis of the debate about the Dutch Environment and Planning Act

Order and space

Master thesis Land Use Planning, Wageningen University
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ABSTRACT
This thesis focuses on the debate about the Dutch Environment and Planning Act (Omgevingswet). Which is a law that as from 2018 will replace a plethora of laws, orders in council and rules of law that currently determine what is permitted in Dutch spatial planning. By means of a discourse analysis of various semi-structured interviews and documents, it is explored how the New Public Management discourse and the New Public Service discourse manifest themselves in the debate about the Environment and Planning Act. It is found that in that debate, the New Public Management discourse is currently dominant. But elements of the debate about the Environment and Planning Act, especially with regard to citizen participation and the role of the government, are ambiguous. That ambiguity means that the debate contains manifestations of both the New Public Management discourse and the New Public Service discourse. Furthermore, special attention is paid to influence of the New Public Management and New Public Service discourse on the ambition of the minister of Infrastructure and the Environment to reduce the amount of preparatory research for decision-making procedures and the expenses associated with that research. The influence of those discourses on reforming the research exercise and reducing the research expenses is found to be relatively limited. It has also been found that the ambition of the minister of Infrastructure and the Environment to reform the research exercise and reduce research expenses is endorsed by the selected set of respondents consulted for this research.

Keywords: discourse analysis, Environment and Planning Act, law reform, New Public Management, New Public Service, Omgevingswet, preparatory research, research expenses.
PREFACE

When I started with the first introductory conversations about possible topics for a major thesis, it quickly became clear to me that I wanted to position my thesis on the interface of spatial planning and law. Currently, the Dutch government is developing the Omgevingswet (from now on: Environment and Planning Act). That is a law that will be implemented in 2018 and will replace a plethora of existing legislation in the field of environmental protection and spatial planning in the Netherlands. Topical and positioned on the interface I like so much, it was and is an interesting topic for my major thesis.

In February 2014, I had my first meeting with Marleen Buizer (lecturer at the Land Use Planning Group and researcher at the Forest and Nature Conservation Policy Group at Wageningen University) about a thesis positioned on the interface mentioned above and my ambition to conduct a discourse analysis. Marleen gave me some advice and articles that helped me to develop a feasible approach. For that I would like to thank her here. Just as I would like to stress my appreciation for her feedback, tips and advices during the writing of this research proposal. Marleen, apologies for the long preface, I have done my best to keep the rest of my thesis as condensed as possible. Which was not easy. Limiting the first draft of this thesis to the current amount of pages was a Herculean task. But it was necessary, fruitful and helped me in the further development of my writing skills.

Cooperation is a recurrent theme in the Environment and Planning Act and that inspired me to seek cooperation in my research. In the beginning of July 2014 I talked to Arno Derks, Barbara Evers, Robert Forkink and Edwin Oude Weernink of Croonenburo 5 respectively Antea Group about conducting the research leading to my major thesis at Antea Group, I want to thank them for offering me a place to conduct my major thesis. Hopefully it has become a win-win-situation. At least to me it has, being able to benefit from the expertise at and network of Antea Group helped me in writing my thesis. In line with that, I also hope that the knowledge gained in this thesis is also of perceived value to Antea Group.

Subsequently, I want to thank Edwin Oude Weernink (project manager spatial planning and mobility at Antea Group) for his advices, suggestions and feedback while writing this thesis. Moreover, I would like to stress my appreciation for all the people with whom I discussed the contents of this thesis and the research process. Those discussions resulted in useful feedback and helped me to set the scope for my research. Specifically, I would like to thank Dennis Vecht for his feedback on the draft of this thesis.

Another important group of people that I would like to thank for their cooperation and for the information they provided, are the consulted respondents. The same applies to the people who attended the workshop I organised in January 2015, I would also like to thank them for their participation and effort.

Thanks also to my colleagues at Antea Group for providing me with all kinds of spatial planning assignments. These assignments helped me to get my thoughts of my thesis when I got stuck in certain parts and to see things afresh. It helped me to get a grip on the practice of spatial planning and to see the relation between that practice and my academic project. Because of that, the implications of the Environment and Planning Act became clearer and the matter became less abstract. It also helped me in not only positioning my thesis on the interface mentioned above, but also on the interface of academics and practice. More importantly, those assignments were just fun to carry out!

Last but not least, I want to thank my mother who, as a teacher of English, made sure that the English used in this research proposal is proper English and my sister for translating the interview quotes.

Oosterhout, August 2015

Daniël Hollemans
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Currently, the Dutch Environment and Planning Act is in development. That law is expected to be implemented in 2018 and will replace a plethora of existing environmental and spatial planning legislation in order to make that legislation less scattered and opaque. One of the central elements in the development of the Environment and Planning Act is simplifying and enhancing the effectiveness of the system of environmental and spatial planning legislation. This central element is among others composed of the ambition to reduce the amount of preparatory research (like environmental impact assessments) and the inherent expenses. The minister of Infrastructure and the Environment argues that the research expenses for the preparation of decisions are impediments in the current environmental law (Omgevingswet, 2014a).

The debate and documents about the Environment and Planning Act contain manifestations that are indicative for the New Public Management discourse. But they also contain manifestations that are indicative for the New Public Service discourse. Under New Public Management, there is tension between enhancing efficiency and effectivity and democracy. New Public Management impedes democratic, inclusive and long-term planning (Denhardt and De Leon, 2000; Diefenbach, 2009; Sager, 2009), therefore it is important to know how that discourse manifests itself in the debate about the Environment and Planning Act. The New Public Service can solve this deficit by giving decisions taken collectively by citizens a central role in the decision-making process. In that context, governments need to help citizens in defining that common interest and need to adapt a facilitating and stimulating rather than a steering role (Denhardt and Denhardt, 2000; Allmendinger et al, 2003). However, decision-making structured by the New Public Service discourse can also lead to legitimising New Public Management with all associated issues (Bengs, 2005). New Public Service planning can nonetheless also lead to truly democratic, inclusive and long-term planning (Denhardt and Denhardt, 2000). This means that it is also important to know how the New Public Service manifests itself in the debate about the Environment and Planning Act because it can hamper democratic, inclusive and long-term planning by lubricating New Public Management.

The fact that the Environment and Planning Act is currently in development, provides the opportunity to analyse the relations between the New Public Management discourse and the New Public Service discourse in the debate about that act. After all, since the development of the Environment and Planning Act and the debate about that act are still proceeding, one can choose to put more emphasis on a specific discourse. Knowing whether the debate about the Environment and Planning Act contains manifestations of the New Public Management discourse and the New Public Service discourse contributes to developing strategies to come to democratic, inclusive and long-term New Public Service planning. Moreover, analysing the manifestations of the New Public Management discourse and the New Public Service discourse in the debate about the Environment and Planning Act, contributes to the development of strategies to come to truly inclusive and citizen-driven New Public Service planning.

The central research question answered in this study is:

How do the New Public Management discourse and the New Public Service discourse manifest themselves in the debate about the Environment and Planning Act and the position of preparatory research in the Environment and Planning Act?

This question has been answered by means of a qualitative discourse analysis of semi-structured interviews with a set of selected respondents active in the debate about the Environment and Planning Act and documents about that act. This discourse analysis was supplemented by a literature review and a workshop.
It has been found that in the debate about the Environment and Planning Act the New Public Management discourse is currently dominant. This means that due to that dominance and the fact that under the Environment and Planning Act citizen participation is limited to the middle phases of a decision-making process (Tonnaer, 2014), the Environment and Planning Act will in its current form lead to New Public Management planning, With all associated issues. In the debate about the Environment and Planning Act, the New Public Management discourse and the New Public Service discourse are sometimes used interchangeably, indicating that it is not yet clear how the debate will progress. As a result of this, the dominance of the New Public Management discourse might change. However, further cost reduction in spatial planning might give rise to an augmented dominance of the New Public Management discourse and an ongoing decline of the public interest and the provision of services to the public.

In this research, it has also been found that especially statements about citizen participation and (related to that) the role of the government (in relation to other actors) contain ambiguities. Which means that in one understanding these statements can point at the presence of the New Public Management discourse, but in an other understanding are indicative for the New Public Service discourse. This also signifies that the debate about the Environment and Planning Act is not completely crystallised out yet.

In the debate about the Environment and Planning Act, three different ways in which the Environment and Planning Act is framed have been found:

1. positive;
2. negative;
3. acquiescence.

It has also been found that the debate about the Environment and Planning Act is not yet seen as a political issue. This is due to the fact that the orders in council, which will give the necessary content to that law, are not yet published.

The ambition to reduce research expenses and to revise the research expenditure is influenced by a New Public Management discourse. This is applicable to large-scale preparatory research like environment impact assessments and more small-scale preparatory research to for instance base spatial substantiations (ruimtelijke onderbouwingen) on.

The ambition to revise the research and reduce research expenses of the minister of Infrastructure and the Environment is shared by the set of selected respondents. It needs to be made more efficient and effective. The perception the respondents have of the Environmental Impact Assessment is comparable to the perception found by Runhaar et al (2013).

Subsequently, it was found that respondents claim that a novel approach to the environmental impact assessment is not always necessary. In procedures where multiple, pre-determined and well-defined options need analysis, an environmental impact assessment in its current form is sufficient. Cases concerned with more organic-like development require an environmental impact assessment that matches the dynamism of such projects better.

The respondents can describe how they think the minister should deal with research to relative static parts of the physical living environment. They however cannot describe how the minister should deal with preparatory research to the more dynamic elements of the physical living environment. Such elements are more prone to change than static elements.
SAMENVATTING


De ontwikkeling van de Omgevingswet biedt de mogelijkheid om te analyseren hoe het New Public Management-discours en het New Public Service-discours zich tot elkaar verhouden in het debat over de Omgevingswet. Immers, omdat de wet nog in ontwikkeling is en het debat over die wet nog steeds plaatsvindt, heeft men de mogelijkheid om de nadruk op een specifiek discours te leggen. Achterhalen welke uitingen van het New Public Management-discours en het New Public Service-discours het debat over de Omgevingswet bevat, helpt in de ontwikkeling van strategieën om te komen tot democratische, gelijkwaardige en op de lange termijn gerichte besluitvorming volgens de principes van de New Public Service. Bovendien kan inzicht in de manifestaties van het New Public Management-discours en het New Public Service-discours in het debat over de Omgevingswet, de diverse bestuurslagen en maatschappelijke partijen helpen om te reflecteren op dat debat. Om op die manier strategieën te ontwikkelen om te komen tot democratische, gelijkwaardige en op de lange termijn gerichte besluitvorming volgens de principes van de New Public Service.

De centrale vraagstelling die in dit onderzoek beantwoord wordt is:

_Hoe manifesteren het New Public Management-discours en het New Public Service-discours zich in het debat over de Omgevingswet en de positie van voorbereidend onderzoek in de Omgevingswet?_
Deze vraag is beantwoord door middel van een kwalitatieve discoursanalyse van semi-gestructureerde interviews met geselecteerde respondenten die actief zijn in het debat over de Omgevingswet. Daarnaast is een discoursanalyse van documenten over de Omgevingswet uitgevoerd. Deze discoursanalyse is aangevuld met een literatuurstudie en een workshop. 


In het debat over de Omgevingswet wordt die wet op drie verschillende manieren gepresenteerd:
1. positief;
2. negatief;
3. berustend.

Als gevolg van het feit dat de algemene maatregelen van bestuur (die de nodige inhoud aan de Omgevingswet zullen geven) nog niet gepubliceerd zijn, wordt het debat over de Omgevingswet nog niet gezien als een politieke kwestie.

De ambitie om onderzoeklasten te beperken en anders om te gaan met voorbereidend onderzoek wordt beïnvloed door het New Public Management-discours. Dit is van toepassing op zowel grootschalig voorbereidend onderzoek (milieueffectrapportages) als kleinschalig voorbereidend onderzoek (zoals onderzoek gebruikt bij het opstellen van ruimtelijke onderbouwingen).

Bovengenoemde om onderzoeklasten te beperken en anders om te gaan met voorbereidend onderzoek van de minister van Infrastructuur en Milieu wordt gedeeld door de voor dit onderzoek geconsulteerde respondenten. Ook volgens hen moet er efficiënter en effectiever met voorbereidend onderzoek worden omgegaan. De visie van de respondenten op de milieueffectrapportage is vergelijkbaar met de visie op die milieueffectrapportage zoals gevonden door Runhaar et al (2013).

Ook is gebleken dat er in het debat over de Omgevingswet een geluid te vinden is dat propageert dat een nieuwe benadering van de milieueffectrapportage niet altijd noodzakelijk is. In procedures waarin meerdere, vooraf bepaalde en goed gedefinieerde opties geanalyseerd moeten worden is de milieueffectrapportage in de huidige vorm voldoende. Milieueffectstudies voor organische ontwikkelingsprocessen vragen om een milieueffectrapportage die beter toegesnitten is op de dynamiek van dat soort organische ontwikkeling.

Tot slot kunnen de respondenten beschrijven hoe zij denken dat de minister van Infrastructuur en Milieu om moet gaan met voorbereidend onderzoek naar relatief statische delen van de fysieke leefomgeving. Zij kunnen echter niet omschrijven hoe de minister om moet gaan met voorbereidend onderzoek naar de sneller voor verandering vatbare, meer dynamische aspecten van de fysieke leefomgeving.
"Law is order, and good law is good order; but a very great multitude cannot be orderly"

Aristotle
Chapter 1 Introduction

1 INTRODUCTION
First, the context in which the Environment and Planning Act is developed is sketched. Subsequently, the most important aspects of the Environment and Planning Act are provided. This summary of aspects is followed by a description of the most important things one needs to know about this research. The introduction is completed by an overview of the contents of this thesis.

1.1 Sketching the context
Generic, top-down and sectoral features of Dutch spatial planning are being replaced by more decentralised and integrated features (De Roo and Visser, 2004). Spatial planners have been given more freedom to come to environmental ambitions that are area-specific. Increasingly, spatial planners are stimulated to use environmental conditions as structuring principle when planning spatial interventions. Where previously environmental and urban planning often contradicted, the national policy is now trying to simultaneously promote both forms of planning. Strict environmental norms were perceived to impede development. In spatial planning, opportunities for environmental advancement were missed. Now, it is about using these two, formerly, separate approaches to come to one coherent approach. The idea is that environmental policies can enhance both spatial planning and spatial quality (Glasbergen, 2005). The integration of policies combined with the provision of more discretionary space to lower tiers of government is expected to produce a more sustainable form of spatial planning (Runhaar et al, 2009). The minister of Infrastructure and the Environment argues that the Environment and Planning Act will enable a more sustainable spatial planning. The minister also argues that all observations made in the text above are addressed in the Environment and Planning Act.

1.1.1 Objective of the Environment and Planning Act
With the Environment and Planning Act, the Dutch minister of Infrastructure and the Environment desires to integrate what it sees as a myriad of environmental and spatial planning laws and regulations, so as to deregulate and simplify these two aspects of Dutch jurisdiction (Tonnaer, 2012; Roels et al, 2013). The aim of the Environment and Planning Act is a twofold one. On the one hand, the minister of Infrastructure and the Environment aims to provide space for development so as to make sure the living environment is able to fulfil societal functions like living, working, recreation et cetera. On the other hand, that same minister desires to safeguard the quality of the living environment in order to make sure the living environment is safe and healthy. The process goal of the Environment and Planning Act is to simplify, compile and weave more coherence into the existing legislation that applies to the disciplines of spatial planning and the environment. This should enhance and accelerate decision-making procedures (Roels et al, 2013).

1.1.2 Integration
One of the reasons for developing the Environment and Planning Act is to provide solutions for, what according to the minister, are known hindrances in the existing legislation in the fields of spatial planning and the environment. According to the minister, these hindrances are (Omgevingswet, 2014a, p.6):

- the lack of attention for sustainable development in the existing laws and regulations;
- the lack of attention for regional specificities and the impossibility to offer possibilities to find tailor made solutions in the existing legislation;
- the lack of attention for early actor and stakeholder involvement in decision making processes;
- the complexity and fragmentation of the existing environmental and planning laws and regulations;
- the lack of coordination and alignment in assessments of initiatives;
- the fact that the existing laws and regulations decrease the possibilities to develop integral policies.
In short, the minister in my understanding argues that the current system of environmental and planning legislation is too dispersed and lacks transparency. Therefore, the minister desires to use the Environment and Planning Act to come to more legislative coherence by integrating different laws and regulations. The concept of integration in the Environment and Planning Act consists of (Omgevingswet, 2014a):

- integration of spatial planning, water, environmental, nature, built environment and monument legislation to cover all legislation for the physical living environment in one law and create more strategic policies;
- using integration to find overlaps in existing legislation and remove these overlaps where possible;
- a modular approach to make integration of additional laws after initial implementation of the Environment and Planning Act possible in order to maintain the flexibility of the Environment and Planning Act.

1.1.3 Starting points in developing the Environment and Planning Act

The process that leads to the actual inception of the Environment and Planning Act is, again according to the minister, a complete reform of the Dutch environmental and planning law system (Omgevingswet, 2014a). Starting points for this law reform are (Omgevingswet, 2014a, pp.11-18):

1. **Trust and responsibility**: The Environment and Planning Act is a flexible law that will offer transparent and efficient procedures. The idea is that this will help administrators to act on the basis of trust and to actively take responsibility for their initiatives and actions.

2. **Certainty and dynamism**: Providing citizens with certainty and ensuring their legal protection while simultaneously stimulating citizens’ initiatives is the second starting point in the development of the Environment and Planning Act. The rationale structuring this point is that it is important to stimulate new development rather than blocking them in advance.

3. **Sustainable development**: In the Environment and Planning Act, it is argued that a lot of laws and regulations have become obsolete. Those obsolete rules hamper the possibilities for innovative and sustainable solutions to be implemented. In the Environment and Planning Act, it is proposed to support the transition to a more sustainable society.

4. **Tailor made solutions**: The Environment and Planning Act contains the possibility to develop projects and processes that match a specific regional or local context. This prospect is founded on the presumption that what is good for one regional or local authority/in one regional or local context is not necessarily good for another regional or local authority or context. It is about coming to contextualised rather than generalised solutions.

5. **Simplicity and effectivity**: In the Environment and Planning Act it is seen as important to create an integral approach towards projects rather than to approach projects from multiple smaller stakes. It is also argued that procedures have to be made more predictable, transparent and less costly. In this aspect, it is also expressed that research expenses have to be reduced.

Thus, the law reform leading to the Environment and Planning Act is comprised of five starting points. The starting points themselves are also comprised of different aspects, as mentioned in the brief texts accompanying each starting point. Based on these starting points and aspects, the research is positioned. In this research, I focused on the fifth starting point (simplicity and effectivity). This is visualised in part A of figure 1.1. Part B of that figure shows that within the starting point simplicity and effectivity, I focused on reducing research expenses. The other aspects (just as the other starting points) were considered as contextual. This does not mean that I only looked into the debate about reducing research expenses. I consider the starting points reviewed in this paragraph as important contextual aspects that influenced the debate on both reducing research expenses and the Environment and Planning Act at large.
Chapter 1 Introduction

A. OVERVIEW OF THE ENVIRONMENT PLANNING ACT

**Law reform leading to the Environment and Planning Act**

1. Trust and responsibility
2. Certainty & dynamism
3. Sustainable development
4. Tailor made solutions
5. Simplicity and effectiveness

B. OVERVIEW OF THE STARTING POINT ‘SIMPLICITY AND EFFECTIVITY’

**Simplicity and Effectivity**

1. Integral approach to projects
2. Reduce research expenses
3. Enhance quality of procedures

Figure 1.1 Position of the research in the Environment and Planning Act

1.1.4 Focus of the research

The research analyses the debate about the Environment and Planning Act in the period between 2011 and 2015. Based on what is expressed in that period (which is accentuated with a red dashed line in figure 1.2), it focuses on the influence of the New Public Management discourse and the New Public Service discourse on the debate about the Environment and Planning Act and particularly the ambition to use that act to reduce research expenses.

Shortly before reading the explanatory memorandum accompanying the Environment and Planning Act for the first time, I read a work by Padt (2006) in which he elaborated on (among others) the influence of the New Public Management discourse on Dutch regional spatial planning. Influenced by that work, I recognised elements of New Public Management in the explanatory memorandum of the Environment and Planning Act. This led me to the idea to use discourse analysis to explore the presence of New Public Management in both the debate about and the explanatory memorandum of the Environment and Planning Act. During the data collection phase of the research, I found statements in both the debate and the explanatory memorandum that pointed more towards a discourse focused on enhancing citizen involvement. Using literature by predominantly Denhardt and Denhardt (2000), I identified these statements as part of the New Public Service discourse and decided to broaden the research to seek for both manifestations of both discourses and to analyse how the discourses relate to each other.

Figure 1.2 Time focus of the research, the focal area is indicated with a red dashed line
1.2 Reducing research expenses

The minister of Infrastructure and the Environment argues that the research expenses for the preparation of decisions are impediments in the current environmental law. In the Environment and Planning Act, it is argued that research to base decisions on is important, but that research is not to be a goal in itself. So as to reduce research expenses, the minister proposes the following measurements:

(Omgevingswet, 2014a, p.289):

1. Increase the possibilities to find tailor made solutions with regard to the amount of information and the level of detail of research demanded by the competent authorities (in Dutch: bevoegd gezag) from the initiator. Additionally, it is also possible to divide the supply of information from the initiator to the competent authorities in different phases so as to match the information supply with the relevant phase of the project.
2. Augment the possibilities to re-use previous research. Information and research that is not older than two years may in any case be used to substantiate an argument.
3. Gather more information on the level of the area rather than on parcel level so as to prevent research from being conduct for each individual project or activity.
4. Enhance the digital accessibility of information about the living environment. By augmenting both the availability and the quality of information, research expenses can be reduced.

An example of preparatory research that will be reformed under the Environment and Planning Act is the environmental impact assessment (in Dutch: milieueffectrapportage). In the explanatory memorandum of the Environment and Planning Act, the following about reforming the environmental impact assessment is stated (Omgevingswet, 2014a):

- Connect to European legislation concerning the environmental impact assessment. This denies provincial authorities the possibility to determine in their plans for which activities an environmental impact assessment is required.
- Make more use of already available information in order to prevent two environmental impact assessments being written for (nearly) the same thing. Introducing an environmental impact assessment on the level of certain small-scale plans and programs to reduce research expenses.
- Simplify the appraisement of the environmental impact assessment. Reduce procedures for appraisement from two procedures to one procedure.
- Provide competent authorities with more discretionary space to determine which information is deemed to be important and of perceived value to the decision making process. More discretionary space should also lead to a reduction of research expenses since the authorities are given the possibility to determine which research should (not) be carried out. The competent authorities and the initiator are given the possibility to determine in cooperation with each other and with other stakeholders to make certain choices and to explain why those choices have been made.
- Attune the decision-making procedure and the procedure for carrying out the environmental impact assessment to each other, with the contents of the advice by the Elverding Commission as the structuring principle. In the preparatory phase of the decision-making process, an interactive process needs to take place and a broad exploration of alternatives has to be converged to multiple alternatives which are likely to be feasible. Selection of alternatives needs to take place on the basis of a predetermined and limited number of criteria and with all available information taken into account. Rules of thumb and expert judgement also play an important role in the selection of alternatives. In the formal decision making phase, the potentially feasible alternatives need to be assessed on their implications for the environment.
Chapter 1 Introduction

With regard to the latter point, it has to be noted that it is not specified in the explanatory memorandum how one should deal with the available knowledge. It is for instance not clear whether and how knowledge that comes to the fore during the decision making process should be taken into account. Furthermore, it is not completely clear yet how important the role of expert knowledge will become.

One of the focal points of New Public Management is to reduce governmental expenses (Hood, 1991; Clifford and Tewdwr-Jones, 2013). As explained in this section, the explanatory memorandum of the Environment and Planning Act contains the ambition to reduce research expenses (Omgevingswet, 2014a). This evoked the question to me whether and how the ambition to reduce research expenses is a manifestation of New Public Management.

1.3 Problem statement and objective

This research is conducted by means of discourse analysis (see also section 2.2). Discourse analysis is a social-constructivist type of research which features processes in which meaning is ascribed to something. By means of discourse analysis, it can be explored whether and how certain notions and ways of thinking are dominant in specific debates or practices. Often, discourse analysis is used to analyse written texts or statements (Hajer, 1995; Wagenaar, 2007). Central to this thesis are the New Public Management and New Public Service discourses. New Public Management is typified as a possibly dominant way of thinking in public administration (discourse) by among others Allmendinger and Haughton (2013). New Public Management is typified as a discourse in public administration by among others Denhardt and Denhardt (2000). A definition of the New Public Management discourse is given in paragraph 2.3, a definition of the New Public Service discourse is given in paragraph 2.4.

New Public Management propagates enhancing efficiency and effectivity, which in itself can have positive effects. However, it has also been found that New Public Management can lead to a democratic deficit by focusing predominantly on cost effectiveness (Sager, 2009) and limiting interactions with citizens (Denhardt and Denhardt, 2000). The New Public Service of Denhardt and Denhardt (2000) offers a solution to this democratic deficit by giving collectively taken decisions by citizens a central role in the decision-making process. However, spatial planning by the principles of the New Public Service can also be used to lubricate and justify the practice of New Public Management planning (Bengs, 2005) and legitimise existing power relations (Allmendinger, 2009). With the Environment and Planning Act, the minister of Infrastructure and the Environment desires to let citizen participation take place in a process of open communication between government and citizens. In that process, the government needs to have a facilitating and stimulating role rather than a steering role (Omgevingswet, 2014a). This resembles the principles of the New Public Service, which thus could lead to New Public Management planning again (Bengs, 2005). Analysing the manifestations of the New Public Management discourse and the New Public Service discourse in the debate about the Environment and Planning Act, contributes to the development of strategies to come to truly inclusive and citizen-driven New Public Service planning.

1.3.1 Objective and policy relevance

The objective of this discourse analysis is to search for manifestations of the New Public Management and New Public Service discourse in the debate about the Environment and Planning Act and the position of preparatory research in that act to explore and explain the influence of those discourses for planning practice. Analysing the manifestations of the New Public Management discourse and the New Public Service discourse in the debate about the Environment and Planning Act, can help these different tiers of government and societal actors to devise strategies to come to truly inclusive and citizen-driven New Public Service planning. Or at least it could help those tiers of government and societal actors to become aware of the risks inherent to New Public Management planning or New Public Service planning. This is where the policy relevance of this research is to be found.
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1.3.2 Academic relevance
The academic relevance of the research is to be found in the fact that it will reveal whether and how the New Public Management discourse and the New Public Service discourse manifest themselves in the debate about the Environment and Planning Act. During the research, special attention is paid to how those discourses structure the position of preparatory research in the Environment and Planning Act. The study is also concerned with identifying and describing the mechanisms by which the New Public Management and New Public Service discourses work.

In general, the research addresses a subject on the interface of spatial planning and law. Moroni (2007) claimed that the topic of planning law is underemphasised in academic research. Despite the fact that this research focuses solely on one specific planning law, it does address a topic that has not been explored extensively in academic research. Moreover, the Environment and Planning Act is still in development and this research is (one of) the first in which a discourse analysis of the debate about the Environment and Planning Act was carried out. As such, the research offers a new perspective on the debate about the Environment and Planning Act.

1.4 Methodology
Using qualitative discourse analysis, it was scrutinised how the New Public Management discourse and the New Public Service discourse exert influence over the debate about the Environment and Planning Act and the position of preparatory research in that act. The research thus has an exploratory and descriptive character (Creswell, 2014). The research will be approached by an open, flexible, iterative and relatively unstructured approach to answering the research questions posed (section 2.6). Section 2.2 elaborates on how discourse analysis is defined in this research and how it was performed.

1.5 Student research team
This research was merely carried out at Antea Group and under supervision of both Antea Group and Wageningen University. In the autumn of 2013 Antea Group (an internationally operating, originally Dutch engineering and consultancy enterprise), composed a student research team. Antea Group’s most important objective with this student research team was to facilitate students to conduct research to the Environment and Planning Act (Antea Group, 2014).

Because of my affinity with both theory and practice and because I found (planning) law to be abstract matter that makes more sense to me when applied to practice, I decided to conduct this research at Antea Group, which is involved in planning law on a daily basis. This implies that the research was conducted from a kind of ‘embedded’ position. The implications of this embedded position are more elaborately dealt with in paragraph 2.2.1.

1.6 Target group
This thesis is of relevance to people who are interested in discourse analysis and academic research to a specific subject that is undertaken within a professional organisation (embedded research). Moreover, this research can also be of relevance to people interested or involved in law and policy reform and the debates inherent to that in general. This research could also be of relevance to persons who take an interest in or are involved in the debate about the Environment and Planning Act specifically. Additionally, this thesis might (hopefully) also be of relevance to persons taking an interest in spatial planning and spatial planning/environmental legislation in a more general sense.
1.7 Contents

This introductory chapter is followed by the chapter 2 containing the theoretical framework, the problem statement and the research questions. Chapter 3 describes of the methodology used to conduct this research and the different phases comprising this research. In chapter 4, the experiences, values and biases of the researcher that might have an (implicit) influence on this study are described. Chapter 5 elaborates on the actors involved in the debate about the Environment and Planning Act and the way they frame that act. In chapter 6 the arguments in which the New Public Management discourse houses are revealed. Chapter 7 reveals the arguments in which the New Public Service discourse resides. Chapter 8 is about the discourse on revising preparatory research. In chapter 9 it is analysed whether the New Public Management discourse or the New Public Service discourse is dominant in the debate about the Environment and Planning Act. Chapter 10 contains the discussion. This thesis is completed by chapter 11 which contains the conclusion and suggestions for further research. This thesis is being reinforced by multiple appendices, all written in Dutch. References to this appendices have been made when necessary.
2 THEORETICAL FRAMEWORK

This chapter starts with an elaboration on social constructivism, since that is the meta-perspective in which the research is positioned. Subsequently, attention will be paid to discourse analysis. The part about discourse analysis is followed by a definition of New Public Management and the New Public Service. This chapter concludes with a problem statement and research questions.

2.1 Social constructivism

The research was conducted using a social constructivist worldview. A basic trait of social constructivism is that the notion of a universal truth is questioned and knowledge is seen as socially constructed and moulded by the contexts in which it was generated (Ockwell and Rydin, 2006). This means that there is no definite truth or interpretation, there are multiple contested versions of the truth and inherent interpretations (Feindt and Oels, 2005). What is seen as the truth is contingent and open to scrutiny. This provides possibilities for change. Seeing the truth as something that is constructed helps to see the truth as less definitive and as something that can be remade (Graham, 2011). Arguing that interpretations and perceptions are socially constructed does not allow for complete relativism. It has been argued by Thompson et al (1990) that although perceptions are not completely stable they are neither completely ephemeral. In social constructivism, however, interpretations can be given multiple configurations (Thompson et al, 1990). Creswell (2014) draws attention to the argument that the meanings people ascribe to something are socially and historically negotiated. Social constructivist researchers typically focus on interaction between people and the realms in which this interaction takes place. Social constructivism is based on the idea that people themselves give meaning to their life and that social processes are important for this (Creswell, 2014). This way of perceiving the world and the subject under study, is of perceived value to this research because it is concerned with placing the debate about the Environment and Planning Act in that debate in a broader context.

2.1.1 Iterative steps

Conducting research from a social constructivist viewpoint also means that the research is believed to be comprised of iterative steps (Creswell, 2014). That also applies to this research, which consists of a sequence of steps (from a literature review, to interviews, to a discourse analysis of the transcripts of the interviews, to a discourse analysis of the relevant documents concerning the Environment and Planning Act (see section 3.2)). This sequence of steps will be used to ultimately formulate an answer to the general research question.

2.1.2 Discourse analysis in social constructivism

The concept of discourse analysis will be more extensively dealt with in section 2.2. Nonetheless, I state that discourse analysis fits within a social constructivist research perspective. Sharp and Richardson (2001) have argued that a discourse analysis intensively focuses on the production of knowledge, meaning, interpretation and arguments and the communication that leads to that very production (Sharp and Richardson, 2001). Revisiting the argument by Creswell (2014) that meanings people ascribe to something are not imposed but negotiated, I argue here that it is in the construction of discourse that these negotiations take place. From this it follows, that social constructivism is an appropriate worldview when conducting discourse analysis. A similar point has been made by Hajer and Versteeg (2005) who write that since reality is socially constructed, the analysis of meaning has a central role in discourse analysis (Hajer and Versteeg, 2005). The focus is on the way meanings are constructed, that makes social constructivism an appropriate lens to set this focus.
2.2 Discourse analysis

Discourse analysis is anchored on the idea that meaning is not embodied in the intentions of actors but houses in both written and spoken texts (Wagenaar, 2007). Discourse analysis can be interpreted in various ways. In the narrowest conception, a discourse analysis is seen as a research method that strictly focuses on analysing the use of language (Sharp and Richardson, 2001). But there is more to discourse analysis than just the scrutinising what is spoken or written. A discourse analysis can also be concerned with analysing discourse as were it a ‘social practice’ (Arts and Buizer, 2009). In that conception, ideas and actions are seen as integral to a discourse (Sharp and Richardson, 2001). For this research, the language used in the debate about the Environment and Planning Act will be studied.

Both Hajer (1995) and Sharp and Richardson (2001) plea for a Foucault inspired discourse analysis and operationalise Foucault’s principles to an approach for analysing discourse. In line with those authors not only the language used in the development of the Environment Planning Act will be studied, also the discourse in practices, events and actions will be the subject of analysis.

Hajer (1995) argues that discourse is not only a medium used by actors to describe the world, but merely an intermediate that influences perceptions, interests and interpretations. Hajer’s type of discourse analysis draws attention to what has been said in relation to the context in which it has been said (Hajer, 1995). According to Hajer (1995, p.44) a discourse is:

“a specific ensemble of ideas, concepts and categorizations that are produced, reproduced and transformed in a particular set of practices and through which meaning is given to physical and social realities.”

What this quote indicates is that a discourse structures the perception of reality. By adopting Hajer’s (Foucauldian) definition of discourse, I abandon non-Foucauldian definitions of discourse which are mainly concerned with the linguistic and pragmatic production of meaning in text and conversation (Feindt and Oels, 2005). This as opposed to a Foucauldian discourse analysis which is mainly concerned with critically analysing the things that inspired to make certain statements (Feindt and Oels, 2005). About ten years after his definition of discourse above, Hajer (2006, p.66) wrote that:

“Language profoundly shapes our view of the world and reality, instead of being merely a neutral medium mirroring it”

What I distil from this is that by the use of language certain conceptions of reality are constructed. This means that reality can only be known through language. Language is not only used to express an interpretation of reality, it also is a construction of reality. This means that by interpreting reality (through language) one also contributes to constructing reality. In that way, the interpretation of reality leads to a construction of reality and acts as a kind of self-fulfilling prophecy.

2.2.1 Discourse analysis from an embedded point of view

As introduced in the first chapter, this discourse analysis was conducted from a position in an organisation that is involved in the debate about the Environment and Planning Act. Thus the discourse analysis was conducted from some sort of ‘embedded’ position. This embedded discourse analysis means that I, as the researcher, am not an ‘objective’ outsider in the organisation. Abandoning the objective outsider position, however, does not mean that I am an insider at Antea Group who cannot distance himself from the discourse he is scrutinising. Nonetheless, I do claim that such an embedded position helps me to develop a contextualised understanding of the discourses under study. An understanding that is also influenced by my position as a researcher, which is elucidated in chapter 4.
Chapter 2 Theoretical framework

The idea to conduct the discourse analysis from an embedded position is rooted in my belief that taking part in the action (daily practice) that is governed by the discourse and also shapes the discourse, helps to analyse the discourse in context. What I mean by this is that when I am working on the research at Antea Group, I am working in an environment that is permeated with discourse (on the Environment and Planning Act). This environment is, on the one hand, influenced by discourses and on the other hand also shapes discourses. The principle of the shaping of discourses will be more extensively dealt with later in this paragraph. The rationale behind this belief mentioned above is that if one takes part in action of daily practice (and thus becomes part of the ‘action’), one contributes to a discourse (or multiple discourses). By doing so, one gets to know the discourse(s). Employing discourse analysis from an embedded position thus helps to make a more contextualised analysis of discourse(s). The paragraphs below will elucidate this argument in a more detailed way.

Discourse analysis, as social-constructivist research, implies the close involvement of the researcher with the discourse under study (Gergen and Gergen, 2000; Yanow and Schwartz-Shea, 2006). Which means that the research(er) also contributes to the development of a discourse. This discourse can be analysed using discourse analysis. This indicates, I argue, that there will be a reciprocity between (developing a) discourse and discourse analysis. But simultaneously the researcher conducting the discourse analysis creates its own discourse. That discourse can be analysed in subsequent discourse analysis sessions. After which the circle will start again. In essence, there is a vicious circle of (developing a) discourse and discourse analysis, as schematically visualised in figure 2.1. The visualisation also serves to elucidate that discourse analysis can reproduce or alter a discourse and as such, discourse analysis does not generate ‘neutral’ knowledge. Inherent to this production of discourse by discourse analysis is a particular point of attention, that of infinite regress (Teubner, 1989). The principle of infinite regress will be dealt with more extensively in a subsequent paragraph.

Figure 2.1 Vicious circle of discourse leading to discourse analysis and back to discourse

In a sense, the statement made in the previous paragraph touches on Foucault’s work about governmentalitity. It does so in the following manner: knowledge about the world (for instance about the discourses that shape the world) is being constructed in a discourse. This discursive production of knowledge can itself be productive again for the production of new knowledge about discourses. A discourse shapes the object to which it applies. (Foucault, 1991). A discourse determines what is deemed to be important or perceived as the truth.

2.2.2 Infinite regress in the research

Above the concept of ‘infinite regress’ has already been mentioned briefly. This section explores the implications of that concept for the research. It has been suggested by Luhmann that discourses are autopoietic entities that produce their essential features from the network of their essential features (Luhmann, 1986; Luhmann, 1988). Thus, in a discourse analysis, it is analysed which essential features from a wider network of features are incorporated by the discourse. This can be linked to Foucault's
(1991) statement that a discourse shapes the object to which it applies. Analysing how the discourse shapes the object (discourse analysis) leads to a conclusion that can be used to reproduce or alter the discourse. Or the conclusion can become a discourse in itself. This new, altered or reproduced discourse can subsequently (re)shape the object. This cycle can be repeated an interminable amount of times, hence infinite regress. Teubner (1989) has taken the position that discourses fundamentally find justification in their own infinite regress. Teubner also argues that bringing in the concept of infinite regress to discourse analysis is not a hiatus in the understanding of a discourse that should be avoided. Rather it is fundamentally inherent to discourse analysis (Teubner, 1989). Dreyfus and Rabinow see gaining insight to how the discourse shapes the subject by analysing modes of infinite regress as essential to creating conditions under which the discourse can be changed (Dreyfus and Rabinow, 1983). Then, the question emerges how the research deals with infinite regress.

In this research, the concept of infinite regress is dealt with by going through half of the cycle as depicted in figure 2.1. That means that specific existing discourses will be analysed. As mentioned above, that discourse analysis will presumably contribute to the production of a new, modified or reproduced discourse on the Environment and Planning Act. Figure 2.1 can also be underpinned theoretically by the following quote:

“Understanding more about the interweaving of policy discourse with our continuous making and remaking of everyday lived space seems an attractive and necessary challenge” (Jensen and Richardson, 2004, p.x).

With this quote, Jensen and Richardson (2004) point in my understanding to the interaction between (policy) discourse and the (re)production of space. But the “continuous making and remaking of everyday lived space” (Jensen and Richardson, 2004), is not a unified or problem free conception. Instead, the interactions that make up the construction of (everyday) “lived space” are messy, contested and infused with dialogues about interpretation (Sharp and Richardson, 2001). Continuing the argument made by Sharp and Richardson (2001) while going back to the quote by Jensen and Richardson, I argue that the research can help to expose the processes that constitute the making of the everyday space. The research is a kind of embedded discourse analysis which helps to gain insight in the multiple discourses that constitute the making of everyday space.

2.2.3 Duality of discourse and practice
The argument posed above finds concordance with an argument made by Arts and Buizer (2009) that there is a ‘duality’ between discourse and practice. Discourse and practice cannot be separated (Arts and Buizer, 2009). Here, it is pleaded that conducting discourse analysis from an embedded position helps to link discourse to practice to see their duality. However, this involves a problem. If discourse and practice are seen as so fundamentally merged that they cannot be separated, it can be difficult to distinguish between discourse and practice.

2.2.4 Guidelines to discourse analysis
As a beginning discourse analyst, I really hoped for some clear guidelines for discourse analysis. These are however very scarce (Graham, 2011). Sharp and Richardson's (2001) elaboration on methods and their summary of Foucauldian discourse analysis (table 2.1) proved to be helpful to me. Inspired by Sharp and Richardson (2001), I decided to identify discourses in a top-down way prior to the research to specifically seek for those discourses in the sources specified in section 3.1. These discourses are New Public Management and the New Public Service and are defined in the following sections.
Table 2.1 Approaching a Foucauldian discourse analysis (Sharp and Richardson, 2001, p.201)

<table>
<thead>
<tr>
<th>How are different discourses identified for research? Before the research process, from broadly observed shifts in society and from literature review.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where are discourses manifested? In policy rhetoric, documents, plans or programmes, but also in institutional structures, practices and events.</td>
</tr>
<tr>
<td>How are struggles between discourses manifested? In changing policy rhetoric, and in the minutiae of changing institutional structures and practices, in events within the policy process, and in policy outcomes.</td>
</tr>
<tr>
<td>How are the outcomes of these struggles manifested? In the form of policy rhetoric and in the institutionalization of new policy practices and outcomes.</td>
</tr>
<tr>
<td>How can the story of discursive conflict be analysed and convincingly presented? By reconstructing a critical narrative. Is the approach helpful in addressing the policy outcomes, implementation and broader social change? Yes, by looking at the difference between policy rhetoric and what actually happens.</td>
</tr>
</tbody>
</table>

2.3 New Public Management

The concept of New Public Management testifies of a changing attitude towards the state (Rose, 1999). Under New Public Management, the relation between government, private sector and society in general is reconsidered. Central governmental authority is only reluctantly applied and responsibilities are transferred to lower tiers of government (Hajer and Zonneveld, 2000). Sways of neoliberalism led to the adoption of market-based planning principles without proof that they actually work (Van Dijk, 2009).

New Public Management is conceptually incoherent (Hood, 1991) or a volatile philosophy that is difficult to identify and describe (Allmendinger and Haughton, 2013). New Public Management can be seen as what Markusen (2003, p.702) describes as a “fuzzy concept”:

“A fuzzy concept is one that posits an entity, phenomenon or process that possesses two or more alternative meanings and thus cannot be identified or applied reliably by different readers or scholars. In literature framed by fuzzy concepts, researchers may believe they are addressing the same phenomena but may actually be targeting quite different ones”

This notion of New Public Management as a “fuzzy concept” (Markusen, 2003, p.702) is made more complex by the fact that much of the change in public administration can be labelled as New Public Management (Peters, 2002). This notion makes New Public Management even more volatile, thus complicating attempts to operationalise the concept of New Public Management. Hood (1991) distinguishes different elements of New Public Management (Hood, 1991, pp.4-5):

1. professional management;
2. standards and measures of performance;
3. emphasis on output control;
4. disaggregate units in the public sector;
5. increase competition in the public sector;
6. emphasis on using management practices adopted from the private sector;
7. stress importance of discipline and parsimony in using resources.

Hood sees New Public Management as a conceptually incoherent type of public administration because these elements are present to different extents in different cases and do not have a single cerebral origin. Another reason New Public Management can be perceived as conceptually incoherent is because it is a merger of two different ideas. On the one hand, New Public Management is based on the idea of new institutional economics. On the other hand, that very same New Public Management contains managerialist ideas characteristic to the private sector (Hood, 1991). New Public Management can thus mean different things in different contexts. This, again, makes it relatively difficult to come up with a definition of New Public Management applicable in all cases. For this research, I have developed my own definition of New Public Management. Paragraph 2.3.8 contains that definition.
2.3.1 From old to new

The predecessor of New Public Management was the Old Public Administration (Denhardt and Denhardt, 2000). New Public Management was a reaction to the hierarchical, functionally separated organisation of society as practiced by the governmental bureaucracies. The provision of services to the public was based on the premise of the welfare state (Jones, 1995). During the 1970’s, governmental budgets were declining due to recession and society as a whole was changing. During that period, a decline in quality of the governmental services was perceived (Osborne and Gaebler, 1993). From this, a call to give government and governmental services a new élan emerged (Hood and Peters, 2004). In reaction to the old way of governing, the new way of governing was called New Public Management (Denhardt and Denhardt, 2000). Which can mean different things to different people.

New Public Management is often associated with the right-wing of the political spectrum. But the ambition to redesign the functioning of the government was originally shared by both the left-wing and the right-wing of that spectrum (Peters, 2002).

2.3.2 Paradigm within a philosophy

New Public Management is a part of neoliberalism (Van Dijk, 2009). Allmendinger and Haughton (2013) claim that neoliberalism is a term that is often used for a rather volatile philosophy which is difficult to identify and define. There is a lack of clarity about what neoliberalism actually is. Therefore, it would be better to see neoliberalism as a continuously transforming philosophy. That transformation takes place in both the broad and overarching philosophy of neoliberalism and the paradigms that comprise the philosophy on meso-level. New Public Management can be seen as a paradigm within neoliberalism (Allmendinger and Haughton, 2013).

Allmendinger and Haughton (2013) reject the idea that neoliberalism is anti-planning because planning has a strong market supportive role. Planning is seen as both an object and a subject of neoliberalism. Key to neoliberalism is a normalisation of neoliberal thinking and a presentation of alternatives to neoliberalism as deviant. Neoliberalism is not something applied in a top-down way, the inception of neoliberalism is a mediated, contested and far from unidirectional process (both bottom-up and top-down) (Allmendinger and Haughton, 2013).

2.3.3 Manifestation of presence

Allmendinger and Haughton (2013) contend that since the works of Hayek, neo-liberal thinking has been present in policy environments. During some eras it was more present than other, but it always has been present. With regard to spatial planning, it is argued that neoliberalism is more or less manifest during the past three to four decades. Allmendinger and Haughton emphasise the “temporal variegation” (p.11, italics in original) to understand the ways neoliberalism exerts influence. In the 1990’s and early 2000’s this temporal variegation stressed central governmental promotion of economic growth in concordance with social and ecological development. During the latest crises, this temporal variegation shifted towards a more interventionist perspective which put an accent on entrepreneurial competitiveness while simultaneously questioning the power and operation of markets. These temporal variegations are both to be classified as neoliberalism (Allmendinger and Haughton, 2013).

Spatial planning undergoes regular shifts. Shifts that occur when the benefits of a certain approach (more flexibility) no longer outweigh the negative consequences. These shifts draw on the (re)creation of practices and processes. Since the practice of spatial planning during the last three or four decades can be typified as more or less neoliberal, it is claimed that neoliberalism builds on existing elements (which are sometimes rediscovered from earlier sways of neoliberalism) (Allmendinger and Haughton, 2013).
2.3.4 Absorbing discourses
Besides the traits described in the preceding paragraphs, neoliberalism also has the ability to absorb competing discourses on, for instance, sustainability or climate change adaptation/mitigation. Neoliberalism as a philosophy has the ability to respond to counter discourses in a flexible and pragmatic way. These responses are based upon the locally prevalent “institutional and political accommodations” (Allmendinger and Haughton, 2013, p.13, italics are mine). I distil from this that the response neoliberalism poses is contextualised. The result of counter discourses being included in neoliberalism is that issues like sustainable development are unevenly taken up in policy agendas. Which in turn is essential for the further roll out of neoliberalism (Allmendinger and Haughton, 2013). Neoliberalism moves and expands “through the discourses it constructs, justifies and defends” (Springer, 2012, p.135). Thus, even if a discourse seems to counter neoliberalism, or New Public Management since it is a paradigm within neoliberalism, it can spread by means of that counter discourse.

2.3.5 Objective and values of New Public Management
In the context of this research, New Public Management is seen as an international movement in thinking about government intervention. In line with Bevir et al (2003) that movement is perceived as a trend in the methods and practices of governing. A trend that is a collection of discourses, principles and measures. This trend is interpreted differently in different countries. The objective of New Public Management is to increase the efficiency and effectiveness of the government. The idea structuring that objective is that the goal of enhancing efficiency and effectivity can be achieved by applying mechanisms which are derived from the private sector in the public sector. After all, as proponents of New Public Management argue, private sector organisations have to work efficiently and effectively in order to survive the competition (Denhardt and Denhardt, 2000; Van Thiel and Leeuw, 2002). Increasing efficiency and effectivity is also seen as an important feature of New Public Management by Clifford and Tewdwr-Jones (2013).

Following Bevir (2011), New Public Management is here typified as a branch of governance. Bevir has claimed that governance initially consisted of two analytically distinct strands of public sector reform. One of these strands consisted of public sector reforms associated with the sociological concept of rationality of which networks of citizen participation are an example. The other strand was based on the economic concept of rationality of which neoliberalism (and more specifically New Public Management and steering by means of contracts are examples (Bevir, 2011). In this thesis, I see New Public Management as a branch of governance initiated by an aim for economic rationalisation.

New Public Management is not only about implementing new techniques for steering government, it is also about the implementation of a new set of values. Those values are largely derived from the private sector. Both the new techniques and the new values should be adopted by the government desiring to implement New Public Management. This indicates that New Public Management is also a normative model for the public administration and the management of governments (Denhardt and Denhardt, 2000). Denhardt and Denhardt (2000) summarise their vision on New Public Management as depicted in the middle column of table 2.2 on the next page.
Reforms initiated from a New Public Management perspective are typically top-down in nature. Changes are initiated by a government desiring to reform by means of focusing on the three E’s (Fattore et al, 2012):
1. economy;
2. efficiency;
3. effectiveness.

Changes, guided by these structuring principles are imposed on society in a hierarchical way (Fattore et al, 2012). Which is actually rather contradictory when thinking about it, after all New Public Management stipulates the demolition of the bureaucracy that is characteristic for the “Old Public Administration” (Denhardt and Denhardt, 2000). In both the classical form of public administration and in New Public Management, there needs to be a sense of control over civil servants by administrative executives. Peters (2002) states that there is a difference in the type of control. In the "Old Public Administration" (Denhardt and Denhardt, 2000), control is imposed by means of laws and rules. Whereas in New Public Management, control is based on providing financial incentives (rewarding civil servants who perform better with higher salaries, which is a performance indicator) and building organisational cultures. So under New Public Management, control is not so much associated with legal principles but with performing tasks in an effective and efficient way (Peters, 2002).
2.3.6 Practices of New Public Management

In 2006, Padt wrote that he considered the following indicative for New Public Management (Padt, 2006):

1. **Transparency:** Defined as the specifying and devolving of tasks and responsibilities between government agencies so as to establish clear mutual relationships between those government agencies. This should provide those government agencies with more flexibility in making decisions and implementing policies. According to Padt, this must be accompanied by a devolution of decision-making capacity. The devolution enables and constrains others to provide governmental services.

2. **Business like practices:** Managers of government agencies are encouraged to make decisions based on organisational goals. Business like management practices are introduced to government agencies to handle flexibility. Managers of those government agencies are empowered to make decisions based on organisational goals. The style of management is no longer hierarchical, protective and focused on activities. Rather, the management style that is characteristic to New Public Management lays an emphasis on teamwork, production, results, output controls and performance indicators. The management of performance enhances both accountability and organisational learning.

3. **Local empowerment:** Government agencies should listen to their citizens (who in New Public Management are called customers). To provide the best service, competition between government agencies should be encouraged. Communities are given the possibility to choose their own goals and to reach them in the way that appeals best to the community. However, these goals will to a certain extent be issued and provided by government agencies.

4. **Public entrepreneurship:** Administrative executives are encouraged to show decisiveness and to communicate clearly and unambiguously, they are given an active role in finding solutions for issues related to politics and public administration. As examples of such issues, Padt (2006, p.208) mentions, among others, "misty decision making" and "bad communication". Administrative executives in New Public Management are rather seen as public entrepreneurs. The rationale structuring this desire is that because of their role as the ones arranging public choices, they should be redeemed from the "bad system" and become public entrepreneurs. Rules and procedures are seen to be rather limiting. Instead of rules, the mission of a government agency and the desired outcome of a project should give direction to the way a government agency invests (time and resources) in an initiative.

Thus, Padt argues that New Public Management operates through the four practices summarised above. Padt chose these four practices because they encompass the practices of New Public Management as elaborated on by Hood (1991) and Osborne and Gaebler (1993) in their works (Padt, 2006).

What Padt also contended (and which finds concordance with the arguments made in the preceding arguments about New Public Management) is that New Public Management can be perceived as an aggregation of operating practices and instructions. Operating practices and instructions which give direction to organising shifts in governance. Those practices and instructions also indicate how to behave during such shifts in governance. New Public Management does not only result from shifts in governance, but also reinforces such shifts (Padt, 2006). From this it follows that New Public Management is the product of change, but it also is a catalyst of change (from which it can become a product). So again, a vicious cycle is encountered. Just as discourse analysis leads to the production of a new discourse, New Public Management leads to changes in governance, while it also is the product of a change in governance.
2.3.7 The darker side of New Public Management

New Public Management might have some positive traits, like enhancing efficiency and effectivity, but it also has a darker side. According to Padt (2006), this darker side is to be found in the democratic and public values of New Public Management (Padt, 2006).

**Democratic shortcoming**

It has been argued by Padt that inherent to New Public Management is a democratic shortcoming. This shortcoming relates to the argument that the control of the political process becomes more important than the political debate. This leads to consensus becoming an end in itself rather than a means for achieving political objectives. Also, the (strong) emphasis will take its toll on equality in society. Problems that are difficult to deal with or that do not fit the prevailing managerial views are ignored. New Public Management also leads to administrative executives focusing on making good deals which gives the political process an opportunistic character. New Public Management could also lead to a drop in the public's confidence in the government because, under the influence of New Public Management, administrative executives tend to commit power politics and take risks more easily (Padt, 2006).

Another point of critique that Padt presents is that New Public Management leads to a lack of public insight in the workings of the government. This leads to a superficial public opinion becoming synonymous with the public interested. It also leads to the democracy becoming equated with freedom of choice. Or as Padt puts it, "People learn to distrust each other and democratic institutions by the contract-based accountability". New Public Management encourages citizens to no longer take part in the democratic or political process and discourages citizens to give their opinion on things that matter to them (Padt, 2006, p.209).

**Output control**

In New Public Management, an emphasis is put on the outcome of processes. By adopting the management processes of the private sector, one aims at generating outputs as effectively and efficiently as possible (Mäntysalo et al, 2011). Under the reign of New Public Management, politicians and administrative officials have to provide evidence to tax payers that their tax money is effectively and efficiently spent by the government (Pollitt and Bouckaert, 2004). This has led to the inception of all kinds of performance indicators (Power, 1997; Ter Bogt, 2008a; Van Hengel et al, 2014). However, the outcomes of the performance measurement are not necessarily equal to the originally desired goals (De Bruijn, 2002). In New Public Management the performance itself and the measuring of performance are given such a central position that goals are only real when they are achieved. Long term goals and gains that are not easily quantifiable are left out of consideration (Van der Steen et al, 2014). Therefore, I argue here that striving to achieve a certain performance indicator also has a darker side. Trying to achieve a certain performance indicator or target could lead to achieving it becoming more important than the idea behind the performance indicator. The goal is lost then. In short, achieving performance itself becomes the goal rather than a means. Striving to improvements in mechanistic ways, runs the risk of becoming a reductionist approach. If these reductions become performative, which means they have to be achieved by any means, problems arise.
Chapter 2 Theoretical framework

Rhetoric and its implications

New Public Management provides a certain rhetoric for reform which does not only provide civil servants with the possibility to process reforms but also with the moral mind-set to do it. Which might lead to all kinds of perverse effects as for instance caused by performance management (Maesschalck, 2004).

Traditionally, the order of values public servants adhere to is (from more important to less important) (Bouckaert, 1995):

1. legality;
2. equity;
3. effectiveness;
4. efficiency;
5. economy.

Under New Public Management, this order is changed to one in which effectiveness, efficiency and economy become the most important, thus propagating individualism. Which subsequently could lead to more unethical behaviour (Bouckaert, 1995).

2.3.8 Summarising New Public Management

Building on the work of Denhardt and Denhardt (2000), I used their perspective on New Public Management to operationalise it for this research. Table 2.3 on the next page contains that operationalisation. For each trait mentioned in the left column of table 2.3, it will be analysed how it is taken up in the Environment and Planning Act.
### Table 2.3 Operationalisation of New Public Management, after Denhardt and Denhardt (2000, p.554)

<table>
<thead>
<tr>
<th>Core elements</th>
<th>New Public Management</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Primary theoretical and epistemological foundations</strong></td>
<td>Economic theory, more sophisticated dialogues based on positivist social science (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td></td>
<td>Neoliberal application of central government authority (Hager, 2011).</td>
</tr>
<tr>
<td></td>
<td>Modernisation of public administration (Hood, 1991).</td>
</tr>
<tr>
<td></td>
<td>Evolution philosophy difficult to identify and describe (Almendinger and Haughton, 2013).</td>
</tr>
<tr>
<td></td>
<td>A reaction to the Old Public Administration (Denhardt and Denhardt, 2000) based on a merger of ideas from new institutionalist economics and private sector management ideas (Hood, 1991).</td>
</tr>
<tr>
<td></td>
<td>Able to respond to counter discourses in a flexible and pragmatic way, thus spreading via those discourses (Almendinger and Haughton, 2013).</td>
</tr>
<tr>
<td></td>
<td><strong>Paradigm within neoliberalism</strong> (Almendinger and Haughton, 2013).</td>
</tr>
<tr>
<td><strong>Prevailing rationality and associated models of human behaviour</strong></td>
<td>Technical and economic rationality, “economic man” or the self-interested decision maker (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td></td>
<td>Modernisation of business-like management practices like making decisions based on organisational goals (Patt, 2006).</td>
</tr>
<tr>
<td><strong>Conception of the public interest</strong></td>
<td>Represents the aggregation of individual interests (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td><strong>To whom are public servants responsible?</strong></td>
<td>Customers (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td><strong>Role of government</strong></td>
<td>Steering (acting as a catalyst to unleash market forces) (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td></td>
<td>Communities are given the possibility to choose their own goals and to reach them in the way that appeals best to the community. However, these goals will be to a certain extent be issued and provided by government agencies (Patt, 2006).</td>
</tr>
<tr>
<td><strong>Mechanisms for achieving policy objectives</strong></td>
<td>Creating mechanisms and incentive structures to achieve policy objectives through private and non-profit agencies (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td></td>
<td>Control over civil servants and lower tiers of government by providing financial incentives and building an organisational culture to work as efficient and effective as possible (Peters, 2002).</td>
</tr>
<tr>
<td></td>
<td>A management style that emphasises teamwork, production results, to enhance accountability and organisational learning (Patt, 2006).</td>
</tr>
<tr>
<td></td>
<td>A genuine competition between government agencies to motivate them to provide the best service to citizens (Patt, 2006).</td>
</tr>
<tr>
<td></td>
<td>Instead of rules, the mission of a government agency and the desired outcome of a project should determine direction to the way a government agency invests (time and resources) in an initiative (Patt, 2006).</td>
</tr>
<tr>
<td></td>
<td>Inception of performance indicators to measure output (Manipsky et al. 2011).</td>
</tr>
<tr>
<td><strong>Approach to accountability</strong></td>
<td>Market driven - the accumulation of self-interests will result in outcomes desired by broad groups of citizens (or customers) (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td></td>
<td>Specifying and devolving of tasks and responsibilities between government agencies so as to establish clear mutual relationships between those government agencies (Patt, 2006).</td>
</tr>
<tr>
<td><strong>Administrative discretion</strong></td>
<td>Wide latitude to meet entrepreneurial goals (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td><strong>Assumed organizational structure</strong></td>
<td>Decentralised public organizations with primary control remaining within the agency (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td></td>
<td>Responsibilities of the central government are transferred to lower tiers of government (Hager and Zomleve, 2006).</td>
</tr>
<tr>
<td><strong>Assumed motivational basis of public servants and administrators</strong></td>
<td>Entrepreneurial spirit; ideological desire to reduce the size of government (Denhardt and Denhardt, 2000).</td>
</tr>
<tr>
<td><strong>Disadvantages</strong></td>
<td>A drop in the public’s confidence in the government due to politicians who practice more power politics and take risks more easily (Patt, 2006).</td>
</tr>
<tr>
<td></td>
<td>A lack of public insight in the workings of the government due to “contract-based accountability” (Patt, 2006, p.209).</td>
</tr>
<tr>
<td></td>
<td>A lack of a strong focus on performance indicators, the output is not necessarily equal to the goals (De Bruijn, 2002).</td>
</tr>
<tr>
<td></td>
<td>Difficulties in making a clear output control by performance measurement, long-term goals or goals that are not easily quantifiables are not taken into consideration (Van den Steen et al., 2014).</td>
</tr>
<tr>
<td></td>
<td>Unethical behaviour due to focus on performance (Maesschalck, 2004).</td>
</tr>
</tbody>
</table>
Chapter 2 Theoretical framework

2.4 Serving instead of steering

New Public Management emphasises adopting a business-like management style to make the government more efficient and effective. But trends in public administration stress the importance of interacting not only with the private sector, but also with citizens to enhance democratic deliberation (Denhardt and Denhardt, 2000). The core argument is that a government “shouldn’t be run like a business; it should be run like a democracy” (Denhardt and Denhardt, 2003, p.3).

In table 2.2, Denhardt and Denhardt (2000) give their vision on the Old Public Administration, New Public Management and the New Public Service. Having analysed intellectual and practical development in the discipline of public administration, Denhardt and Denhardt (2000) conclude that the ideas of the Old Public Administration and New Public Management not completely match the contemporary theory and practice of government anymore. They argue that the government belongs to citizens and that values like efficiency and productivity, which are propagated by New Public Management, need to be put in the larger context of democracy, community and the general public interest. Denhardt and Denhardt (2000) use the foregoing arguments to present the New Public Service as a more attractive form of public administration because the New Public Service is more in line with what citizens according to them expect of the government. The New Public Service is seen as a framework for steering governments based on (Denhardt and Denhardt, 2000):

- **democratic citizenship:** Citizens should be seen as citizens and not primarily as voters (Old Public Administration) or clients (New Public Management). Under the New Public Service, citizens look beyond their self-interest in order to look at the interest of society at large. In order to enable citizens to do this properly, civil servants should share control with citizens and trust should be put in the usefulness of collaboration.

- **community and civil society:** The community is seen as a way to establish unity and synthesis between distinctly different (groups of) people. The role of the government should be to help in creating and supporting the development of communities. The principal aim is on the public interest. Civil servants should contribute to the creation of a collective and shared notion of the public interest. It is not about finding quick solutions, it is about coming to shared interests and shared responsibility. Based on a dialogue spread among all citizens, a vision on the desired development of society needs to be developed. Civil servants need to bring people together so they can start such a dialogue.

- **organisational humanism and citizen participation:** Civil servants and the organisations those servants are active in, need to become less focused on control and become more attentive to the needs and concerns of citizens. People depend on one another, thus governance should be based on an open and sincere dialogue among all parties involved to actually come to the New Public Service.

2.4.1 Building blocks of the New Public Service

The New Public Service places citizens at the forefront and rather than steering government, civil servants should explicitly serve citizens. Denhardt and Denhardt (2000) name seven starting points for the New Public Service (Denhardt and Denhardt, 2000, p. 553-556, bold font is mine):

1. **Serve rather than steer.** An increasingly important role of the public servant is to help citizens articulate and meet their shared interests, rather than to attempt to control or steer society in new directions.

2. **The public interest is the aim, not the by-product.** Public administrators must contribute to building a collective, shared notion of the public interest. The goal is not to find quick solutions driven by individual choices. Rather it is the creation of shared interests and shared responsibility.
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3. “Think strategically, act democratically. Policies and programs meeting public needs can be most effectively and responsibly achieved through collective efforts and collaborative processes.”

4. “Serve citizens, not customers. The public interest results from a dialogue about shared values, rather than the aggregation of individual self-interests. Therefore, public servants do not merely respond to the demands of “customers” but focus on building relationships of trust and collaboration with and among citizens.”

5. “Accountability isn’t simple. Public servants should be attentive to more than the market; they should also attend statutory and constitutional law, community values, political norms, professional standards, and citizen interests.”

6. “Value people, not just productivity. Public organizations and the networks in which they participate are more likely to succeed in the long run if they are operated through processes of collaboration and shared leadership based on respect for all people.”

7. “Value citizenship and public service above entrepreneurship. The public interest is better advanced by public servants and citizens committed to making meaningful contributions to society rather than by entrepreneurial managers acting as if public money were their own.”

The New Public Service is a resolution between the ideals of communicative planning and the reality of neoliberal planning (Sager, 2009). Central to the New Public Service are ideals like the government serving its citizens and civil servants adhering to the mission and the values of the government. Such values are also central to New Public Management. But under the latter, these values are approached from a business perspective, whereas in the New Public Service, these values are approached from a perspective in which the government is a subservient broker of citizen interests. Under the New Public Service, the government helps citizens to formulate mutually shared goals and tries to help citizens to reach goals by adopting a facilitating and stimulating rather than a steering role (Denhardt and Denhardt, 2000; Denhardt and Denhardt, 2003).

2.4.2 Issues associated with serving

Inherent to the New Public Service are some issues. Since the term New Public Service is used in public administration for what in the planning field is called ‘communicative planning’ (Hefetz and Warner, 2007), the critique on the New Public Service presented here draws on literature on both these subjects.

Bengs (2005) for instance observed that communicative planning is an instrument to make a call for societal institutions that match and enhance the development of free flows of capital. Communicative planning can be used to make a call for institutions that are equal to neo-liberal institutions. Both New Public Management and communicative planning can be used to come to a planning regime with as less restrictions and guidelines as possible and with plenty local development opportunities (Bengs, 2005).

Critics of communicative planning claim that it provides an incentive to hand over power to large private sector development enterprises. The power of such enterprises can be balanced by the power of the national government, therefore the national government draws up laws and regulations which serve shared interests. Communities often compete for development projects since such projects typically bring employment. This brings developers in the position to play local politicians off against each other. As a result, power relations are biased in favour of the developer (Sager, 2009). Power instead of communication and rationality determines what is decided, communicative planning does not change that (Flyvbjerg, 1998). A communicative process can be taken over by groups of people who have time and resources wanting to safeguard their interest and as such, it can simply legitimise existing power relations (Allmendinger, 2009).
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Communicative planning as an arena for consensus-based deliberation has the potential to undermine representative democracy and state intervention. State intervention is necessary to come to a decision-making process based on consensus. (Fischler, 2000). Allmendinger (2009, p.220) sees communicative planning as a “redistributive activity”. If the state does not want to redistribute power to participants in the planning process, that type of planning is impossible. Furthermore, an emphasis on consensus building will only lead to temporal solutions when goals are not clear and agreements are not ambitious enough (Smedby and Neij, 2013). It is also not sufficient to reach consensus only in the early phases of the planning project. In order to ensure that the desired goals are reached, the ideas from the early dialogue need to permeate all stages of the dialogue/project (Flyvbjerg, 1998).

Allmendinger (2009) brings forward a practical problem associated with communicative planning, namely that it is based on participative democracy. This can lead to citizens developing a bigger interest in the government. However, it is also likely that the average citizen will not be interested in political decisions taken at the national level. Adherents of communicative planning give little indications of how representative democracy can be combined with citizen participation, as a result of that it stays an abstract theory that can only offer an interesting perspective on spatial planning (Allmendinger, 2009).

Communicative planning becomes possible in the absence of domination, repression and ideology. Generally, the precondition of absent domination does not exist in any interaction between citizens and the state. Domination is part of the operational rules of society (Low, 1991).

2.5 Problem statement

Summarising from the preceding sections, it follows that New Public Management can have some positive effects, like enhancing effectivity and efficiency. From paragraph 2.3.7, it however also follows that New Public Management can have the negative consequences enumerated below:

- A drop in the public’s confidence in the government due to politicians who practice more power politics and take risks more easily (Padt, 2006).
- Due to a strong focus on performance indicators, the output is not necessarily equal to the goals (De Bruijn, 2002).
- Due to the focus on output control by performance measurement, long term goals or goals that are not easily quantifiable are not taken into consideration (Van der Steen et al, 2014).
- Unethical behaviour due to focus on performance (Maesschalck, 2004).

Diefenbach (2009) summarised these negative effects as:

- a limited understanding of organisational values, narrow definitions of efficiency and effectivity which emerge under New Public Management reduce the scope and quality of public services;
- attempts to reform organisational structure often lead to more bureaucratisation, formalisation and centralisation of the government apparatus;
- performance measurement and management systems tend to lead to a focus on quantifiable and narrow indicators which contribute to devaluation of assets and values, they increase workload and stress;
- too much focus on managements, gives way to managers to reinforce their position, dominating other realms and levels of organisation.

Sager (2009) found that New Public Management narrows the debate about a planning intervention by giving cost effectiveness a hegemonic position. The commitment of planning practitioners adhering to New Public Management is relatively narrow since the main focus is on cost effectiveness (Sager, 2009) and their interaction with citizens is limited (Denhardt and Denhardt, 2000). New Public Management
does not only propagate the adopting of private sector management techniques by the public sector, but also urges the public sector to adopt private sector values. As a result of that, values like profit optimisation, self-interest and market forces are to determine the public interest. This leads to a government that responds to the short-term interests of individuals (customers) instead of pursuing the public interest determined collectively (Denhardt and De Leon, 2000). Under New Public Management, there is tension between enhancing efficiency and efectivity and democracy, I argue. Therefore, it is important to know how New Public Management manifests itself in the debate about the Environment and Planning Act because, in my view, it impedes democratic, inclusive and long-term planning.

The New Public Service of Denhardt and Denhardt (2000) offers a solution to this democratic deficit by giving decisions taken by citizens collectively a central role in the decision-making process. Under the New Public Service, the search for shared values and finding common interests by widespread dialogue and citizen involvement is on. Governments need to help citizens in defining the common interest. That makes decision-making processes more dynamic and more attuned to citizen deliberation (Allmendinger et al, 2003). By giving democracy and the public interest a central role and by preferring democratic values over private sector values, the New Public Service solves the democratic deficit enhancing efficiency and efectivity puts on spatial planning. Inherent to the idea of the New Public Service are some issues, of which the most important is that it can be used to continue the practice of New Public Management Planning (Bengs, 2005). Other important issues related to the New Public Service are that it can bias power relations in favour of private sector organisations (Sager, 2009) and that participative processes can be taken over by actors trying to safeguard their interest. Indicating that communicative planning processes can be used to continue the status quo and legitimise existing power relations (Allmendinger, 2009) thereby lubricating New Public Management planning (Bengs, 2005). Therefore, I argue that it is also important to know how the New Public Service discourse manifests itself in the debate about the Environment and Planning Act, because the New Public Service can also be used as a means to legitimise the democratic deficit inherent to New Public Management and does not necessarily lead to democratic, inclusive and long-term spatial planning. A discourse analysis can, according to me, help to explore the risk that the New Public Service discourse is used to legitimise New Public Management planning in the debate about the Environment and Planning Act.

With the Environment and Planning Act, the minister of Infrastructure and the Environment desires to let citizen participation take place in a process of open communication between government and citizens. In that process, the government needs to have a facilitating and stimulating role rather than a steering role (Omgevingswet, 2014a). In my understanding, this shows similarities with the New Public Service principles. The development of the Environment and Planning Act provides the opportunity to analyse the manifestation of the New Public Management and New Public Service discourse in the debate about that act. The objective of that analysis is to determine whether and how that act will lead to New Public Management planning with all associated issues as mentioned in paragraph 2.3.7. Or whether and how the Environment and Planning Act will lead to New Public Service planning with all the associated issues from paragraph 2.4.2. Or whether and how it will lead to New Public Service planning in which the government is really focused on adhering the wishes of citizens. Exploring the manifestations of the New Public Management and New Public Service discourse in the debate about the Environment and Planning Act, contributes to developing strategies to come to truly inclusive and democratic New Public Service planning.

The Environment and Planning Act is still in development. This therefore provides an opportunity to conduct research to the relations between the New Public Management discourse and New Public Service discourse in the debate about the Environment and Planning Act. After all, since the act and the debate are still in development, different tiers of government and societal actors that will be affected by the Environment and Planning Act, can choose to put more emphasis on the desired discourse.
2.6 Research questions

Based on what is written in the previous section, one general research question and multiple specific research questions have been formulated. Formulating an answer to these questions will be the structuring principle of the research. The general research question of the research is:

**How do the New Public Management discourse and the New Public Service discourse manifest themselves in the debate about the Environment and Planning Act and the position of preparatory research in the Environment and Planning Act?**

In order to answer the general research question, the specific research questions below have been formulated.

1. How do actors frame their involvement in the debate about the Environment and Planning Act?
2. How do actors frame the debate about the Environment and Planning Act?
3. How is the New Public Management discourse expressed in the debate about the Environment and Planning Act?
4. How is the New Public Service discourse expressed in the debate about the Environment and Planning Act?
5. What discourse(s) on preparatory research are expressed in the debate about the Environment and Planning Act?
3 RESEARCH APPROACH AND METHODS

In this chapter, an overview of the methodology that has been employed to obtain and analyse the data is provided. Furthermore, this chapter specifies which different phases comprised the research.

3.1 Data collection

This study is based on a discourse analysis of:

- A series of articles about the Environment and Planning Act in professional spatial planning journals issued monthly between the beginning of 2013 and the end of 2014.
- A series of columns by employees of Antea Group in a professional spatial planning journal issued between January 2013 and March 2014.
- Documents about the Environment and Planning Act issued by the Ministry of Infrastructure and the Environment (Ministerie van Infrastructuur en Milieu).
- the text of the Environment and Planning Act itself;
- the text of the explanatory memorandum (in Dutch: memorie van toelichting) that applies to the Environment and Planning Act;
- Semi-structured in-depth interviews with stakeholders from academic, professional and administrative realms that will give their vision on the Environment and Planning Act (see also paragraph 3.2.2).
- A workshop.

3.2 Phases

The research consisted of various phases with different methodologies. This section elaborates on the different phases and the methods that were used in those phases. The phases that together comprised the research are visualised in figure 3.1. The arrows between the different phases are indicative for the reciprocity between obtaining and analysing data and the reciprocity between analysis and reflection. This iteration between steps is characteristic to social-constructivist research (Creswell, 2014). Moreover, there was also reciprocity between the different modes of data collection. This means that, for instance, the questions to be asked during an interview could be adapted after I found something in other sources which I wanted to probe in an interview.

3.2.1 Literature review

The first phase of the research consisted of a literature review of academic books and articles about:

- environmental and planning law in the Netherlands;
- preparatory research in environmental and planning law;
- law (reform) (in spatial or environmental in planning);
- governance in spatial planning;
- discourse analysis.

The objective of the literature review was to develop a theoretical framework and to gain information and input so as to generate questions for the interviews.
Chapter 3 Research approach and methods

Figure 3.1 Phases in and sequence of the research

3.2.2 Interviews for discourse analysis
Each interview needed to cover a perspective as shown in table 3.1. The top row of table 3.1 covers the realms from which the respondents had to come. The left column of that table covers three perspectives explored in the research: spatial planning, law and governance. Thirteen persons have been interviewed, covering all the combinations of realms and perspective depicted in table 3.1 with at least one respondent.

Table 3.1 Views on the Environment and Planning Act covered in the interviews

<table>
<thead>
<tr>
<th>Perspectives</th>
<th>Academic</th>
<th>Administrative</th>
<th>Professional</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spatial Planning</td>
<td>Looking at the Environment and Planning Act from an academic spatial planning perspective</td>
<td>Looking at the Environment and Planning Act from an administrative spatial planning perspective</td>
<td>Looking at the Environment and Planning Act from a professional spatial planning perspective</td>
</tr>
<tr>
<td>Law</td>
<td>Looking at the Environment and Planning Act from an academic law perspective</td>
<td>Looking at the Environment and Planning Act from an administrative law perspective</td>
<td>Looking at the Environment and Planning Act from a professional law perspective</td>
</tr>
<tr>
<td>Governance</td>
<td>Looking at the Environment and Planning Act from an academic governance perspective</td>
<td>Looking at the Environment and Planning Act from an administrative governance perspective</td>
<td>Looking at the Environment and Planning Act from a professional governance perspective</td>
</tr>
</tbody>
</table>

Definition of the academic realm
Academic respondents are defined as people who follow the debate about the Environment and Planning Act or contribute to that debate from an academic position. An academic position implies that those people hold positions as researchers or scholars at a university in the Netherlands.

Definition of the administrative realm
In the context of the research, respondents with an administrative background are defined as persons who develop the Environment and Planning Act. People with an administrative background come either from the realms of politics or from the realms of policy development. However, a criterion for the selection of such people was that they are or have been involved in the development of the Environment and Planning Act. This requirement has been established so as to use the research to analyse how the theoretical ideas about the Environment and Planning Act permeate the development of that act. Another goal related to this requirement is to analyse how the respondents see ‘their’ reality so as to relate this reality to practice, the debate about the Environment and Planning Act.
Chapter 3 Research approach and methods

**Definition of the professional realm**

The professional realm is defined as the realm in which persons operate who are active in private sector enterprises and in network organisations that create bonds between those private sector enterprises and academic, administrative and/or societal organisations. Besides creating bonds between those organisations, persons who operate in this realm are mainly occupied by consultancy activities related to spatial planning and environmental law in the Netherlands. It has to be noted that three out of the six respondents with a professional background are employed at Antea Group.

**Selection of respondents**

Potential respondents were selected based on the prerequisite that they had to be active in the spectres covered in table 3.1. Another prerequisite was that potential respondents had to have considerable experience in the relevant spectre. Potential respondents also had to be active in the debate about the Environment and Planning Act. To select potential respondents, I have:

- Read essays in which potential respondents gave their opinion about the Environment and Planning Act.
- Read minutes of discussions about the Environment and Planning Act to search for names of people who contributed to those discussions.
- Asked people at Antea Group whether they knew persons who were actively contributing to the debate about the Environment and Planning Act.
- Visited congresses about that act and asked people who spoke at such congresses whether they want to be interviewed by me.
- Asked respondents whether they had suggestions for other potential interview candidates.

**Conducting the interviews**

The interviews were conducted in the period between Wednesday 29 October 2014 and Monday 19 January 2015. Four respondents have an academic background, three respondents have an administrative background and six respondents have a professional background. With exception of one interview, all interviews were conducted face to face. One interview was conducted telephonically due to time constraints. All interviews were conducted in Dutch. To stay as close to the words spoken in the interview as possible and to prevent an additional interpretation by the researcher (from Dutch to English) all interviews were transcribed and analysed in Dutch.

Prior to the interview, I sent each respondent the topic list that served as a preparation for the interview. The time between the sending of the topic list and the interview varied from one day to four weeks. With the topic lists typically sent at least one week prior to the interviews. An example of the topic list with questions (in Dutch) that were asked during (nearly) all interviews is enclosed in appendix I.

**Objective of the interviews**

To subject the interviews to discourse analysis, they were recorded and transcribed. The transcripts (from spoken to written language) of the interviews were analysed using the so-called open coding method. Thus, codes were developed based on the themes mentioned by the respondents. The coded transcripts of all interviews have been compared to each other and when necessary, codes have been modified or renamed so as to match all themes mentioned in all interviews (Creswell, 2014).

A related goal of the interviews was to get suggestions for documents to subject to discourse analysis. The respondents have been asked to give a selection of the documents they considered to be of relevance for the discourse analysis. The interviews thus served a double goal. Where it concerns the Environment and Planning Act itself, the interviews focused on raising questions to both explore the respondent’s opinion about the current situation regarding the Environment and Planning Act and the expectations the respondent had of the Environment and Planning Act. In the interviews, attention was especially directed to the respondent’s vision on the position of preparatory research and the minister’s ambition to reduce research expenses as stated in the Environment and Planning Act.
3.2.3 Participating in events for discourse analysis

Besides analysing statements found in documents and interview transcripts, statements uttered during events about the Environment and Planning Act. An example of such an event was the congress ‘Regiobijeenkomst Omgevingswet’. During such events, presentations, workshops and discussions were attended (participant observation) so as to seek for statements that proved to be interesting for discourse analysis.

3.2.4 Workshop for discourse analysis

A workshop was organised to present the preliminary results and gain reactions on those results. Statements that were brought to the fore during the interviews were reflected upon during the workshop. The workshop built on the results of the literature review and the discourse analysis. Another objective of the workshop was to gain, for the last time in the research, data to conduct additional discourse analysis on. With regard to the latter point, I was especially interested in how participants reacted to each other and whether a short of “shared” discourse seemed to emerge during the workshop. So that workshop was both an anchoring point in the data analysis and the last opportunity to gain additional data for discourse analysis. The workshop was thus an opportunity for member checking (Lincoln and Guba, 1985) and an interaction moment resulting in new data.

The workshop started with a presentation of preliminary results of the discourse analysis. The presentation was followed by a discussion based on five statements. The topics of those statements revolved around perceptions of the Environment and Planning Act. An invitation to the workshop and the programme of the workshop (in Dutch) with an overview of the statements discussed is to be found in appendix II.

On the morning of Friday 23 January 2015, the two-hour lasting workshop was held. The workshop was attended by eight persons. Since I wanted to check how the interviewees reacted to the preliminary results, initially only they were invited to participate. The workshop was also attended out of personal interest by two people who had not been interviewed. Equal to the respondents of these interviews, these two people are experts in their combination of discipline and perspective. The workshop was attended by people with the following backgrounds:

- academic – spatial planning;
- professional – spatial planning;
- academic – law;
- professional – law;
- academic – governance.

In the academic-spatial planning background as well as in the professional-law background a non-interviewed participant was present. In each combination of discipline and perspective represented at the workshop one respondent of the interviews was present.

The workshop was attended by a fellow student to observe the ways people responded to the results and to each other during the discussion.

3.3 Validity and the importance of reflection

Building on what Denzin and Lincoln in 1994 described as the crisis of validity, Gergen and Gergen (2000) point to the allegedly misplaced use of regular and traditional validity criteria in social-constructivist research. Gergen and Gergen argue that in social-constructivist research validity has to be found and defined in other terms than by the ‘regular’ concept of triangulation, because such a ‘regular’ concept cannot account for the interpretation of data inherent to social-constructivist research. What is listed in this section as the ‘irregular’ concept of triangulation are concepts that in this research
can deal with interpretation in research (Gergen and Gergen, 2000). The ‘regular’ concept of triangulation is used to weave in a distinction between the sources and methods I used in this research and not so much as to ensure validity. The ‘irregular’ concept of triangulation is used to elaborate on my interpretations that influenced the validity of this research.

### 3.3.1 The regular concept of triangulation

Leading in the endeavour of data collection is the concept of triangulation. That concept dictates the use of multiple types of sources so as to analyse the research subject from multiple perspectives (Harinck, 2007). In the research, triangulation was applied through:

- triangulation of sources;
- triangulation of methods.

The former means that different data sources will be analysed (Denzin, 1970). The data sources that have been analysed during this research are specified in section 3.1.

### 3.3.2 The irregular concept of triangulation

In my perception, a discourse analysis is among others about ascribing value to the meaning people give to a document or a debate, or to the meanings figuring in a document or debate. Different people can ascribe different meanings to the same document or debate. And when interpreting this meaning, because in my understanding discourse analysis is about making interpretations, I also implicitly or explicitly ascribe meaning to an interpretation. In order to reveal how my interpretation came into being, the implicit has to be made explicit (Horowitz and Brown, 1996). This, in turn, points to the importance of reflection in this research. Reflection will be essential in this research because the research took place in an iterative cycle of action and reflection.

So as to give social-constructivist research sufficient validity, Gergen and Gergen propose to make use concepts such as (Gergen and Gergen, 2000):

1. **Reflexivity**: reveal to the audience the personal experiences of the researcher, the choices the researcher made during the research and the elements that (negatively) surprised the researcher.
2. **Multiple voicing**: replace the omnipresent voice of the researcher by the multiple voices of the research subjects.

As mentioned above, the concept of reflection is important in the research. Therefore, I will elaborate on my personal beliefs, choices and experiences that grinded my lens as a researcher and might have influenced the research in the next chapter.

By means of this concept of multiple voicing, a so-called thick-description of the discourses in the debate about the Environment and Planning Act will be given. It has to be noted that here the concept of reflexivity is also of importance. This because the writer of the thesis (I) ultimately decides what is to be included and (de)emphasised. The decisions leading to inclusion and (de)emphasis are often not visible to the reader of the thesis (Gergen and Gergen, 2000) so I have to reflect on such choices so as to make the reader the grounds for my motivations clear.

### 3.4 Focus of research

Since this research is concerned with exploring manifestations of the New Public Management discourse and the New Public Service discourse, the perspective called the ‘Old Public Administration’ from table 2.2 will not be taken into consideration. A choice that is reinforced by the argument of Allmendinger and Haughton (2013) that the dominant paradigm in steering government is a neoliberal one.
This being a research with a social-constructivist stance it is, as explained in the preceding chapter, important to reflect on my position as the person undertaking this study. Hopefully, this enables the readers of this thesis, to place my findings in the context of my experiences and motivations. Additionally, I hope this also enables the readers mentioned before to debate about my findings to come to new insights. This section elaborates on my worldview, background and my experiences that grinded my lens prior to and while carrying out the research.

Besides Gergen and Gergen (2000), also Yanow (2000) has stated that interpretive approaches (like discourse analysis) are based on the idea that the world is characterised by multiple interpretations. In such a world, there is no data of which the meaning cannot be disputed. Thus, direct and unmediated access to reality is an impossibility and it is not possible to develop an objective science because the social scientist cannot have a position outside the subject of study where both the subject and the researcher are free of values and meanings (Yanow and Schwartz-Shea, 2006). This means that this thesis cannot be free of my interpretation, but this is a thesis which brings my interpretation of the debate about the Environment and Planning Act to the fore.

4.1 Postmodernism
Postmodernism is part of my personal worldview, I perceive myself as a postmodern student in a postmodern society. This leads me to acknowledge the plurality in perceptions, interpretations and forms of knowledge. It also leads me to the denial of an absolute objectivity and/or an absolute "truth". Consequently, I consider it of importance to explore the interpretations of the truth that different people have. This means that the approach to understanding such interpretations is holistic, it tries to involve as many aspects as possible so as to come to an understanding (see also Allmendinger (2009)).

4.2 Vision on spatial planning
My choice to conduct this research at the privately held engineering and consultancy enterprise Antea Group is based on my idea that spatial planning is characterised by a strong link between theory and practice. Something that is endorsed by Salet (2014). Continuing on the relation between theory and practice in spatial planning, Straatemeier et al (2010) have also written and demonstrated that research in the discipline of spatial planning is characterised by an intense relation between those two. This because research in planning does not only focus on understanding the problem at hand, but also on influencing it. Planning research is concerned with understanding and affecting rather than just describing and explaining the object under study. Related to that point, Straatemeier et al (2010) have also argued that research is not to be conducted in an “academic vacuum” but needs to be conducted in cooperation with the persons who will or can be affected by the relevant research. This will lead to a complementary learning process between academics and practice (Straatemeier et al, 2010). I endorse that argument. For me too, spatial planning is characterised by a strong relation between theory and practice. By writing this thesis in a situation where I had to interact with both the university and a privately held enterprise, I wanted to transcend institutional boundaries so as to reinforce the relation mentioned before. Moreover, I am of opinion that the interactions between Antea Group Wageningen University and me offered distinctly different perspectives on the research. This stimulated me to come up with my own ideas on the basis of those two views. With this section, I want to express that I sought an open approach to the research, thereby working from within by interpretative way and with attention to context.

Another reason I chose to conduct this research at Antea Group is that I strongly believe that being involved in a situation under study helps to yield contextualised data. By this, I mean that the conditions under which something is expressed say a lot about what is expressed. In short, such an approach helps to yield richer data.
Moreover, I see spatial planning as an interdisciplinary academic discipline (see among others Van Assche et al., 2015) with an endogenous body of knowledge that, to me, is somewhat smaller than that of other academic disciplines. In my understanding, spatial planning is comprised of various disciplines that all influence the arrangement of space. Examples of disciplines that, in my perception, all have their influence on spatial planning are (among others) economics, biology, policy science, law and engineering. Transcending disciplinary boundaries can contribute to gaining insight in various disciplinary perspectives.

4.3 Transcending institutional boundaries
By transcending those institutional boundaries, I also hope to gain insights in different perspectives. For me, getting to know and gaining insight in as many different perspectives as possible was important during the research because it helped me to take people’s knowledge and the meanings they ascribe to something into account. The position as an 'embedded researcher' at Antea Group has been used by me to explore the different perspectives different people have.

4.4 Balancing interests and teleological approach to law
I support the possibilities the Environment and Planning Act offers to come to an integral assessment of initiatives by means of an early dialogue with all relevant parties rather than assessing aspects in a sectoral way after a plan has been submitted. This because I strongly believe that a balancing of interests in the early phases of a planning process enhances the possibilities to come to innovative possibilities for sustainable development. This position is partly derived from the work by Kistenkas (2012). For another part, this position is rooted in my belief that such a dialogue in which everyone can discuss ideas helps to come to innovations because the participants in such a dialogue can contribute to other ideas and with each other develop new ideas based one everyone’s input.
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5 THE ACTORS INVOLVED

In this chapter, the first two specific research questions are answered, the questions are:

- How do actors frame their involvement in the debate about the Environment and Planning Act?
- How do actors frame the debate about the Environment and Planning Act?

As from this section, quotes from interviews and documents are used to illustrate manifestations of discourses. All quotes are derived from Dutch interview transcripts or documents but have been translated into English. An English translation of each quote is given directly below each quote. Each translation of each statement derived from an interview transcript and document is mine. The foregoing applies to all chapters to come.

5.1 Governmental involvement

Talking about which ministries are involved in the debate about the Environment and Planning Act, the respondent with an administrative-law background stated:

"Ja nee, inderdaad BZ zit er niet bij en nou ja ongetwijfeld. Nou en Sociale Zaken eigenlijk ook niet."

"Yes, no, the Home Office has not been included and well, undoubtedly. Well, neither has Social Affairs."

And on discussing (parts of the) Environment and Planning Act with members of the Cabinet, the same respondent stated:

"Dus dit helpt ons enorm om op een gegeven moment te zeggen nou oké de standpunten zijn helder we leggen het voor aan, nou ja het is zo’n beetje het halve kabinet, driekwart kabinet zit daar dan"

"So for us, this has been of great help to say at a certain time, well the points of view are clear and can be proposed to, well give or take half the Cabinet, 75% of the Cabinet will be there"

Before making these statements, this respondent stated that nearly all ministries are involved in the debate about the Environment and Planning Act. Only BZ (ministerie van Buitenlandse Zaken, (Foreign Office)) and the ministerie van Sociale Zaken en Werkgelegenheid (ministry of Social Affairs and Employment) are not involved in that debate. That a wide range of ministries is involved in the debate about the Environment and Planning Act, is something that is reiterated by Smolders (2014).

That all other ministries and the relevant ministers or secretaries of state are involved is expressed in the second quote, where it is stated that half or three quarters of the Cabinet has to be consulted.

Other parties involved in the debate about the Environment and Planning Act are all tiers of government, they are mainly occupied with determining the frameworks in which something is or is not allowed (Omgevingswet, 2014a).
5.1.1 Lobby organisations
Elaborating further on the actors that are involved in the debate about the Environment and Planning Act, the respondent with the administrative - law background stated:

"nou die regiobijeenkomsten hè? Dat heb je gezien daar zitten VNG, IPO en de Unie (Unie van Waterschappen, DH)".

"I mean these regional meetings. You have seen for yourself that the VNG, IPO and the Association (Association of District Water Boards, DH) attend those"

With this quote, the respondent mentions three parties who lobby for the interests of their constituencies. These parties subsequently lobby on behalf of the Dutch municipalities (VNG), the Dutch provinces (IPO) and the Dutch district water boards (Unie van Waterschappen, UvW). In my understanding, the quote directly above expresses that these organisations do lobby on behalf of decentralised governmental authorities in general. These decentralised tiers of government, as future users of the law, are also involved in the development of the Environment and Planning Act on an individual basis. Additionally, privately held enterprises and societal organisations are also involved (Smolders, 2014).

The actors involved in the debate about the Environment and Planning Act are for instance asked to analyse newly developed parts of the law and are invited by the ministry of Infrastructure and the Environment, to think along with it about the development of the Environment and Planning Act. Talking about involving actors, respondent with an administrative - law background states:

"Nou dat vond ik wel mooi. Want, want ik denk dat we inderdaad wel heel veel in de organisatie wel hebben bereikt langzamerhand. En er zijn natuurlijk ook internetconsultaties en botsproeven. (...) En er zijn elke keer weer nieuwe, nieuwe mogelijkheden om toch te laten horen wat je ervan vindt. (...) Dus dat komt dan bovenop al die individuele contacten die we hebben over die, over al die maatregelen van bestuur."

"Well, I quite liked that. Because, because I think that we steadily really have achieved a lot within the organisation. And of course, you have got internet consultations and impact tests. (...) And every time, there are new, new opportunities to state your opinion. (...) So that is added to all those individual contacts we keep on these orders in council."

In my understanding, the respondent indicates that the ministry of Infrastructure and the Environment offers relatively extensive possibilities for actors to get involved in the debate about the Environment and Planning Act. These possibilities are according to this respondent not only available to the lobby organisations that are dealt with in this section, but are open to all actors who consider themselves to have a stake in the physical living environment or in environmental or spatial planning issues.

5.1.2 Governmental knowledge and policy organisations
Actors that are affiliated with the government and are also involved in the debate about the Environment and Planning Act are governmental agencies that are involved with developing and evaluating all kinds of policies. One of the respondents, speaking from an administrative – spatial planning background and working for the Netherlands Environmental Assessment Agency, describes the involvement of that agency with the Environment and Planning Act as:

"In mijn beleving speelt eigenlijk die Omgevingswet pas sinds het Planbureau voor de Leefomgeving [er] is"
“To me it seems that the Environment and Planning Act has been of importance from the moment the Netherlands Environmental Assessment Agency has come into play”

The Planbureau voor de Leefomgeving is the product of a merger of the ‘Ruimtelijk Planbureau’ (Netherlands Institute for Spatial Research) and the ‘Milieu- en Natuurplanbureau’ (The Environmental Assessment Agency) which took place in May 2008 (Planbureau voor de Leefomgeving, n.d.). In the perception of this respondent, the discussion about developing the Environment and Planning Act started after May 2008. Up till today this institute is involved in the debate about the Environment and Planning Act, with for example reports on the division of costs in organic area development processes (Sorel et al, 2014). Formally, the development of the Environment and Planning Act starter in 2009 (Kuijpers, 2011), the quote from the respondent with the administrative – spatial planning background might indicate that the debate about that act started before the formal development.

Another governmental actor involved in the debate about the Environment and Planning Act is the ‘Rijksinstituut voor Volksgezondheid en Milieu’ (RIVM, or in English: the National Institute for Public Health and the Environment). This organisation is mainly involved with health related issues that touch on the Environment and Planning Act (Roels et al, 2013) and on the digitalisation of all kinds of information that should come available to society as part of the programme ‘Gegevensvoorziening Omgevingswet’ (Van Zoonen et al, 2013). A respondent with an administrative – governance background and working for this institute describes the involvement of it in the debate about the Environment and Planning Act as:

“Ja, wij doen bijvoorbeeld hier heel veel monitoring, ja dat doe je dan in een ander kader en dan moet je misschien andere dingen gaan monitoren enzovoort. Dus het zal voor iedereen wel een betekenis krijgen, dus ik vind het ook mijn rol om hier binnen het instituut daarover te vertellen. En verder zijn wij natuurlijk een, weet je wel, een beleidsneutraal kennisinstituut hè.”

“Yes, we do a lot of monitoring, for example, indeed, you execute it within a different framework and you might want to monitor different things etc. So it will be significant for everyone, which is why I think it is up to me to tell the institute about this. Furthermore, we are a, you know, a policy neutral knowledge institute.”

In my understanding of the quote directly above, the respondent with an administrative – governance background sees the organisation it is working for, as an organisation focused on the independent development of knowledge for and about policies. Implying that individual employees have an opinion about the Environment and Planning Act, but that the institute as a whole will not take a position for or against that law. The role of the organisation is about scientifically explaining the consequences of choices and that it is up to politicians to argue for or against those choices.

5.1.3 The Council of State and the Parliament

Also involved in the debate about the Environment and Planning Act, is the Dutch Council of State. This organisation is involved in advising the minister of Infrastructure and the Environment in the process of developing the Environment and Planning Act. Moreover, the Council of State is responsible for assessing the working of the proposed act. Another important actor involved in the debate about the Environment and Planning Act is the Lower House of Parliament. The Lower House of Parliament is already involved in the development of the Environment and Planning Act. In March 2014, members of the Lower House were briefed about the Environment and Planning Act by civil servants of the Ministry of Infrastructure and the Environment. And in June 2014, the members of the Lower House received the draft version of the future act. After that, the members were briefed again about the act in October 2014 (Smolders, 2014).
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5.2 Transcending the government
This section elaborates on the actors, besides non-governmental organisations lobbying for their own interest, that are involved in the debate about the Environment and Planning Act, but that are not directly a part of the national government.

5.2.1 Actors involved with preparatory research
In the explanatory memorandum of the Environment and Planning Act, it is posited that the position of the Commissie MER (Commission for the Environmental Impact Assessment), which assess all environmental impact assessments, demands "specific attention" (Omgevingswet 2014a p. 225, translation mine). What it comes down to is that only for environmental impact assessments on the level of a large-scale plan, the environmental impact assessment remains a strict requirement. Environmental impact assessments for projects will become facultative, according to the explanatory memorandum. Additionally, the role of the Commission for the Environmental Impact Assessment should shift from predominantly assessing environmental impact assessments and giving mandatory advices to competent authorities to one that is aimed at determining which information is needed in each stage of a development process (Omgevingswet, 2014a). The commission itself wants to keep its original role, because the flexibility that the Environment and Planning Act will add, also requires anchoring points. According to the Commission for the Environmental Impact Assessment, the assessment is such an anchoring point because it reiterates the necessity of carefully planning and using the space available in the Netherlands. The chairman of the commission also desires to make the expertise of the commission available to a wider public (Helder and Nuesink, 2014).

5.2.2 Private sector enterprises
Another important group of actors involved are private sector enterprises. After stating that lobby organisations are involved in the debate about the Environment and Planning Act, the respondent with an administrative – law background states that also individual privately held enterprises are consulted:

“Dat wij echter vanaf het begin af aan gezegd hebben wij moeten die uitvoeringspraktijk er heel goed bij betrekken en wij moeten daarin transparant zijn. Dus wij hebben heel vaak en dat is echt anders dan bij normale wetgevingstrajecten, hebben we al concepten met de VNG of andere koepels maar ook met individuele bedrijven zo goed als mogelijk soms gewoon concepten gewisseld. En dat heeft ook wel tot spanningen geleid binnen, binnen ons ministerie hoor. Bijvoorbeeld de directie Juridische Zaken was er in het begin bepaald geen voorstander van. Maar ook binnen ons MT hebben we daar wat discussies over gehad. Uiteindelijk denk ik dat, dat heel erg goed is geweest, ook omdat je daarmee vertrouwen wint maar je haalt ook kennis binnen.”

“That from the beginning we stated we really incorporate the practical execution and that we have to be transparent about it. So we often and that is really not the case in regular legislative processes, we sometimes already just exchanged concepts with the Association of Netherlands Municipalities or other umbrella organisations but also with individual companies. And of course, that has led to tension within, within our ministry. The board of Judicial Affairs was not in favour of it in the beginning. But we also had some debates about it within our Management Team. In the end, I think that has been a great thing, because not only do you win trust, you also gain knowledge.”

This consulting of lobby organisations and individual privately held enterprises initially incited some discussion within the department of the ministry responsible for developing the Environment and Planning Act. This discussion was due to the fact that involving lobby organisations and enterprises is not customary in the development of other laws and it could lead to the perception that the law was not
written by the ministry but by lobby organisations and enterprises. Despite these initial discussions, the respondent believes it was a good move to consult these parties. Mainly because they have brought additional knowledge into the development of the Environment and Planning Act.

5.2.3 Independent network and knowledge organisation
Yet another actor involved in the debate about the Environment and Planning Act is an independent network- and knowledge organisation, Platform31. A respondent with a professional – spatial planning background who worked for this organisation describes its involvement as:

“Ik heb, in 2010 zijn ze daar mee begonnen en volgens mij heb ik in mei 2010, als ik dat even goed herinner, heb ik het eerste gesprek met de directeur van Eenvoudig Beter gehad, met Edward Stigter.”

“I had, in 2010 they started it and I think, if I remember correctly, I had the first conversation with the director of Eenvoudig Beter (Simply Better), with Edward Stigter, in May 2010.”

This respondent, in my understanding, states that its involvement started in 2010, which seems to be very early in the development of the Environment and Planning Act. Given the fact that the development of the Environment and Planning Act formally started with a parliamentary motion issued on 26 November 2009. In this motion, a case was made for the fundamental revision of environmental and spatial planning law to make that legislation more coherent and transparent (Kuijpers, 2011).

The involvement of this respondent can also be placed at the executive level of the department of the ministry of Infrastructure and the Environment that is primarily responsible for the development of the Environment and Planning Act (Eenvoudig Beter).

5.3 Inclusive involvement
The respondent with the administrative – law background and involved in the development of the Environment and Planning Act said about involving all relevant actors:

"Maar ze [actoren, DH] zijn over het algemene wel goed betrokken. Kijk, Ed Nijpels heeft bij die hoorzittingen in de Tweede Kamer gezegd van ja, als je nou nog niet door het departement benaderd bent over de Omgevingswet dan stel je niks voor of dan tel je niet mee."

"But in general, they [actors, DH] are involved quite well. Look, during those hearings in the Lower House of Parliament, Ed Nijpels has said something like if you have not yet been approached by the department when it comes to the Environment and Planning Act, you are a nobody or you are out of the picture."

To me, the respondent with the administrative – law background claims that all actors that are relevant for the development of the Environment and Planning Act are consulted by the ministry or are involved in the development process, expressing that all parties who need to be involved in the development of the Environment and Planning Act are involved. This argument was reinforced in an interview with a respondent with an academic - governance background who stated the following:

"Maar bij de wet zelf, ze [ministerie van Infrastructuur en Milieu, DH] hebben echt alle betrokken stakeholders, of stakeholders die een belang hebben, die hebben allemaal ook een rol kunnen pakken. Er zijn adviescommissies geweest, het is echt een open proces geweest, in geest met de wet zelf zeg maar, met wat de beoogt. Dus iedereen, nee ik ken die geluiden
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"But when it comes to the act itself, they [ministry of Infrastructure and the Environment, DH] ensured all the stakeholders were involved or stakeholders with an interest, they could all take up a part. There have been advisory boards, it really was an open process, in tune with the Act, with what it is meant for. So everyone, no, I have not heard those stories [about actors not being involved in the development of the Environment and Planning Act, DH] either to be honest. There has yet to be a party to say ‘listen up, I have never been heard, I have not been able to take up a part in this process’. Which in its own right is rather extraordinary, of course."

To me, the respondent characterises the development process as open. So far, the respondent did not get any signals that relevant actors have not been included, which the respondent considers quite special because he had counteracting experiences during other reforms and developments of laws.

Featuring in the Environment and Planning Act is the concept of the physical living environment (Omgevingswet, 2014a). That concept touches on many subjects and the definition of the physical living environment will differ per case, meaning it is impossible to give a definite interpretation of this concept. It also means that each time different interests will (not) make up the physical living environment. Which indicates that the constellation of actors involved with the physical living environment will differ per case. Given the numerous interpretations the physical living environment can have, it seems impossible to involve all the actors who have a stake in the physical living environment in the debate about the Environment and Planning Act. No consideration is given to this in the quotes above. The involvement of actors in the debate about the Environment and Planning Act seems to be limited to parties who have an ‘obvious’ stake in the physical living environment like municipalities and District Water Boards.

5.4 Opposition, proposition and acquiescence

Actors play an important role in discourse analysis, see for instance Hajer and Versteeg (2005), thus elaborating on how the actors involved in the debate about the Environment and Planning Act frame that act in my opinion important for discourse analysis. This section provides an overview of the way the Environment and Planning Act is framed by the selected set interviewed actors and by doing so answers the second specific research question, which is:

- How do actors frame the debate about the Environment and Planning Act?

After answering this specific research question, it will be explored how the New Public Management discourse and the New Public Service discourse manifest themselves in the debate about the Environment and Planning Act in the chapters to follow.

The interviews with those actors show that some were really fond of the Environment and Planning Act. Other where more sceptical to it, or did not see the perceived value of that act. Yet other actors were also sceptic about the Environment and Planning Act, but seem to accept that it will come into being and decided contribute to the further development of the Environment and Planning Act despite their disagreement with it. I have called this acquiescence. Acquiescence framing means that that actors are not convinced that the Environment and Planning Act will suit their needs and that will just accept that act the way it comes. The interviews clarify that especially in the professional realms, the Environment and Planning Act is framed in sceptical or acquiescence terms. This can be considered surprising since professionals are deliberately included in the development of the Environment and Planning Act to make that law suit their needs (Omgevingswet, 2014a).
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In the following paragraphs, expressions that are characteristic for the sceptic, positive or acquiescence framing of the Environment and Planning Act are given. This overview of frames starts with an elaboration on expressions that are indicative for a sceptic frame, followed by an overview of expressions that are indicative for a positive frame and concludes with expressions that point towards acquiescence framing.

5.4.1 Sceptic

*Continuation of the Crisis and recovery act*

Indicative for the sceptic framing of the Environment and Planning Act is, in my opinion, first and foremost the argument that the Environment and Planning Act is (just) a continuation of the Crisis and recovery act (Crisis- en herstelwet). A respondent with a professional – governance background states:

“Ik zie de Omgevingswet ook veel meer als een logisch gevolg van de Crisis- en herstelwet. (…) [W]at er in die Crisis- en herstelwet gebeurde, is dat met name de inspraak een stuk minder werd, de inspraak beroeps- en zienswijzen, en dat als men achteraf kijkt dat men dan denkt men dat dat uiteindelijk wel goed gewerkt heeft, dus dat zouden we wel eens door kunnen laten escaleren in wat we dan nu de Omgevingswet gaan noemen. Waardoor je dus wat minder procedures hebt.”

“I also think of the Environment and Planning Act more as a logic consequence of the Crisis and recovery act. (…) [W]hat was arranged in the Crisis and recovery act was the reduction of participation, the professional and personal views, and in hindsight, people might think it has worked out well, so we could let that develop further into what we will now call the Environment and Planning Act. Which is why you will need fewer procedures.”

A respondent with an academic – spatial planning background reiterated this point and saw the Crisis and recovery act also as an:

“Nou ja kijk die Crisis- en herstelwet was een beetje een samenstel van hobby’s. (…) Maar ook in mijn terrein, ja het probleem is niet dat die procedures te lang duren, maar dat de vraag uitviel [naar woningen en infrastructuur, DH]. (…) Het was mij niet helemaal helder of dat er ergens een bijdrage leveren behalve het goed mantra dat we als bestuur iets doen en dat we daar hard mee bezig zijn en dat we [dat] vooral moeten erkennen in onze waardering van onze werkzaamheden. Ook daar zie ik nog niet echt (…) dingen (…) die je niet ook gewoon had kunnen regelen. Het is wel nuttig om af en toe zo iets te doen vanuit zeg maar de gedachte dat je iets aan die crisis doet zeg maar.”

“Well, yes, look here, this Crisis and recovery act is a sort of assimilation of hobbies (…). But in my field as well, yes these procedures taking too long is not the issue, it was the question [of housing and infrastructure, DH] falling away. (…). It was not quite clear to me whether there was a contribution to be made apart from the good mantra of doing something as the administration and working hard on it and that we should mainly acknowledge [that] in our assessment of our work. And here I cannot really see (…) things either (…) that you could not have taken care of as usual, I do think it is useful to do something like that every now and then in the belief of, you know, of doing something about that crisis.”

This quote is interpreted by me as the respondent with the academic – spatial planning background considering hobbies to be things that civil servants deem important and want to have anchored in legislation. According to this respondent the crisis provided an opportunity to consolidate these hobbies in a law. The respondent saw the development of the Crisis and recovery act as a tool to evoke the
impression of control over the crisis. In the last part of the second quote about the Crisis and recovery act by this respondent, the respondent with the academic – spatial planning background also indicates that it sees the Crisis and recovery act as a means to show that the government was capable of making decisions. However, the respondent considers the idea that shortening procedures helps to solve problems (caused by a reduced demand) as a kind of administrative wishful thinking. According to the respondent with the academic – spatial planning background, the crisis showed that this wishful thinking is not realistic, when there is less or no demand, shortening procedures does not help. If there is no demand or market parties are not willing to invest, nothing will happen. That the Crisis and recovery act can be seen as prelude to the Environment and Planning Act is quite clearly expressed by this respondent with an academic – governance background:

"[Ik vind] vind ik de Crisis- en herstelwet al behoorlijk het gedachtegoed van de Omgevingswet uitademen. Want ook daar wilde men als bestuurders sneller en ook daar zag men soms dat er hindermachts ontstond. Met name toch ook weer bij gemeenten rondom het bestemmingsplan, daar werd dus ook wel, ik denk dat de Crisis- en de herstelwet ook wel is gebruikt om soms patstellingen te doorbreken. En soms ook door gemeenten om gevraagd hoor, door provincies of Rijk."

"[I think] the Crisis and recovery act’s body of thought is already quite similar to that of the Environment and Planning Act. Because in that case they, the administrators, wanted to move faster and in some cases you experience power to delay legislation. Especially in municipalities regarding the zoning plan, that is where, I think the Crisis and recovery act has also been used to break impasses sometimes. And sometimes it was asked for by municipalities, provinces or the government."

This respondent, in my understanding, states that the Environment and Planning Act echoes the Crisis and recovery act. According to this statement, the latter act could be used by administrators to show administrative decision making capacity because it provided a means to break through impasses. Similar expressions have been made among the members of the selected set of actors interviewed for this research who are sceptic on the Environment and Planning Act. Interesting in this context is also that in paragraph 5.2.3, a statement is to be found in which the year 2010 is identified as the start of the debate about the Environment and Planning Act. The Crisis and recovery act also came into force in March 2010. It has also been posited by Needham (2014) that the Crisis and recovery act is a forerunner of the Environment and Planning Act.

Boom and bust
Indicative for the sceptic and for the acquiescence framing of the Environment and Planning Act is the argument that there is a vicious cycle from deregulation to (over)regulation. As for example recognised by this respondent with a professional – governance background.

"Ik bedoel in je veertigjarige loopbaan maak je ongeveer vier keer die [varkens]cyclus mee."

"I mean, in your forty-year career, you only experience this [hog-cycle] phenomenon four times."

Another respondent, speaking from a professional - spatial planning background also states that there is a cycle, or wave, from deregulation to (over)regulation. This respondent states:

"En nu zitten we weer op dat punt aanbeland en je kan er donder op zeggen dat er nu waanzinnig veel regels allemaal geschrapt worden. Dan ontstaan er weer conflicten en dan gaat het heel langzaam opgebouwd worden. Daar heb ik weinig illusie over."
Chapter 5 The actors involved

“And now we have reached that point again and you can bet your boots on it that a grand number of rules will be dropped. That will lead to conflicts and it will be built up very slowly. I am under no illusion about that.”

The argument that there is a boom and bust cycle, or a hog-cycle phenomenon (varkenscyclus), is characteristic for a more sceptic framing of the Environment and Planning Act.

More important things
Something else that I consider characteristic for the sceptic framing is the argument that other things demand a more urgent approach. A respondent with a professional – governance background puts it like this:

“Ik denk dat we wel toe zijn aan een fundamentele wijziging van zaken rondom hypotheken en Woningwet. Dat lijkt me wel iets waar we langzamerhand wel aan toe zijn. En ook de pensioenwetgeving, daar kan je volgens mij ook nog wel de komende zestig jaar op afstuderen.”

“I think we are in need of a fundamental change of everything regarding mortgages and Woningwet (housing act). I believe that that is something we have reached that stage bit by bit. And the pension legislation too, you can get your degree on that in the next sixty years as well in my opinion.”

Although these are not spatial matters, it are matters that, according to this respondent, require a more urgent approach than the revision of environmental and spatial planning legislation.

5.4.2 Positive Transition

According to a respondent with an academic – governance background, the development of the Environment and Planning Act fits in a trend of acceptance that the system of environmental and planning law has become too complex. As is also stated in the Environment and Planning Act itself (Omgevingswet, 2014a). When asked about the complexity of the environmental and planning law system and the fact that lawyers argue that with some inventiveness the current system already offers a lot of possibilities, the respondent states the following:

“Kijk, de vraag die ik aan juristen stel is als u nu een stelsel van wet- en regelgeving zou mogen ontwerpen voor een hoogontwikkelde samenleving, met als opdracht nou kom maar met een voorstel voor wet- en regelgeving voor hoe wij in dit land tot besluiten komen, dan zou niemand het stelsel zoals we het nu kennen accepteren. Dus ik ga zelfs die discussie niet aan want ja het klopt, je kunt het er zelfs nog 20 sectorale wetten bij organiseren en dan kun je nog steeds wel tot besluiten komen, ja. Maar dan denken ze niet na over complexiteit, kans op fouten, principiële vragen van wat is van de lokale gemeenschap om daar zelf over te beschikken, wat is aan de wetgever in Den Haag, dat soort principiële punten laten ze allemaal buiten beschouwing.”

“Well, the question I raise to lawyers is suppose you are to draw up a system of rules and regulations for a highly developed society and you would have to come up with a proposal for rules and regulation to come to decision in this country, nobody would accept the system as we know it. So I am not even going into the discussion, because it is true you can come up with 20 additional sectoral laws and still come to decisions, yes. But what they do not think about is complexity, risk at mistakes, basic questions of what is to be left to the local society to
arrange, what is left to the legislator in The Hague, those kinds of principle matter they do not take into consideration."

This respondent, in my understanding, admits that in the current system a lot is already possible, as long as one is inventive and daring enough to seek and use possibilities in laws and regulations to make a development possible. However, the respondent also states that the complexity of the current system leads to all kinds of mistakes. This respondent actually argues that the current system does not match the needs of contemporary society anymore. The respondent is aware of the fact that some people are afraid that the Environment and Planning Act will lead to a less firm basis for non-economic interests. In the interview, the respondent states the following:

"Mensen die wat behoudender van karakter zijn, ja die roepen dan heel snel van "ja maar dan betekent het dus dat we overal minder streng worden en gaan interim op zwakke belangen". Nou ja, ik denk dat dat reuze meevalt en dat we dus zo ver geëmancipeerd zijn dat (...) niemand (...) nog de ambitie [heeft] om dit land viezer te maken."

"People with a more reserved personality, yes, they are the ones to quickly say "yes, but that means that we will be less strict everywhere and will eat into weak interests". Well, I think it will not come to that and that we have emancipated in such a way that (...) no one (...) will [have] the ambition to pollute this country any further."

This quote is understood by me as the respondent expressing that in general, the Dutch society is so advanced and emancipated that no one will deliberately harm his/hers living environment. What this respondent expresses is that citizens have internalised the care for the physical living environment. This would lead to citizens performing their activities in such a way and without governmental intervention that they are not detrimental to the physical living environment. Something that is also stated in an article by Tonnaer (2014). The respondent with an academic – governance background also states:

"Het feit dat ik zo nadrukkelijk ben vóór die Omgevingswet, voor meer lokale afwegingsruimte, wil niet zeggen dat ik vind dat we het al die jaren verkeerd hebben gedaan. Integendeel al die wetgeving en die normstelling die hebben heel veel goeds opgeleverd, was ook hard nodig, alleen we komen nu in een nieuwe fase. En ik geloof niet dat wethouders of ondernemers bewust de boel gaan vervuilen. Dus ik zie in die zin echt wel een nieuwe fase die we ingaan (...) Je moet dan op zoek naar ja wat voor regels, wetten heb je nodig om in een samenleving als de onze tot besluiten te komen."

"The fact that I am expressly in favour of the Environment and Planning Act, in favour of more discretionary space for decentralised tiers of government does not mean that I think we did it wrong all those years. On the contrary, all this legislation and these standards, they have created many good results, was really necessary too, except that we are now entering into a new phase. And I do not believe that aldermen or entrepreneurs will consciously pollute everything. So, in that sense, I really do see a new phase we are entering into (...). You need to look for, yes, wat kind of rules, legislation do you need to come to a decision in a society such as ours."

The fact that the respondent supports the Environment and Planning Act, but is also of opinion that the current system of environmental and planning law has certainly been of perceived value to Dutch spatial planning positions, in my opinion, the Environment and Planning Act in changing times. A transition is going on and that transition needs new spatial planning and environmental legislation, the respondent argues. As a result of this transition, the respondent thinks, (nearly) everyone is convinced of the
importance of a high-quality living environment in which other factors than economic factors gain importance. Implicitly, the respondent states the expectation that nobody will deliberately deteriorate the quality of the physical living environment. This argument is endorsed by a respondent with an academic – law background. This respondent too is a proponent of the Environment and Planning Act. The argument of the respondent with an academic – law background goes like this:

“Van de andere kant is er ook een maatschappelijke ontwikkeling gaande, waarin duidelijk blijkt dat- Ook zelfs in de crisis, misschien wel door de crisis, men erachter komt- Dat is ook niet alles, economie en kapitaal en er zijn andere waarden en belangen dan alleen maar economische waarden en belangen en dat zou nog wel eens, maar dan zie ik dat meer als een maatschappelijke ontwikkeling dan als een doel van een wet. Die wet die sluit aan bij een ontwikkeling en faciliteert die misschien, maar kan dat niet echt stimuleren.”

“This respondent sees, in my understanding, a change in society due to which people start to realise that other things besides economic development are important too or perhaps are even more important, the respondent thinks. The respondent sees the Environment and Planning Act as reflecting this societal change and implies that one cannot be against the Environment and Planning Act because it connects to this societal change.

Antennas
Another element that I consider characteristic for positive framing houses in statements on involving spatial planning practitioners in the development of that Environment and Planning Act. The claim made in those statements is that the civil servants working on the development of the Environment and Planning Act seem to have antennas to pick up the subjects stirring up debate and changes in society. A respondent with a professional - spatial planning background enunciated the following on embedding such subjects in the debate about the Environment and Planning Act:

“Ik ben ook heel positief over het feit dat ze [ambtenaren die aan de Omgevingswet werken, DH] wel degelijk de veranderingen in de maatschappij en de veranderingen in het vakgebied behoorlijk verankerd hebben, in ieder geval in de discussies rondom die wet.”

“I am also very favourable to them [civil servants working on the development of the Environment and Planning Act, DH] indeed embedding the changes in the society as well as the changes in the spatial planning practice properly, at least in the discussions regarding that Act.”

In the statement above, the claim is encapsulated that the respondent considered this picking up of subjects of interest to society to be a positive thing. Similar statements were found in other interviews with respondents who are positive about the (development of the) Environment and Planning Act. It is therefore considered characteristic for the positive framing of that law.
5.4.3 Acquiescence

As described in paragraph 5.4.1, the argument that there is a hog-cycle phenomenon from (de)regulation to overregulation is also considered characteristic by me for the acquiescence framing of the Environment and Planning Act. Talking about the changes in the mind-set towards the Environment and Planning Act (quote to come), a respondent with a professional - spatial planning background described a change in the debate about the Environment and Planning Act. As time goes by, the respondent sees the debate gaining interest. In the coming quote the respondent mentions that the opinions on the Environment and Planning Act become more positive, despite the fact that a lot of sceptical questions still need to be asked. Implicitly, I understand the respondent to be stating that although many of those sceptical questions have not been answered yet, a positive notion is better because it more constructive. The respondent states:

“Dus je merkt wel dat het groeit, het leeft. En ook naarmate 2018 dichterbij komt, ook naarmate de wet naar de Kamer is gegaan en meer concreet, dat er een politiek debat over komt, ja dan merk je wel dat het meer gaat leven en dat het volgens mij ook positiever gaat leven ondanks dat je nog heel veel sceptische vragen kunt blijven stellen. Maar daar moet je niet vanuit gaan, anders verandert er nooit wat. En ja, wij bestaan ook een beetje bij de baat van verandering.”

“So you can tell it is growing, it is living. And as 2018 is getting nearer, even as the act has gone to the Lower House of Parliament and more tangible, that there will be a political debate about it, yes, that is when you notice that it starts to live up and that it starts to live up in a more positive way I think, despite the fact that you could ask a great deal of sceptical questions. But you should not assume that, otherwise nothing will ever change. And yes, we also exist partially due to the benefit of change.”

This respondent states, in my opinion, that a positive frame is necessary because one cannot come to change without such a positive frame. A respondent with an administrative - governance background elaborated on the opinions individual employees of a government institute have towards the Environment and Planning Act:

“Ik bedoel de individuele medewerkers hebben zeker een mening, maar ja wij gaan natuurlijk niet zeggen: we zijn voor of tegen aanscherping van normen. (…) Nee wij kunnen alleen maar zeggen wat de consequenties zijn. Maar goed je hoort wel eens medewerkers ja maar het kan toch niet zo zijn dat ze en norm loslaten of dat er een bandbreedte op komt! Ja nou ja, ja natuurlijk kan dat zo zijn. Laten wij dan onze kennis daarin inbrengen en zeggen van oké, jij kan dit best doen. Dat betekent wel of niet iets voor de volksgezondheid bijvoorbeeld.”

“I mean that the individual employees definitely have an opinion, but you know, we cannot just say: we are or are not in favour of tightening the norms. (…) No, we can only state the consequences. Sometimes you hear employees say things like: But they cannot loosen the norm or that a band is put on it! Yes, well, of course we can. Let us use our knowledge and say alright, this is something you can do. That is or is not significant to public health, for example.”

What this respondent in my understanding expresses, is that even if one does not support the Environment and Planning Act on a personal level, one should try to contribute to it positively on a professional level. This is considered characteristic for the acquiescence framing of the Environment and Planning Act.
Chapter 5 The actors involved

The quintessential expression of this acquiescence framing came from a respondent who, on the whole, was really sceptic about the development of the Environment and Planning Act and the act itself. This respondent, with a professional – governance background stated:

"[M]aar ik sta er ook wel wat naar te kijken van ja dat hou je niet tegen. Zo werkt dat ook een beetje. Het is een beetje de tijdgeest. En nu vinden we dat heel goed, maar straks komt er een andere leider en die zegt niks daarvan. Ja, prima. We moeten naar bevind van zaken handelen, dat geldt voor ons ook."

"[B]ut I am looking at it and thinking well yes, you cannot stop that. That is also how it sort of works. It sort of depends on the zeitgeist. And now we think that is great, but in the future there will be a different leader who will say nothing about it. Yes, fine. We need to act appropriately in view of the circumstances, that applies to us as well."

This quote and especially the part about acting appropriately in view of the circumstances, expresses in my vision the passive way the respondent observed the development of the Environment and Planning Act. Since the respondent can neither change nor halt the development of that law, the respondent decides to cut the coat according to its cloth. The acquiescence frame is also to be found in journal articles on the Environment and Planning Act. As for instance in this article in a journal about legislation:

"Nu het er naar uitziet dat de Omgevingswet er toch gaat komen en de contouren van die wet gaandeweg duidelijk worden, hebben dergelijke achterhoedegevechten tegen de invoering weinig zin meer. Beter is het de vraag te stellen hoe de nieuwe wet kan worden ingericht om de geconstateerde uitdagingen zo goed mogelijk tegemoet te kunnen treden." (Tonnaer, 2014, p.249)

"Now that it seems the Environment and Planning Act is underway and the outlines of that Act are slowly becoming clear, such rearguard actions against the implementation are no use. It would be better to ask how the new act should be set up to meet the identified challenges as best one can." (Tonnaer, 2014, p.249)

This latter quote too expresses that since the Environment and Planning Act will come anyway, it is better to raise questions about how the law can be made as good as possible than to resist its coming.

5.5 Calm before the storm

A respondent with an academic – governance background expects that the debate about the Environment and Planning Act will start when the orders in council (AMvB's) are published:

"Nee, want ik vind, ik denk dat de echte strijd pas losbarst bij de AMvB's."

"No, because I think, I believe the real fight is about the orders in council."

The lack of involvement of politicians is according to my interpretation of what this respondent with an administrative - governance background expresses due to the fact that it was long thought that the Environment and Planning Act would be a procedural integration. The complete argument of the respondent goes like this:

"Wat ik net zei, er is lang de indruk geweest dat het om procedurele stroomlijning van het wetgevingspakket zou gaan en er ligt nu dus ook een wet in de Tweede Kamer die (…) regelt verantwoordelijkheden (…), die regelt procedures, die regelt instrumenten enzovoort."
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The long persistent idea that the Environment and Planning Act would be a procedural integration of existing legislation caused, according to my interpretation of this quote, the late start of the debate about the act. The Environment and Planning Act has a mainly procedural character and does emphasise the more substantive parts of the act. The explanatory memorandum resembles this respondent's idea (Omgevingswet, 2014a). It is argued here that the orders in council will give substance to the Environment and Planning Act. Since these orders in council are not made public yet, no lobby organisations have been active because there was relatively little to lobby for. Due to this, the debate about the Environment and Planning Act is not yet characterised by the involvement of politicians.

The orders in council will be published in the autumn of 2015. During the period in which the interviews were conducted, the respondents were waiting with taking position in the debate about the Environment and Planning Act. This also led me to the conclusion that the debate is not yet characterised by pronounced involvement of politicians.

The political debate about the Environment and Planning Act is thus presumed by me to start with the publication of the orders in council. Up till now, the Environment and Planning Act is merely a framework for those future orders in council (Omgevingswet, 2014a), this makes the law an abstract thing. The orders in council will make the Environment and Planning Act less abstract and therefore more susceptible to political debate.

5.6 Reducing complexity

The element of reducing the complexity of the system of environmental and spatial planning law was, in the interviews with the selected set of actors, often seen as the most central element of the Environment and Planning Act. The actors framing the Environment and Planning Act in a sceptic way stated that a substantiation of why this complexity is a problem was missing. As did this respondent with an academic - spatial planning background:

"Ja, ik merk dat daar gewoon een papageaiencircuit is, dus dit wordt steeds herhaald en misschien nog wel het meest door de bestuurders zelf."

"Yes, I noticed there is a culture of repetition going on, so this is being repeated over and over and maybe the administrators themselves do this the most."
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In my understanding, this respondent states that the problem definition was often repeated without critical reflection on it. Whereas the respondent speaking from a professional - law background in my opinion stated that the complexity of the whole system of environmental and spatial planning legislation really needs revision:

"Nou weet je, door de bomen zie je gewoon het bos niet meer. Dus dat er iets moest gebeuren, dat is logisch en dat is een gevolg van wat er de afgelopen twintig/dertig jaar is gebeurd."

"Well, the thing is, you cannot see the wood for the trees. So, it is obvious something needs to be done and that is a consequence of what has happened the past twenty/thirty years."

According to my interpretation of this latter quote, legislation is too sectoral and there is so much of it that nobody actually knows how to go about with it. So, some think really something should be done to reduce complexity, whereas others demand more research to what the problem actually is.

5.7 Conclusion

A wide range of actors is involved in the debate about the Environment and Planning Act. That debate is presented as involving all relevant actors, especially by governmental actors. This chapter has pointed out however that the involvement of actors in the debate about the Environment and Planning Act seems to be limited to actors who have an obvious stake in the physical living environment, like municipalities and District Water Boards. For this research, a diverse range of actors who are active in the debate about the Environment and Planning Act has been interviewed.

The selected set of respondents framed the Environment and Planning Act in one of the three ways below:

1. Positive;
2. Sceptic;
3. Acquiescence.

In the paragraphs below, the traits I consider as most characteristic for each frame will be summarised.

5.7.1 Sceptic

- Seeing the Environment and Planning Act as a continuation of the Crisis and recovery act.
- Expressing that there is a hog-cycle phenomenon from (over)regulation to deregulation and back again.
- Arguing that other matters demand a more urgent approach than the revision of environmental and spatial planning legislation.

5.7.2 Positive

- Seeing the Environment and Planning Act as marking a shift to a society that is so advanced and emancipated that a new set of rules is required.
- Seeing the Environment and Planning Act as something marking a transition to a society in which the economic interest is no longer the sole interest, ecology and society are just as important as economy.
- Being positive about the ability of the people working on the development of the Environment and Planning Act to pick up subjects that stir up debate in society or testify to changes in society and embed these subjects in the Environment and Planning Act.
5.7.3 Acquiescence
- Expressing that there is a hog-cycle phenomenon from (over)regulation to deregulation and back again.
- Expressing that it is better to be positive about the Environment and Planning Act and to try to contribute to it in a positive sense (even if one disagrees with it on a personal level) because implementation of the Environment and Planning Act seems inevitable.
- Having the idea that one cannot change nor halt the development of the Environment and Planning Act.

5.7.4 Limited political involvement
Contrary to my initial expectations it must also be concluded that the debate about the Environment and Planning Act is not characterised by a clear involvement of politicians yet. This because the Environment and Planning Act basically serves as a framework for the orders in council (Omgevingswet, 2014a), which are still to be published. As such, the Environment and Planning Act has an abstract character. The orders in council will give that law content and make it more susceptible to political debate, I argue. In its current form, the Environment and Planning Act is not seen as a political issue. Neoliberalism and New Public Management depoliticise discussions and subjects (Sager, 2011; Fawcett and Marsh, 2014; Hay, 2014; Olesen, 2014), in order to make politicians no longer directly responsible for a certain issue or discussion (Flinders, 2008) or to weaken democracy and disengage citizens from the political process (Brown, 2006). Taking this into account, the fact that the debate about Environment and Planning Act is not yet a political issue can, in my understanding, thus also be a manifestation of New Public Management.

In this chapter it has also been found by me that the debate about the Environment and Planning Act is not characterised by the involvement of politicians yet, because the actors involved in the debate wait with taking position until the orders in council have been made public.
Chapter 6 Steering or rowing

6 STEERING OR ROWING
The title of this chapter is derived from the seminal book by Osborne and Gaebler (1993) in which they argued that governments should become decentralised, focused on results and competition inside and outside the government should be promoted. Citizens were no longer constituents, but customers. In the first chapter, the authors claim that governments should create a division between steering, that is providing guidance and rowing, defined as delivering goods and services. Osborne and Gaebler argue that the role of a government adopting New Public Management is to steer rather than row (Osborne and Gaebler, 1993). Steering means that civil servants should as much as possible develop programs for service delivery to citizens to be carried out by others (the rowers) (Denhardt and Denhardt, 2007) The book became really important in the development of what came to be called New Public Management (Denhardt and Denhardt, 2000). The title of this chapter thus directly refers to the role of the government, under New Public Management.

This chapter is devoted to explaining which arguments are indicative for New Public Management and why. In this chapter the specific research question below will be answered.

- How is the New Public Management discourse expressed in the debate about the Environment and Planning Act?

The sections and paragraphs in this chapter elaborate on the manifestation of New Public Management in the debate about the Environment and Planning Act. The themes that are dealt with in this section are the themes in which the New Public Management discourse has been found, these elements are:

- an instrumentalist notion of the law;
- the way citizen involvement is dealt with;
- integration of laws and policies;
- the division of tasks between different tiers of government;
- the division of power between different tiers of government;
- the way knowledge is dealt with in participatory processes;
- the role of the government in decision-making procedures;
- the core activities of the government;
- the way justice will be done in court matters.

These themes have been identified as parts of the New Public Management discourse in section 2.3.

6.1 Instrumentalism

Already at the very beginning of the explanatory memorandum accompanying the Environment and Planning Act it is noted that:

“[h]et huidige omgevingsrecht is verbrokkeld en verdeeld over tientallen wetten. (…) Deze verbrokkeling leidt tot afstemmings- en coördinatieproblemen en verminderde kenbaarheid en bruikbaarheid voor alle gebruikers.” (Omgevingswet, 2014a, p.6)

“in its current form, environmental law is fragmented and spread across dozens of laws. (…) This fragmentation leads to coordination problems and reduced recognisability and usefulness for all users.” (Omgevingswet, 2014a, p.6)

This quote implies that it is essential to be able to rely on the performance of a law and that it is a normal reaction to alter a law so as to prevent problems related to coordination or applicability of the law in the future. In short, the law should work and if it does not work, it should be repaired. Building on the work
of Griffiths (2003), I argue that this quote indicates that the law can be seen as a kind of tool. A tool for the production of desired results. With regard to seeing laws as tools Griffiths (2003) argues that:

“the ‘normal’ state of affairs is therefore one of effectiveness and instrumentalists have primarily sought explanations for the supposedly ‘deviant’ situation of ineffectiveness.”

(Griffiths, 2003, p.14, single quotation marks in original)

The quote derived from page 6 of the explanatory memorandum thus indicates that the development of the Environment and Planning Act can be seen as structured by an instrumentalist perspective. Van Dijk and Beunen (2009) typify this instrumentalist perspective as the dominant discourse in both policy and planning where laws are seen as tools. Such tools need to produce an output on their own, based on a rationality of means and ends. Under this instrumentalist discourse, the human factor is not taken into consideration (Van Dijk and Beunen, 2009).

Steyvers et al (2006) have stated that the instrumentalist perspective is characteristic, at least at the level of local politics, for New Public Management. Therefore I conclude that New Public Management is manifest in the instrumentalist perspective. With regard to the first specific research question (see above), it can be concluded that arguments expressing an instrumentalist perspective on the Environment and Planning Act are indicative for New Public Management.

In paragraph 2.3.7, it has already been contended that a focus on short-term performance indicators can lead to instrumentalism and can thus contradict long-term progress. In the Environment and Planning Act, emphasis is put on changing practice as this quote for instance shows.

“Versterking van de positie van private partijen in het omgevingsrecht vraagt in de eerste plaats om een verandering in bestuurlijke cultuur.” (Omgevingswet, 2014a, p.24)

“Strengthening the position of private parties in environmental law first of all requires a change in administrative culture”. (Omgevingswet, 2014a, p.24)

In this context, a focus on the long-term opportunities to change practice can be beneficiary. Therefore, a system to change practice may be more important than achieving the goal of changing practice. In the Environment and Planning Act it is however also noted that:

“Bij de stelselherziening past dat waar mogelijk gewerkt wordt met doelvoorschriften* in plaats van middelvoorschriften. De toezichthouder zal de naleving daarvan moeten kunnen beoordelen en de verleiding weerstaan om het betreffende voorschrift al op voorhand op te vullen met beleidsregels.” (Omgevingswet, 2014a, p.48, asterisk in original)

“Inherent to the system reform is that wherever possible target regulations* instead of means prescriptions will be used. The competent authorities will have to be able to assess compliance with them and has to resist the temptation to fill the regulations with policies ahead of actual implementation of the regulations” (Omgevingswet, 2014a, p.48, asterisk in original)

From this it follows that the Environment and Planning Act puts emphasis on regulating outcomes (doelvoorschriften), rather than working with means-oriented regulations. In the Environment and Planning Act, outcome-oriented regulations are defined as provisions that prescribe a certain outcome and the subject of the law is free to determine how the outcome is to be reached. The latter type of regulation means that a certain means is described that the law subject should use to reach a certain outcome (Omgevingswet, 2014a). The usage of outcome-oriented regulations could indicate the
presence of the New Public Management discourse if the goal starts to be seen as a performance indicator and achieving the goal becomes an end in itself. This could lead to the negative effects of performance indicators as described in paragraph 2.3.7.

6.2 Citizen involvement
This section elaborates on the parts about citizen participation in the Environment and Planning Act in which a New Public Management discourse is found.

6.2.1 Inclusiveness
Interesting in the context of the quote about changing the governmental culture is the use of the phrase “private partijen” (private parties). It is not specified how these parties are defined. If both enterprises, citizens and societal organisations encompass these parties, it might indicate that the Environment and Planning Act focuses on a shift towards a more inclusive practice of spatial planning. However, if private parties happen to be limited to enterprises only, this might indicate that the democratic quality of planning under the Environment and Planning Act is susceptible to enhancement by expanding it to include citizens. What is more is that in the explanatory memorandum of the Environment and Planning Act, the focus of the implications of the development of the Environment and Planning Act is typically on the implications for stakeholders rather than for citizens. As for instance expressed by this quote:

“De vereenvoudiging van procedures voor initiatiefnemers leidt niet tot inperking van de rechten van andere belanghebbenden. Zij worden bij ingrijpende besluiten in een vroeg stadium betrokken bij de voorbereiding van besluiten via participatie of een zienswijzenprocedure. Bij minder ingrijpende besluiten is er de mogelijkheid van bezwaar. Belanghebbenden hebben daarnaast recht op rechtsbescherming voor besluiten die hun belangen raken. Uitgangspunt van de regering is dat geen verlies van waarborgen mag optreden ten opzichte van het beschermingsniveau onder de huidige wetgeving.”
(Omgevingswet, 2014a, p.38)

“The simplification of procedures for the benefit of initiators does not lead to a restriction of the rights of other stakeholders. By means of participation or consultation these stakeholders are involved in the early stages of a decision-making procedures for projects with far-reaching consequences. In case of less far-reaching decision-making procedures, the option of appeal exists. Stakeholders are also entitled to legal protection in case a decision touches on their interests. The starting point of the government is that no loss of guarantees as compared to existing level of protecting under the existing legislation may occur.” (Omgevingswet, 2014a, p.38)

Which expresses that civil servants are predominantly responsive to people who have a stake in a certain development, rather than to society as a whole. Denhardt and Denhardt (2000), suggest that such a perception finds concordance with New Public Management.

In the Environment and Planning Act typically the word “belanghebbenden” (stakeholders) is used. This implies that civil servants are mainly accountable to people how have a stake in a certain project and not to citizens in a more general sense. This more limited scope resembles the conception of “customers” which is indicative for New Public Management (Denhardt and Denhardt, 2000, p.554).
6.2.2 A critical reading

In the Environment and Planning Act it is noted multiple times that more is needed than just a reform of spatial planning and environmental legislation. It is expressed that:

“Concreet gaat het erom dat bestuurders en ambtenaren de wil hebben om de fysieke leefomgeving integraal te benaderen, dat zij geen risicomijdend gedrag tonen, ruimte laten voor privé initiatief, de participatieve aanpak* toepassen en zorgen voor voldoende kennis en vaardigheden en een toereikende uitvoeringsorganisatie. Als een besluit eenmaal is genomen, moeten bestuurders ook durven doorpakken.” (Omgevingswet, 2014a, p.24, asterisk in original)

“In essence it is about administrators and civil servants having the will to approach the physical living environment in an integral way, they should show no aversion of risk, leave room for private initiative, apply the participative approach* and ensure that sufficient knowledge, skills and an adequate administrative organisation are available. If a decision is made, administrators should dare to stick with it and go on.” (Omgevingswet, 2014a, p.24, asterisk in original)

The asterisk following “participatieve aanpak” (participative approach) leads to a definition of that term. This approach is defined as the early involvement of stakeholders in the decision making process concerning a project or an activity (Omgevingswet, 2014a). This quote is supplemented by the phrase:


“Strengthening the position of private parties in environmental law first of all requires a change in administrative culture. Legislation has only limited influence on this administrative culture. Running parallel to the implantation of the Environment and Planning Act, an emphasis will be put on changing [administrative, DH] behaviour. Following the development in the social domain, much more in environmental law can be based on the resolving power of private parties. The role of the government could then be limited to provide a hedge in instances where that resolving power is lacking.” (Omgevingswet, 2014a, pp.24-25)

Interesting in the latter quote are the remarks about the strengthening of the position of private parties and the parallel with the changes in the social domain. With regard to that first point it is not yet clear how private parties are defined. If this only concerns enterprises or citizens only to a less extent, this could hamper the democratic quality of the Environment and Planning Act. Stimulating private parties (both enterprises and citizens) to undertake action themselves has been linked to neoliberalism by Bothfield and Betzelt, (2013), of which New Public Management is according to Allmendinger and Haughton (2013) a paradigm (see paragraph 2.3.2).
6.3 Integration of laws and policies

The explanatory memorandum of the draft version of the Environment and Planning Act contains the ambition to integrate existing spatial planning and environmental protection legislation:

“Op dit moment is de fysiske leefomgeving geheel «afgedekt» door sectorale wetgeving, vaak zelfs meerdere malen. Met het wetsvoorstel verdwijnen de schotten tussen de wetten, wat de beoogde samenhangende benadering van beleid, besluitvorming en leefomgeving mogelijk maakt. Het gaat dan zowel om inhoudelijke integratie, zoals een integraal beleid voor de fysische leefomgeving, als om procedurele integratie, zoals integratie van procedures voor het projectbesluit en de milieueffectrapportage.” (Omgevingswet, 2014a, p.262)

“At present, the physical living environment is completely «covered» by sectoral legislation, often multiple times. With the proposal of law the barriers between laws will vanish which results in the desired coherent approach to policy-making, decision-making and the living environment. It concerns both substantive integration, like an integral policy for the physical living environment and procedural integration, like integration of procedures for the development decision and the environmental impact assessment.” (Omgevingswet, 2014a, p.262)

Environmental policy integration is seen as an operationalisation of balancing environmental protection with a wider set of priorities, like economic and societal advancement (Jordan and Lenschow, 2010). Environmental policy integration can thus be seen I argue as targeted at creating a win-win situation: protecting the environment while also providing space for economic development. Which is also manifest in the Environment and Planning Act:

“De cultuur van «groei dankzij uitputting» brengt cumulatieve of sluimerende gevolgen met zich mee, ook al zijn de lokale gevolgen soms acceptabel. Nationaal en internationaal groeit het besef dat deze cultuur moet transformeren naar een cultuur van groei waarbij niet méér waarde wordt onttrokken dan er wordt gecreëerd. De vitaliteit van het natuurlijk kapitaal van onze aarde moet behouden blijven en tegelijkertijd moet onze economie worden bevorderd.” (Omgevingswet, 2014a, p.12)

“The culture of «growth through depletion» brings along cumulative or lingering effects, even though the local consequences are sometimes acceptable. Both on national and international level, the awareness is growing that this culture needs to change to a culture of growth in which does not extract more value than it adds. The vitality of the natural resources of our earth needs to be maintained, while on the same time development of our economy needs to be stimulated.” (Omgevingswet, 2014a, p.12)

In my understanding, this quote propagates a discourse focussed on sustainable development in which economic development is paired with sustainable development. Starting off as a critique on neoliberal models, sustainable development has become a model for development based on a neoliberal doctrine (Reid, 2013). Given the fact that New Public Management can be seen as a paradigm within neoliberalism (Allmendinger and Haughton, 2013), it can thus be stated that the ambition to come to sustainable development has become a part of New Public Management. This proves the ability of New Public Management to spread by means of counteracting discourse. An ambition to come to sustainable development, as for instance expressed in the Environment and Planning Act can thus be seen as a resource for New Public Management to spread.
Jordan also stated that “the environment must be an integral factor of other policy areas” (Jordan, 1998, p.12). In a more general sense, integration (of policies) can also be seen a “conceptual” or “functional” activity targeted towards bringing together multiple elements in such a way that the resultant composition has some value it did not have before the integration of elements (Holden, 2012, p.305). Environmental policy integration is however also structured by a normative argument and that normative argument touches on the neoliberal focus on modernising government. This modernisation is encapsulated in the ambition to beat fragmentation and connect policy arenas to each other, which is inherent to environmental policy integration (Slocombe, 2003). This leads to the conclusion that in the aim for the integration of (spatial planning and/or environmental) policy domains, a New Public Management discourse is to be found.

6.4 Organisational structure
Elaborating on the general principles of subsidiarity it is noted in the Environment and Planning Act that:

"Het wetsvoorstel brengt geen wijzigingen aan in het beginsel dat de taken voor de fysieke leefomgeving die de overheid moet behartigen in de eerste plaats bij de gemeenten liggen en, waar het gaat om het waterbeheer, bij de waterschappen. De gemeenten spelen de hoofdrol bij het beheer en de ontwikkeling van de fysieke leefomgeving" (Omgevingswet, 2014a, p.43)

"The proposal of law does not lead to changes in the principle that the tasks with regard to the physical living environment that the government has to take care of, first of are located at the municipal level and where it concerns water management, wit the district water boards. Municipalities have a key role in the management and development of the physical living environment." (Omgevingswet, 2014a, p.43)

This quote indicates that when it comes to activities and plans that affect the physical living environment, municipalities are first in the line of responsibility. Two pages onwards, the statement below is found.

"Bij het realiseren van projecten door het Rijk en de provincies kan er soms sprake zijn van botsende taken of belangen. Voor dit soort gevallen beschikken zij over doorzettingsmacht. Daarmee kunnen zij aan de beleidsopvattingen van de betrokken andere overheden en eventuele beperkende regels op decentraal niveau voorbij gaan. (Omgevingswet, 2014a, p.45)

“During the realisation of projects by the government and the provinces, sometimes conflicting duties and interests can be encountered. To deal with those conflicts, they have the power to overrule. This allows them to ignore policy philosophies of other tiers of government and restrictive decentral rules." (Omgevingswet, 2014a, p.45)

In principle the responsibility for the physical living environment lies with the municipality, unless the province or the national government would be better equipped to take up a certain responsibility. The principle of subsidiarity as defined in the Environment and Planning Act is to a very large extent equal to that principle in the ‘Wet ruimtelijke ordening (Wro)’ (New Dutch Spatial Planning Act). If the principle of subsidiarity in the Environment and Planning Act is approached in the same way by the Dutch Council of State as the subsidiarity principle in the New Dutch Spatial Planning Act, then the intervening power of the province of the national government will hardly be limited. Because, according to the approach followed by the Dutch Council of State, a provincial or national interest is an interest that is best looked after at the provincial or national level. This because of the inherent municipality transcending aspects. In current law practice, an aspect is defined as a provincial interest rather quickly. As a rule of thumb it could be stated that if the provincial board or national government considers something to be a provincial
or national interest it is a provincial or national interest (Bosma, 2014). In other words, the provincial board or the national government are free to choose whether something is of provincial or national level.

To me, the quotes in this section indicate that there is no clear demarcation between the authorities and responsibilities each tier of government has. At face value, there seems to be transparency, but upon a closer look, the distinctions are unclear. Which enables politicians to legitimise interventions outside their actual domain, since the domain of intervention is not clearly defined in the Environment and Planning Act. According to Padt (2006), such interventions characterise New Public Management.

6.5 Retaining power
In article 2.18 of the Environment and Planning Act itself, the tasks and responsibilities of the province with regard to the physical living environment are defined. From that article it can be derived, that the province will get its own legislative tasks (Omgevingswet, 2014b). If this conception of own legislative tasks for the province is combined with the argument that the province can determine itself what is to be of provincial interest, the idea of the province as a powerful authority emerges.

When it comes to the national government's ambition to decentralise, it is intriguing to look at page 136 of the explanatory memorandum of the Environment and Planning Act, that page contains this phrase:

"Die afweging kan er ook toe leiden dat het Rijk afziet van het stellen van algemene rijksregels en dat het ervoor kiest decentrale overheden op te dragen om regels voor activiteiten te stellen, zonder dat het Rijk zelf de inhoud uitputtend regelt." (Omgevingswet, 2014a, p.136)

"As a result of this consideration, the State can choose not to develop general legal prescriptions and impose on decentral governments the duty to draft rules without the State exhaustively stipulating the content of these decentral rules." (Omgevingswet, 2014a, p.136)

The national government can decide to give the order to lower tiers of governments to develop legislation for subjects the national government does not want to regulate itself. This looks like a kind of ordered decentralisation. It is implied that decentralisation from the level of the national government to the level of the provincial government is a form of decentralisation. This type of decentralisation leads to the fact that the primary decision making power remains at government level and can in fact be taken back by the national government since it can overrule the provincial government (see quote at the beginning of this section). It can therefore be concluded that the primary control remains with the agency of the government. According to Denhardt and Denhardt (2000) this is indicative for New Public Management.

6.6 Approach to knowledge
Denhardt and Denhardt (2000) note that a varied approach to knowledge is characteristic for the New Public Service. On page 47 of the explanatory memorandum accompanying the draft version Environment and Planning Act the following phrase is to be found:

A citizen is not only rationally optimising their personal interest. Citizen participation during the preparation of projects naturally brings local knowledge, ideas and interests to the fore. The primary interest is to involve citizens in the decision-making process. This results in the information-seeking citizen having trust in the decision-making process. The perceived fairness of decisions in turn results in an important contribution to the trust citizens have in the government. It is particularly important to involve stakeholders early in the preparation of plans and decisions. Formal consultation can then be reduced to plans, complex projects and international obligations.” (Omgevingswet, 2014a, p.47)

What I derive from this quote is that citizen participation (burgerparticipatie) is important for bringing in local knowledge to the decision-making process. This testifies to an approach that welcomes different types of knowledge. In this light, this quote can testify to a New Public Service perspective in the Environment and Planning Act.

Nonetheless, it is also noted that the primary objective of citizen participation is to involve the citizen in the decision-making process in order to enhance the extent to which the decision-making process is trusted by the citizen. This in order to advance the trust citizens have in the government. It is in my understanding argued that enhancing that trust, should lead to a reduction of formal consultation to plans, complex projects and to cases where consultation is required due to prevalence of international rules and legislation. Citizen participation is thus primarily employed to reduce formal consultation. In this sense the government (or a tier of government) retains the decision making power, which means the primary control stays with the government. Denhardt and Denhardt (2000) and Padt (2006) have found that building coalitions of public and private actors to achieve policy objectives without the national government handing over authority to these coalitions is a characteristic of New Public Management. However, given the acknowledgement of different types of knowledge characteristic to the New Public Service, it remains opaque whether this testifies to the New Public Service or New Public Management. Perhaps the orders in council, that still have to be issued, will provide clarity.

The same explanatory memorandum also contains statements that point more clearly towards a New Public Service approach to citizen participation. These New Public Service statements on citizen participation are dealt with in chapter 7.

6.7 Knowledge and self-interest
What the quote derived from page 47 of the explanatory memorandum also expresses is that citizens are not always acting rationally when optimising the personal interest. In my opinion, that quote also implies that citizen participation is a means for enhancing trust in the decision-making process. It is considered in the interest of the civil servant and administrative executive to make sure citizens have trust in that process because, it is argued, that leads to shorter appeal procedures, which provides the government with more capabilities to quickly carry out projects. Wanting to quickly carry out projects is here understood to be characteristic to what Denhardt and Denhardt (2000, p.554) call the self-interested decision-maker (civil servant or administrative executives). This notion of the self-interested decision-maker which wants to carry out projects as soon and quick as possible for (electoral gains) is characteristic to New Public Management (Denhardt and Denhardt, 2000). The prevailing rationality in the explanatory memorandum is thus New Public Management.
6.8 Steering

Denhardt and Denhardt (2000) have contended that steering (to unleash the forces of the market, rather than ‘rowing’ or civil servants taking action themselves) is characteristic to the role of the government under New Public Management. In a government paper dated March 2012, the minister of Infrastructure and the Environment describes that one of the main principles of the Environment and Planning Act is that the administrative organ needs to trust initiators of developments in the physical living environment as being able to collaborate in achieving the goals as stated in the Environment and Planning Act. Trust therefore became the starting point for the Environment and Planning Act (Tonnaer, 2014).

According to the minister of Infrastructure and the Environment, this not only testifies to an act of trust but also to relocating responsibility to initiators and to giving back responsibility to society at large (Tonnaer, 2014). The minister refers to a report by the Sociaal en Cultureel Planbureau (in English: Netherlands Institute for Social Research) in which a new model for the division of responsibilities is proposed. In that model, the government formulates the goals and citizens and enterprises are free to determine how those goals should be reached. The government will subsequently assess and when necessary proclaim sanctions (Sociaal en Cultureel Planbureau, 2012; Omgevingswet, 2014a; Tonnaer, 2014). The Netherlands Institute for Social Research calls this “geregiseerde eigen verantwoordelijkheid” (controlled personal responsibility) (Sociaal en Cultureel Planbureau, 2012, p.317). The model for this controlled personal responsibility the Netherlands Institute for Social Research proposes looks like this (Tonnaer, 2014):

1. The government defines the goals and prerequisites and sets them out in laws or contracts with private parties;
2. Achieving these goals will be left to citizens, societal organisations and entrepreneurs.
3. The government provides citizens with a principles-based framework to provide citizens with clarity how to act and makes collective claims and contributions based on that framework.
4. The government audits the achieving of the goals and intervenes when goals are not reached.

So, the government determines what actors in society should do and intervenes when the results are not as desired. In this sense, the government does, in my view, not genuinely hand over responsibility to actors in society. The enlarged responsibility imposed on actors in society demands a strong government that streamlines the contributions of societal actors (Sociaal en Cultureel Planbureau, 2012). Actors in society are free individuals but their freedoms are constrained in order to maintain the interest of the state as a democratic society. Implicitly, the government makes the societal actor the performer of governmental policy. This in the expectation that the societal actors internalise governmental policy and regulation in such a way that they perform this policy and legislation automatically in a good way (Tonnaer, 2014). I understand this as the government maintaining control by making the actors constituting society responsible for carrying out governmental plans. So, the government keeps steering. Maybe not directly to unleash market forces, but in the way described here the government is not trying to be a broker of interest or a seeker for shared values. The focus of the government on maintaining control and steering capacity is characteristic for New Public Management.

What is more is that this model for controlled personal responsibility also provides the government with a mechanism to achieve the objectives as described in policies and legislation. From the above, it can be distilled that actors in society (citizens, societal organisations and enterprises) are means through which policy objectives can be achieved (be it or not with incentives). According to Denhardt and Denhardt (2000), this too is characteristic for New Public Management. In the chapter to follow, it is however demonstrated that the explanatory memorandum of the Environment and Planning Act also contains mechanisms for achieving policy objectives that are characteristic for the New Public Service. When it comes to achieving policy objectives, the explanatory memorandum of the Environment and Planning Act is (somewhat) ambiguous.
6.9 Arguing against rules

In a document providing information about the proceedings in developing the Environment and Planning Act, the following was stated.


“The maze of regulations creates uncertainty, leads to appeal procedures and lawsuits, irritation about sluggish decision-making procedures and unnecessary research and planning expenses. Administrators lack discretionary space to cut ties and enterprises are granted to little space to innovate.” (Ministerie van Infrastructuur en Milieu, 2012, p.3)

The following quote, derived from the explanatory memorandum of the Environment and Planning Act issued two years later, expresses a similar argument.

“De samenleving vraagt om procedures voor besluitvorming die voorspelbaar, betaalbaar en transparant zijn en om ruime, heldere en toegankelijke randvoorwaarden voor ontwikkelingen. Dit is niet alleen van belang voor private partijen, maar ook voor publieke partijen zoals waterbeheerders. Het huidige omgevingsrecht sluit onvoldoende aan op de beschreven ontwikkelingen in de samenleving. (Omgevingswet, 2014a, p.14)

“Society demands decision-making procedures that are predictable, affordable and transparent and demands general, clear and comprehensible prerequisites for development. This is not only in the interest of private parties, but also in the interest of public parties like water managers. In its current form, the system of environmental and spatial planning legislation is insufficiently attuned to the described developments in society.” (Omgevingswet, 2014a, p.14)

In my understanding, these quotes built an argument against the existing spatial planning and environment legislation. The current system of spatial planning and environmental law is too limiting to come to what society according to the minister of Infrastructure and the Environment needs. In this sense, the Environment and Planning Act is positioned against the complex and restrictive system of spatial planning and environmental law currently in use. In the explanatory memorandum of the Environment and Planning Act, the claim is made that:

“De regering is er bij de vormgeving van het stelsel van uitgegaan dat de kwaliteit van de fysische leefomgeving in toenemende mate wordt bepaald door initiatieven in de samenleving. In het wetsvoorstel wordt de kwaliteit als geheel centraal gesteld en bestuursorganen krijgen de opdracht om bij de uitvoering van de taken en bevoegdheden rekening te houden met de samenhang van de relevante onderdelen en aspecten van de fysische leefomgeving en de rechtstreeks daarbij betrokken belangen.” (Omgevingswet, 2014a, p.22)

“When designing the system [of legislation, DH], the government has presumed that the quality of the physical living environment is increasingly being determined by societal initiatives. In the proposal of law, the quality [of the physical living environment, DH] as a whole features a central role and administrative agencies are instructed to take into account the interdependence of relevant components and aspects of the physical living environment and the interests directly involved.” (Omgevingswet, 2014a, p.22)
The latter quote in my opinion expresses that the desired outcome of each initiative is to enhance the quality of the physical living environment. That means that the mission of a governmental agency and the desired outcome of an initiative need to give direction to the way a governmental agency invests time and resources in assessing or supporting an initiative. For Padt (2006), this is typical for New Public Management.

### 6.10 Procedures

A respondent with a professional – law background stated that as long as procedures are followed in a more or less correct way (without deliberately disadvantaging a party involved), the examining magistrate typically did not intervene in the process. The respondent’s argument goes like this:

“Inderdaad als de procedures een beetje netjes zijn, kijk dan kun je best wel eens een- daar is de Raad van State ook veel makkelijker in geworden, maar daar kun je best wel eens een procedureel steekje laten vallen, als maar niemand daarmee benadeeld wordt.”

“Indeed, if the procedures are orderly, well look, than you can- the Council of State has become a lot more compliant in this matter, but you can put your procedural foot in it, as long as you do not put anyone at a disadvantage.”

From this quote I distil that doing justice is, at least for a part, a matter of following procedures in a more or less correct sense. An important prerequisite in this context is that no one may seriously be disadvantaged as a result of procedural mistakes. This finds concordance with an argument made by Fuller (2012). Bottom line of that argument is that procedural fair play, regardless of the outcomes, defines justice in a liberal sense (Fuller, 2012). Considering the relation between liberalism and New Public Management, seeing justice as a procedural matter is an example of an argument in which the New Public Management discourse resides. Residing in the statement that procedural fair play regardless of the outcomes is also and again an instrumentalist conception of the law. After all, an output should be produced, no matter how. As described in section 6.1, the New Public Management discourse is also manifest in an instrumentalist notion of the law.

### 6.11 The manifestation of the New Public Management discourse

In this concluding section, the arguments in which the New Public Management discourse houses will be enumerated (in a condensed way) to answer the second specific research question. This specific research question was:

- How is the New Public Management discourse expressed in the development of the Environment and Planning Act?

The exploration of the manifestation of the New Public Management discourse as conducted in this chapter has pointed out that the New Public Management discourse is present in statements concerning:

1. An instrumentalist perspective on the law.
2. Working with outcome-oriented regulations.
3. Responsiveness to people who have a stake in certain developments, rather than society as a whole, testifying to accountability to customers rather than to citizens.
4. Stimulating private parties to take action themselves.
5. Environmental policy integration, or attempts to move towards policy integration in general.
6. Sustainable development, which is a found to be a counter discourse through which the New Public Management discourse can spread.
7. No clear demarcation between the authorities and responsibilities each tier of government has, so politicians can legitimise interventions outside their actual domain.
8. Continued primary control primarily by governmental agencies, so the government can keep on steering society.
9. Citizen participation to reduce formal consultation so the primary control over the decision-making process can stay with the government.
10. Propagation of citizen participation in the decision-making process out of governmental self-interest, that is to enhance trust in that process so the government can come to decision-making sooner.
11. The appointing of actors in society as the performers of governmental policies and plans in such a way that the government maintains control.
12. A governmental perspective expressing that citizens, societal organisations and enterprises are means through which policy objectives can be achieved (with or without the provision of incentives).
13. Statements that the mission of the government agency and the desired outcome of an initiative should give direction to the way time and resources are invested in that initiative by the governmental agency.
14. Emphasising the importance of procedural fair play, without dedicating attention to the context in which one has to come to procedural fair play.

With regard to this enumeration, it has to be noted that the statements numbered 1, 2, 4, 5, 6, 13 and 14 are not based on the analysis of New Public Management by Denhardt and Denhardt (2000). They do, nonetheless, contain a New Public Management discourse, and are therefore taken up in this overview.
7 FROM MANAGEMENT TO SERVICE

Denhardt and Denhardt (2000) describe a shift from New Public Management to what they call the New Public Service. Where New Public Management is concerned with steering rather than rowing, the New Public Service is concerned with serving instead of steering (Denhardt and Denhardt, 2000). This chapter will elaborate on arguments pointing to a New Public Service discourse. Thus, this chapter is concerned with answering the fourth specific research question.

- How is the New Public Service discourse expressed in the debate about the Environment and Planning Act?

A definition of the New Public Service has been given in section 2.4. The remainder of this chapter is concerned with elaborating on the statements indicative for the New Public Service discourse. This is done in a way equal to and based on the same sources as the exploration of the statements in which the New Public Management discourse houses.

7.1 Varied approach to knowledge

In the explanatory memorandum accompanying the Environment and Planning Act it is noted that:


“The increasingly assertive citizen, informed and involved through modern media, increasingly wants to be involved in participation and decision-making. Enterprises and organisations play an active role in taking up issues in the physical living environment. The government considers it to be of great importance to make as much as possible use of the self-resolving power of society and of initiatives that contribute to the societal objects of the Environment and Planning Act. A control model in which the government analyses social problems, designs solutions and subsequently informs society about it, no longer suffices. A more interactive approach to policy formulation and decision-making is required.” (Omgevingswet, 2014a, pp.364-365)

In my understanding, this quote places the Environment and Planning Act in contemporary societal changes. It is argued in the explanatory memorandum that, due to the fact that citizens are becoming increasingly emancipated, a survey-analysis-plan method employed solely by the government is no longer sufficient anymore. Other actors than the government also require a part in decision-making. More interaction and making more use of the self-governing ability of society is required. In the Environment and Planning Act it is thus expressed that a more varied approach to the knowledge society contains is required to make use of this self-governing ability. This underpins Denhardt and Denhardt's (2000) theoretical and epistemological foundations of the New Public Service.
7.2 Trust and responsibility

The Environment and Planning Act is based on the assumption of trust between civil servants and citizens and between civil servants in concert (Omgevingswet, 2014a). Furthermore, the Environment and Planning Act offers greater possibilities for citizens to employ activities for both themselves and society at large. Citizens employing activities for themselves evokes impressions of individualism. Individualism, in turn, is seen as a manifestation of New Public Management (Bouckaert, 1995; Du Gay, 2001; Benington, 2011; Thomas, 2013). The argument about offering citizens more possibilities to employ activities for both themselves and society is in my understanding ambiguous. It can point in the direction of New Public Management, especially when the focus is on providing citizens with more possibilities for their own benefit. Or it can point towards the New Public Service, especially when the focus is on providing citizens with more opportunities to employ activities for the benefit of society at large. This is indicates that the debate about the Environment and Planning Act is infused with manifestations of both the New Public Management discourse and the New Public Service discourse.

In the explanatory memorandum of the Environment and Planning Act it is stated that the government:

“In samenspraak met andere actoren in de maatschappij formuleert de overheid de doelen voor de fysische leefomgeving en ziet zij er op toe dat deze worden gehaald.” (Omgevingswet, 2014a, p.7)

“Together with other actors in society the government formulates the goals for the physical living environment and sees to it that these goals are achieved.” (Omgevingswet, 2014a, p.7)

The quote expresses that the government will work together with, among others, citizens, to determine and achieve goals. This quote shows parallels with especially the second and fourth starting point of the New Public Service, namely serving citizens and not customers (Denhardt and Denhardt, 2000). Which means that all societal actors have to be involved rather than just actors having a stake in the development in question. Basing its argument on the report “De energieke samenleving” by the Dutch ‘Planbureau voor de Leefomgeving’ (Netherlands Environmental Assessment Agency) (Planbureau voor de Leefomgeving, 2011), the minister of Infrastructure and the Environment posits that society contains a lot of capability and creativity to come to innovative solutions for sustainable development. The minister wants to facilitate this capability and creativity. Because the democratisation of knowledge has led to a change in society. No longer is the government the sole actor in determining the development of society, citizens connect in different and changing networks to look after their interests (Omgevingswet, 2014a). This too asks for a governmental attitude that is more attuned to serving citizens, which is similar to the New Public Service.

In the explanatory memorandum accompanying the Environment and Planning Act, caring for the quality of the physical living environment is seen as a collective responsibility. Citizens, enterprises and societal organisations could contribute to making this responsibility really a shared one. According to the government, a lot of actors are involved in discussions about the development of the physical living environment and are willing to contribute to enhancing its quality. The government is therefore willing to provide such actors with space and trust in order to invite actors to employ initiatives. The government foresees a state wherein the government determines goals, but citizens and enterprises are free to determine how these goals should be reached and the government will assess the reaching of the goals (Omgevingswet, 2014a). This is interpreted by me as the sharing of the responsibility for the physical living environment with citizens and enterprises. As such, it blends into the idea of the New Public Service. However, when the government determines the goals to be reached and leaves the actual achieving of these goals to other actors and makes the actors the means to achieve goals determined by the government, this is characteristic for New Public Management (Denhardt and Denhardt, 2000). Again indicating the ambiguity of the debate about the Environment and Planning Act.
7.3 Citizen participation

In the draft explanatory memorandum of the Environment and Planning Act, it is in my opinion, also stated that the minister of Infrastructure and the Environment presupposes that the quality of the physical living environment will more and more be determined by initiatives coming from society. This is linked to the commission given to governmental agencies to take these initiatives into account and to facilitate such initiatives where possible. The Environment and Planning Act itself and civil servants need to be focused on serving the dynamism of society (Omgevingswet, 2014a). This testifies to an attitude of civil servants which should be more attuned to serving the public and to find initiatives that enhance society. Such a perspective is also characteristic for the New Public Service (Denhardt and Denhardt, 2000).

It has already been claimed that the explanatory memorandum of the Environment and Planning Act contains statements on citizen participation that can be characterised as New Public Service or as New Public Management, depending on the interpretation used. That same explanatory memorandum also contains statements that more definitely point towards a New Public Service perspective. For instance, the statement below.

“Bij de voorbereiding van beleids- en besluitvorming vindt de regering het van belang dat de omgeving vanaf een vroegtijdig stadium wordt betrokken. Juist de beginfase biedt de meeste ruimte om de inbreng van derden mee te nemen. De inbreng van belangstellende en belanghebbende burgers, bedrijven en organisaties kan de kwaliteit van de besluitvorming en het draagvlak vergroten. Dit zal doorgaans ook leiden tot een afname van het aantal zienswijzen en bezwaar- en beroepsschriften. Een goede participatie van derden in het beleids- of besluitvormingsproces moet ertoe leiden dat inbreng vanuit de maatschappij gedurende het gehele proces wordt meegenomen, dat eventuele initiatieven vanuit de maatschappij met dezelfde zorg worden behandeld als overheidsinitiatieven en dat de participatie op een transparante wijze plaatsvindt.” (Omgevingswet, 2014a, pp.217-218)

“During the preparation of policy- and decision-making, the government considers it of importance that the environment is involved from an early phase. It is especially the early phase that provides room to take into account the contribution of third parties. The contribution of interested and stake holding citizens, enterprises and organisations can enhance the quality of decision-making and the support for the decision to be taken. This will typically lead to a reduction of the number of objections and appeals. A good participation of third parties in the policy- or decision-making process has to result in the inclusion of community input throughout the process, that any initiatives are treated by society with the same care as government initiatives and that participation takes place in a transparent manner.” (Omgevingswet, 2014a, pp.217-218)

Again, it is expressed that citizen participation should lead to a reduction in the amount of consultation and appeal procedures. In section 6.6, it has been explained that using citizen participation to reduce the amount of consultation and appeal procedures is characteristic for New Public Management.

It is also expressed that enhancing citizen participation should also result in the incorporation of societal needs during the entire decision making and that civil initiatives need to be taken as seriously as governmental initiatives. Interesting is also the remark about the early phase (beginfase) of the decision making process. If that phase can be used to harmonise interests, this could save time during the rest of the decision-making process, because less actors will try to resist the desired development. This indicates the importance of a dialogue on (finding) mutual interests, which is characteristic to the New Public Service (Denhardt and Denhardt, 2002).
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The quote derived from pages 217 and 218 of the explanatory memorandum accompanying the Environment and Planning Act can in my perception thus point either to a manifestation of the New Public Management discourse or to a manifestation of the New Public Service discourse. Here, again, the explanatory memorandum is ambiguous.

Finding mutual grounds and coming to a shared agreement instead of only starting a dialogue when the consultation or appeal procedures starts might in my opinion also indicate that the current procedures are, according to the minister of Infrastructure and the Environment, more focussed towards gaining and organising resistance. After all, if it is communicated that people can protest to a plan or appeal to it in court, the impression is evoked that as long as there is no judicial decision, the plan maker should not really do much of an effort to listen to (constructive) feedback. As for instance expressed by this respondent, with an academic – law background.

"Als je de informele fase in de voorfase goed gebruikt om op één lijn te komen met mekaar, om belangen te harmoniseren met elkaar, daar kun je later veel tijd mee besparen. Het wordt wel eens gezegd dat de procedures zoals die nu zijn ingericht, erop gericht zijn om verzet te organiseren. Mobiliseren het verzet. We leggen iets ter inzage schiet maar, dan kun je altijd nog bezwaar maken, hoeven we ons niks van aan te trekken. Maak maar bezwaar, je hoort nog wel en als je niet akkoord bent ga maar naar de rechter. (...) Je moet vooral op die harmonie en consensus, daar moet je zitten. En dan moet je- dat betekent ook dat je in de voorfase meer moet investeren."

"When you use the informal phase in the preliminary phase properly to all get on the same level, to harmonise everyone’s interests, then you can save a lot of time with that later on. It is sometimes said that the procedures as they have been set-up now, have the goal of organising resistance. Mobilising is resistance. We make something available, have a go at it, you can always object later, we do not have to take it to heart. Object if you want, you will hear and if you do not agree, you can take it to court. (...) Especially the harmony and consensus that is what you need to emphasize. And then you need – that also means that you should invest more in the preliminary phase."

What this respondent, in my vision, expresses is that the set-up of the current procedures for appeal too much evoke the impression that the initiator and the government do whatever suits them best. This does not give citizens the idea that they are being recognised in the procedures or the decision-making process which leads to resistance.

In such an understanding, the procedure focused on finding mutual grounds and agreement as proposed in the quote above could be more democratic. It also testifies to a government attitude of finding mutual interests among all relevant actors, creating shared values and building coalitions (of public parties, private parties, citizens and non-profit agencies) to achieve these mutual needs and benefits. This finds concordance with the New Public Service perspective of Denhardt and Denhardt (2000).

7.4 Planning without money
The explanatory memorandum of the Environment and Planning Act reports on a change in spatial planning practice:

"Na de reactieve toelatingsplanologie en de initiërende ontwikkelingsplanologie is de laatste jaren een sterke behoefte ontstaan aan een nieuwe vorm van gebiedsontwikkeling die vaak wordt aangeduid als organische gebiedsontwikkeling. Het gaat hierbij om een autonome ontwikkeling die aansluit bij de wens om minder in blauwdrukken van bovenaf te denken en
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“After the reactive permission planning and the initiating development planning, recent years have seen an increasing need for a new type of area development which is often referred to as organic area development. This is an autonomous development that finds concordance with the desire to think less in hierarchically imposed blue-print plans and provide possibilities to enterprises and citizens to employ activities in the physical living environment themselves. As a result of the financial-economic crises, this development has – partly out of a necessity – received a strong impulse. This change of course in area development is expected to be structural in nature.” (Omgevingswet, 2014a, pp.275-276)

This argument is based on research conducted by the Dutch ‘Planbureau voor de Leefomgeving’. The main argument of that research is that as a result of the financial and economic crisis, a lot of large-scale area development projects are coming to a halt. In order to give development of this areas and of the whole of the Netherlands, an impulse the government needs to take up a role as facilitator rather than as assessor. What this demands of the various tiers of government is that they have to dare to let go of the role of ‘director’ of spatial planning and become more dependent on the initiator or the team of initiators (Buitelaar et al, 2012). Letting go of the role as director means, to a certain extent, that the government is no longer in position to steer by means of rules or financial incentives. Because it does not really have the means to provide such incentives as a result of the financial and economic crisis (Hajer et al, 2010). What I understand the quote above to be expressing is that even if the government would want to take up a role as the actor steering development (as propagated under New Public Management, this would be rather hard given the shortage of financial assets). Thus, the government would take up a role that is more in line with the brokering of interests and negotiating with initiators as it is proclaimed under the New Public Service.

7.4.1 A claim of change

The quote derived from pages 275 and 276 of the explanatory memorandum to me also evokes the more theoretical issue whether there really is a shift from “toelatingsplanologie” to “uitnodigingsplanologie”? Or whether that very same trend is just a symptom of a redrawing government that needs to devolve spatial issues to lower tiers of government as a result of insufficient financial means? It seems that there is a genuine shift in spatial planning going on (Allmendinger, 2009), not only as result of external factors but also as a result of new perceptions about the way spatial planning should be put into practice. De Roo (2010), for instance, sees a shift form a technical-rational approach towards a more communicative-rational approach. This communicative-rational approach fits in the idea of New Public Service that the public interest needs to be defined in a dialogue about shared values. It also fits the idea that there are multiple forms of rationality that can be given a place by communication.

7.4.2 Planning without money as part of a societal change

A respondent with an academic - law background claims that the Environment and Planning Act is a change. A change not only in spatial planning but in society as a whole. The respondent’s argument goes like this:

“De wal keert het schip. De bureaucratisering heeft de overheid zo inefficiënt gemaakt dat mensen het niet meer accepteren. (…) Maar dat heeft niks met New Public Management te maken, het is een algemeen maatschappelijk proces. Zeker in West-Europa, Amerika is het al langer en dan zie ik dat het in West-Europa nu ook opkomt hè.”
“Due to circumstances, further development is hindered. Bureaucratization has made the government inefficient to the point of people no longer accepting it. (…) But that has nothing to do with New Public Management, it is a general social process. Especially in Western Europe, America it has been [there] longer and I can tell it is now growing in Western Europe too.”

Thus, the respondent in my understanding claims that the Environment and Planning Act is a response to the system having become overly bureaucratic. The respondent did not see a manifestation of New Public Management in the Environment and Planning Act. In reaction to this statement, I posed the question whether this change is catalysed by citizens having become more empowered to voice their opinion. In response to that question, the respondent said:

“Ja dat heeft ook te maken met individualisering, materialisering, mondiger worden, mondialisering, al die aspecten die hebben allemaal te maken met- ik noem dat even rationalisering, als overkoepelend begrip.”

“Yes, that also has to do with individualization, materialization, becoming more articulate, globalization, all these aspects all have to do something with – I will call it rationalisation for now, as an umbrella term.”

In this latter quote it is defined what the respondent means by the societal change (“algemeen maatschappelijk proces”). The respondent typifies this change as rationalisation. In fact, a shift from government to governance is perceivable and non-governmental actors (societal organisations, enterprises and citizens) are becoming more important in spatial planning processes. Due to multiple (liberal) reforms, the national government has become more dependent on such non-governmental actors to carry out its plans. Governmental funding seems to be replaced by financial arrangements between government and non-governmental actors, which leads to the government having to take up a more (market) facilitating role. It also leads to a lack of consensus on how to go about with spatial planning. (Roodbol-Mekkes et al, 2012). The development of the Environment and Planning Act can be seen as the national government’s response to this change in spatial planning (Koomen and Dekkers, 2013). From this it follows that the development of the Environment and Planning Act can be seen as a codification of a change in Dutch spatial planning.

Hajer et al (2010) claim that New Public Management disappeared in favour of the return of the state. This return was caused by the financial and economic crises starting in 2008. As a result of these crises, the state has considerably less money and the practice of spatial planning is more and more becoming planning without money (Hajer et al, 2010). Planning without money is interesting here because Denhardt and Denhardt (2000) have written that under the New Public Service the role of the government is to build coalitions of public, non-profit and private agencies to achieve mutually agreed on goals. The argument about planning without money (Hajer et al, 2010) and the argument about financial agreements between governmental and non-governmental actors replacing exclusive governmental funding (Roodbol-Mekkes et al, 2012), lead me to argue that these coalitions are, among others, built for financing purposes. From this it follows that the these coalitions of public and private actors are perhaps not so much created to achieve mutually agreed on (policy) objectives, but as a means to finance spatial developments by other parties than the government. As such, this is not in line with the New Public Service discourse, but with the New Public Management discourse. After all, these coalitions can also be understood as to achieve (policy) objectives public and private agencies, which according to Denhardt and Denhardt (2000) typifies New Public Management. Again, there is ambiguity between the New Public Management discourse and the New Public Service discourse.
The societal change as mentioned by the respondent can in part consist of this new reality of planning without money and finding substitutes in the form of financing arrangements between governmental and non-governmental parties. Taking the preceding paragraph into consideration, this societal change can be a manifestation of the New Public Management discourse or the New Public Service discourse and is therefore also ambiguous.

7.5 Equality

Talking about the argument of the minister of Infrastructure and the Environment that the Environment and Planning Act will offer an equivalent to the current system of environmental and spatial planning legislation, a respondent with an administrative – governance background noted:

“Yes, yes what is equal? In any case, equal is not similar. I mean, I think we could be more modern about norms, but I also see the dangers. Look, there are of course – the environment will always be a subject that is very fashionable at one point in time and at another point in time it absolutely is not, that the sort of phase we are in right now. Look, we should avoid getting into a situation in which we discard levels of protection which we will later regret.”

This respondent in my understanding argues that equivalent (gelijkwaardig) is not in any case the same as equal (gelijk). And what is needed is an area specific approach.

“Gebiedsgericht, wat is de aard van een bepaald gebied en wat voor een maximaal geluidsniveau hoort daarbij. Dat moet je niet vanuit het Rijk voorschrijven, dat moet je lokaal laten doen. Ik bedoel daar moet je nou eens een keerda doorduwen en daar moet je als Rijk gewoon zeggen, ik heb mijn rijkswegen en ik zorg ervoor dat geluid vanaf die rijkswegen niet meer is dan zoveel. Je moet allemaal wel je verantwoordelijkheid kunnen nemen.”

“Area-specific, what is the nature of a certain area and what sort of maximum noise level goes with that. You should not let the government outline that, that should be done locally. I mean for once you should keep pushing it there and the government should say, we have our national roads and we are making sure that the noise coming from those national roads will not be much more than that. Everyone needs to be able to take your responsibility.”

Such an area specific approach to me implies that the idea that the material conditions are not equal in any case is used. In the Environment and Planning Act, however, it is also noted that the power relations between legislator and subjects of the law are equal. As for instance expressed in the phrase below.

“(Omgevingswet, 2014a, p.38)
“The simplification of procedures for initiators will not lead to a reduction of the rights of other stakeholders. (…) The point of departure for the government was that no loss of guarantees as compared to the existing level of protection under current legislation may occur. Simpler procedures also make clear to people living nearby and stakeholders when a decision will be taken and how to can exert influence that.” (Omgevingswet, 2014a, p.38)

According to this phrase, there might be inequality of material conditions but no inequality of power relations, since there is no limitation of rights. This inequality of material conditions and equality of power relations finds concordance with description of egalitarianism as given by Thompson et al (1990). They state that egalitarianism is aimed at equality within a group. That egalitarianist equality is not based on material conditions but on power relations within a group (Thompson et al, 1990). Such a perspective is characteristic to adherents of the New Public Service (Maesschalck, 2004).

### 7.6 Meeting citizen’s demands

The respondent with the academic – law background states in my understanding that, when looking superficially, there might be parallels between the New Public Management and the Environment and Planning Act but most of these parallels are due to a societal change (see below).

“Bij bedrijfsleven sowieso, grote bedrijven moeten rationeel zijn, ook uit concurrentieoverwegingen. Ook weer zoets! Overheid en concurrentie. Moet de provincie met de gemeente gaan concurreren? Moet de ene gemeente met de andere gemeente gaan concurreren? Dat past helemaal niet in de concepties (...) Nee dat feit, ook dat is een gevolg van het rationaliseringsproces en het feit dat burgers niet meer content zijn met een slecht functionerende overheid. En dat zijn gewoon interne correctieprocessen zal ik maar zeggen en ook politieke correctieprocessen. Als besluiten niet worden genomen, het lang duurt voordat de politiek- En die hele bureaucratiering en dat is wel wat weer terugkomt.”

“The business world in any case, large companies have to be rational, even from competitive reasons. Another thing! Government and competition. Should the province compete with the municipalities? Should one municipality compete with another municipality? That is inconsistent with the notions. (...) No, that fact, even that is consequence of the rationalization process and the fact that civilians are no longer content with the badly functioning government. Let me just call them internal correction procedures as well as political correction processes. When no decisions are made, it will take long before politics – And that whole bureaucratisation and that is something which will return.”

The fact that the government should become more efficient and needs to adopt lean and mean practices is according to my understanding of the statement by this respondent caused by the fact that citizens demand a more efficient government. The respondent sees the development of the Environment and Planning Act as an expression of an internal correction by the government to become more effective and efficient. In the Environment and Planning Act, an emphasis is put on enhancing the efficiency and effectivity of working with the system of environmental and spatial planning legislation. Enhancing of efficiency and effectivity might look an expression of economic rationality and thus of New Public Management (Denhardt and Denhardt, 2000).

Ter Bogt (2008b) found that enhancing efficiency and effectivity is not always a manifestation of economic rationality. Striving to enhancing efficiency and effectivity can be the product of financial stress (planning without money) or external expectations (Ter Bogt, 2008b). In this sense the emphasis that is put on enhancing efficiency and effectivity in the Environment and Planning Act can also be seen as demanded by citizens, as expressed in the quote above. Thus striving towards (enhancing) efficiency
and effectiveness does not always need to be governed by the New Public Management discourse. It can, as it does here, even testify of an attitude focused on adhering to wishes of citizens. Therefore, I claim that the Environment and Planning Act contributes to a societal demand and thus finds concordance with Denhardt and Denhardt’s (2000) New Public Service discourse.

7.7 Approaching accountability

As claimed by Denhardt and Denhardt (2000), a varied approach to accountability is characteristic for the New Public Service perspective. In the explanatory memorandum of the Environment and Planning Act, statements are to be found that testify to such a varied approach to accountability. Each tier of government is by law accountable to the higher tier of government. And the minister of Infrastructure and the Environment is accountable to the Lower House of Parliament as well (Omgevingswet, 2014a). So far, the division of accountability seems quite clear. With regard to accountability, the following is stated in the explanatory memorandum of the Environment and Planning Act:

“This arrangement of duties and powers in the proposal of law is based on the existing division of tasks with regard to the physical living environment. For tangible components such as the water system and infrastructure, this division is arranged keenly due to the necessary demarcation between general and functional management. For other tasks, which transcend local or regional boundaries, the principle of co-actor-ship by multiple governments and a coordination role of the minister applies, as is the case for air quality.” (Omgevingswet, 2014a, pp.49-50)

In this quote, a choice is made for the principle of “co-actorschap” (co-actor-ship). With regard to this co-actor ship it is also noted that:

“Daarnaast blijken beleidsvragen relatief vaak de omvang van bestuurlijke eenheden te overstijgen. In dergelijke gevallen is samenwerking geboden (zogenaamd co-actorschap)” (Omgevingswet, 2014a, p.44)

“Policy issues appear to relatively often transcend administrative agencies. In such cases, cooperation is needed (the co-called co-actor-ship).” (Omgevingswet, 2014a, p.44)

And:

“Gelijkwaardige, horizontale samenwerking tussen de overheden om maatschappelijke doelen te bereiken wordt voorop gesteld (co-actorschap), waarbij de provincie als coördinator en bovenlokale gebiedsregisseur fungeert.” (Omgevingswet, 2014a, p.113)

“Egalitarian, horizontal cooperation between governments to achieve societal goals is prioritised (co-actor-ship), the province acts a coordinator and area director transcending the local level.” (Omgevingswet, 2014a, p.113)
The principle of co-actor-ship thus comes down to collaboration between different tiers of governments in order to achieve societal goals. Notwithstanding this well-formulated aspiration, the principle of co-actor-ship to me remains opaque. What also comes to the fore from these quotes is that they testify to a predominantly governmental perspective. Something that according to Tonnaer (2014) applies to the whole explanatory memorandum. From an accountability perspective on participation, the following is noted in the explanatory memorandum accompanying the Environment and Planning Act:

“Een goede participatie van derden in het beleids- of besluitvormingsproces moet ertoe leiden dat inbreng vanuit de maatschappij gedurende het gehele proces wordt meegenomen, dat eventuele initiatieven vanuit de maatschappij met dezelfde zorg worden behandeld als overheidsinitiatieven en dat de participatie op een transparante wijze plaatsvindt. Bij participatie vindt de regering maatwerk van belang. Het participatieproces is daarom, zoals hiervoor aangegeven, niet in generieke zin in het wetsvoorstel opgenomen.” (Omgevingswet, 2014a, pp.217-218)

“A good participation of third parties in the policy- or decision-making process has to result in the inclusion of community input throughout the process, that any initiatives are treated by society with the same care as government initiatives and that participation takes place in a transparent manner. With regard to participation, the government considers customised solutions of importance. The participation process is therefore, as stated before, not included in a generic sense in the proposal of law.” (Omgevingswet, 2014a, pp.217-218)

And:

“De kwaliteit van participatie hangt af van de vorm en het moment. Elk project is uniek en vergt een maatwerkaanpak. Participatie in een vroegtijdig stadium, dat wil zeggen voorafgaande aan de zienswijzenprocedure, moet daarom worden afgestemd op de specifieke omstandigheden. Een goed proces met de omgeving is een kwestie van een actieve opstelling en een open houding en niet het resultaat van een wettelijke verplichting. Een wettelijke regeling leidt al snel tot juridisering van besluitvormingsprocedures. De wijze van vroegtijdige participatie wordt in het wetsvoorstel, gelet op het noodzakelijke vormvrije karakter, zo veel mogelijk aan het desbetreffende bestuursorgaan overgelaten.” (Omgevingswet, 2014a, p.277)

“The quality of participation depends on the character and the moment. Every project is unique and required a customised approach. Participation in an early stage, that is prior to the consultation procedure therefore needs to me attuned to specificities. A good process involving the environment is a matter of an active attitude and an open mind and is not the result of a legal necessity. A statutory regulation quickly leads to juridification of decision-making procedures, The character of early-stage participation is, given the necessary free-form character, left to the relevant administrative agency.” (Omgevingswet, 2014a, p.277)

Starting with the first quote, I derive from that quote that civic initiatives should be taken as seriously as governmental initiatives. What is also stated in that quote is that participation requires, per definition, a contextualised approach and thus no guidelines to participation or accountability are given. From the second quote, I distil that it states that accountability is required to at least take arguments seriously into consideration and to make clear what is possible and what not. The matter stays however (relatively) vague. Here, Van Rijswick (2013) is followed in claiming that the Environment and Planning Act offers the potential to provide a means of coming to a clear division of accountability, but that this is not really manifest in that law (yet). The division of responsibilities is based on the principle of co-actor-ship, without a juridical definition of that principle, results in vagueness.
Just like the first quote, the second quote, in my understanding, echoes that participation needs to be contextualised and tailor made to match each, per definition unique, situation. This is the reason that the minister of Infrastructure and the Environment chooses not to come up with a guideline for participation or a clear division of roles and responsibilities. That is, accountability too has to be matched to each specific situation. Thus, the relevant tier of government has to be accountable to citizen interests, only how and to what extent is to be determined in each specific project. That provides an explanation as to why no clear division of accountability is given in the Environment and Planning Act.

This leads to a situation in which accountability between governmental tiers is clearly defined, but the accountability to citizens, community values and professional standards is left blank. So in the current version of the draft version of the Environment and Planning Act, the approach to accountability matches neither New Public Management, nor the New Public Service. It will be determined whether one can speak of New Public Management or New Public Service in individual projects.

7.8 The constrained character of decentralisation

It has been contended by Denhardt and Denhardt (2000) that it is characteristic for the New Public Service perspective that discretion should be limited and constrained. Under the Environment and Planning Act, different tiers of government are provided with discretionary space to come to their own considerations and decisions. However, discretionary space is only provided in instances where lower tiers of government are explicitly enabled to come up with their own considerations and decisions. As soon as there is a risk of problem shifting to other actors, the national government takes back the decision-making capacity. As expressed by the quote below. This quote has already been used to argue that given the capacity of the national government to overrule lower tiers of government, the primary control remains with the national government. Which is indicative for New Public Management.

“Bij het realiseren van projecten door het Rijk en de provincies kan er soms sprake zijn van botsende taken of belangen. Voor dit soort gevallen beschikken zij over doorzettingsmacht. Daarmee kunnen zij aan de beleidsopvattingen van de betrokken andere overheden en eventuele beperkende regels op decentraal niveau voorbij gaan. (Omgevingswet, 2014a, p.45)

“During the realisation of projects by the government and the provinces, sometimes conflicting duties and interests can be encountered. To deal with those conflicts, they have the power to overrule. This allows them to ignore policy philosophies of other tiers of government and restrictive decentral rules." (Omgevingswet, 2014a, p.45)

The quote to me also indicates that limited discretionary space is given to lower tiers of governments. That points towards the New Public Service perspective, which is more clearly articulated in this quote:

“Vanuit hun zorg voor de fysieke leefomgeving en ter waarborging van de eenheid in de decentrale taakbeheeriging kunnen de provincies en het Rijk voorwaarden stellen aan de taak- of bevoegdheidsuitoefening van decentrale overheden. (...) Daarbij gaat het om onderwerpen die lokale of regionale belangen overstijgen, of waarbij de belangen van gemeenten of provincies kunnen botsen.” (Omgevingswet, 2014a, p.102)

“As a result of their concern for the physical living environment and in order to safeguard the unity in the decentral provision of tasks, provinces and the State can formulate prerequisites with regard to the performance of tasks and authorities by decentral governments. (…) This concerns themes that transcend local or regional interests or conflicting interests of municipalities and provinces.” (Omgevingswet, 2014a, p.102)
In my understanding, the quote derived from page 102 of the explanatory memorandum of the Environment and Planning Act too expresses the constrained character of discretion. Discretionary space is only provided in instances where the national governments explicitly enables lower tiers of government to come up with their own considerations and decisions. As soon as deregulated decision making could lead to the risk of problem shifting to other actors, the national government takes back decision making. This indicates that the different tiers of government below the national government have discretionary space, but only to a limited extent. According to Denhardt and Denhardt (2000) such constrained discretionary space is characteristic to the New Public Service.

Thus, not only when it comes to the mechanism for achieving policy objectives, but also when it comes to the sharing of power in discretion, the explanatory memorandum of the Environment and Planning Act seems to be ambiguous regarding the manifestations of the New Public Management discourse and the New Public Service discourse.

### 7.9 The manifestation of the New Public Service discourse

In this concluding section, the arguments in which the New Public Service discourse houses will be enumerated (in a condensed way) to answer the third specific research question:

- How is the New Public Service discourse expressed in the debate about the Environment and Planning Act?

The exploration of the manifestation of the New Public Service discourse as conducted in this chapter has pointed out that the New Public Service discourse is present in statements concerning:

1. The propagation of a more varied approach to knowledge so as to make use of the self-governing ability of society.
2. A governmental attitude focused on serving society.
3. The sharing of responsibility between the government and actors in society.
4. The importance of a dialogue to find mutual interests and to come to a mutually shared agreement.
5. The propagation of a governmental attitude targeted towards finding mutual interests among all relevant actors for creating shared values and the building of coalitions to achieve mutual needs together.
6. Taking up a role as broker of interests and a role as negotiator to find ways to finance developments because the government has insufficient financial means to realise the development on its own.
7. Employing a communicative-rational approach.
8. Equality based on power-relations within a group.
9. An attitude focused on the adhering of the wishes of citizens to make sure the government contributes to achieving a societal demand.
10. The limited discretion lower tiers of government will have under the Environment and Planning Act.

Now that the manifestations of the New Public Management discourse and the New Public Service discourse have been explored, I argue that the New Public Management discourse is much more clearly identifiable in both the debate about Environment and Planning Act and the law itself. The arguments in which the New Public Management discourse manifests itself are more straightforward and easier to identify. The manifestation of the New Public Service discourse is in my understanding often more diffuse and the arguments in which the New Public Service discourse resides are more ambiguous, which means that they can also be interpreted as a manifestation of New Public Management.
Chapter 8 Preparatory research

8 PREPARATORY RESEARCH
Reducing governmental expenses is one of the focal points of New Public Management (Hood, 1991; Clifford and Tewdwr-Jones, 2013). This might indicate that in the ambition to reduce the expenses for research employed to come to well-informed decision-making on spatial issues (Omgevingswet, 2014a), a New Public Management discourse is manifest. However, in the explanatory memorandum of the Environment and Planning Act, it is also noted that the relatively high research expenses put a burden on society (Omgevingswet, 2014a). Reducing research expenses to ease this burden can however also be demanded by a wide range of actors in (the environmental protection and spatial planning) society. As such, a government that lives up to this demand can in my perception be understood as a government becoming attentive to the needs and concerns of (a professional) society and focusing on realising a societal demand, which is characteristic for the New Public Service (Denhardt and Denhardt, 2000).

This chapter deals with the discourses on preparatory research and answers the fifth specific research question:

- What discourse(s) on preparatory research are expressed in the debate about the Environment and Planning Act?

First, an exploration of the discourse on the environmental impact assessment is given. Followed by an exploration of more small-scale preparatory research, like the preparatory research used to base spatial substantiations (in Dutch: ruimtelijke onderbouwingen) on.

8.1 Reducing research expenses
The minister of Infrastructure and the Environment desires to reduce research expenses by (Omgevingswet, 2014a, p.289):

1. Increasing the possibilities to come to tailor made solutions with regard to the amount of information and the level of detail needed for the research to be undertaken. Research can be conducted in phases so as to match the state in which the decision-making process find itself.
2. Augmenting possibilities to re-use previous research when nothing has changes.
3. Gathering more information on area level rather than on project level.
4. Enhancing digital accessibility of information coming forth from preparatory research.

At first glance, these measurements seem in my opinion compatible with New Public Management because they express a predominantly economic rationality and focus on reducing government expenses, both are characteristic to New Public Management (Denhardt and Denhardt, 2000; Bevir, 2011). Thus it could be argued that the objective of reducing research expenses is an expression of New Public Management.

That would however be too simplistic, I argue. In comparison to the ways the selected set of respondents frame the Environment and Planning Act, the framing of the reduction of research expenses is far more unitary. The actors consulted frame the Environment and Planning Act in a positive, sceptic or acquiescence way. But, in general, the selected set of actors agrees on the fact that preparatory research should be dealt with in another way. This is broader than just reducing research expenses, the selected set of actors argue relatively unified that the scope of preparatory research is sometimes too broad. This broadening of the scope of preparatory research is typically linked to the rise of environmental legislation. As for instance by this respondent, with a professional - spatial planning background.

"Dus het aantal regels, met name door die milieuregeling is het op een gegeven moment zo ingewikkeld geworden, ja, daar zie je inderdaad wel een lijn. Wat dus wel sinds de jaren 80 gebeurt, is die hele milieuregeling die erbij is gekomen. En die onderzoeken, de milieueffectrapportage. En daardoor is het langzamerhand te ingewikkeld geworden."
“So the number of rules, in particular because of the environmental protection legislation, at a certain time it has become very complicated, yes, you do see a connection there. What is happening since the 80’s is the environmental protection legislation being added. Just like those researches, the environmental impact assessment. And that is how it became complicated, bit by bit.”

In my understanding of this statement, this respondent links the emergence of environmental legislation to the system of environmental and spatial planning becoming more complex. That this statement is recognised by all the individual members of the selected set of actors is not to say that all actors express exactly the same. The selected set of actors share the assertion that the scope of preparatory research, especially preparatory research on a smaller scale than the environmental impact assessment, has become quite broad and is not always of perceived value for the decision to be taken. The expression that research is not always of perceived value for the decision to be taken means that sometimes something is researched because it needs to be, without it being of actual relevance to the development in question. When this statement is compared with two statements derived from the Environment and Planning Act, similarities arise. In the following statements, it is also claimed that a large part of the current environmental and spatial planning legislation is formed by the ambition to protect the environment. Linked to that environmental protection legislation are norms and research to determine the environmental impact.

“Een belangrijk deel van het huidige omgevingsrecht is voortgekomen uit wetgeving die primair is ontstaan uit de behoefte het lokale milieu en de burger te beschermen tegen hinder en verontreiniging. De lokale gevolgen van de sterke economische groei in de vorige eeuw zijn door deze sectorale regelgeving over het algemeen beheersbaar gebleken.” (Omgevingswet, 2014a, p.12)

“An important part of the currently applicable environmental and spatial planning legislation is derived from legislation that primarily arose from the need to protect the local environment and the public against nuisance and pollution. The local impact of the strong economic growth during the last century have proven to be manageable by this sectoral legislation.” (Omgevingswet, 2014a, p.12)

And a little further on in the same explanatory memorandum of the Environment and Planning Act:

“Het grote aantal regels en plannen maakt het voor initiatiefnemers van projecten en activiteiten niet eenvoudig te bepalen wat wel en niet toegestaan is in een gebied. Dit beperkt de ruimte voor initiatieven. De hoeveelheid sectorale normen en regels, met bijbehorende onderzoeks- en verantwoordingsplicht, maakt de besluitvorming complex.” (Omgevingswet, 2014a, p.15)

“The large number of rules and plans makes it hard for initiators to easily determine what is and what is not allowed in an area. This limits the possibilities to employ initiatives. The amount of sectoral norms and rules with the associated research and accountability obligations makes decision-making procedures complex.” (Omgevingswet, 2014a, p.15)

The latter quote, in my understanding, connects the large amount of rules (which came into being as part of the inception of legislation for environmental protection, see the quote from page 12 of the explanatory memorandum), to a rather large research exercise. As a result of all kinds of rules to protect the environment, a lot of research is carried out prior to taking a decision. The respondent with a professional - spatial planning, background, to use just one example of all the members of the selected
set of actors who adhere to this argument, uses a similar argument. From this, it can be derived that the persons interviewed for this thesis seem to agree with the minister of Infrastructure and the Environment that the research exercise and expenses have gotten relatively high.

There are however also actors who do not endorse the minister’s ambition to revise the research exercise to reduce research expenses. More information about this is to be found in paragraph 8.2.5.

### 8.2 Environmental impact assessments

This section elaborates on the most salient statements on the environmental impact assessment.

#### 8.2.1 Environmental impact assessment as a legal requirement

The explanatory memorandum accompanying the Environment and Planning Act also contains some statements on preparatory research, one of these statements is this one:

> “De herziening van het omgevingsrecht is ook gericht op doelmatiger onderbouwend onderzoek voor de besluitvoorbereiding. Onderzoek is geen doel op zich, maar een bijdrage aan zorgvuldige besluitvorming. Het is primair aan het bevoegd gezag om te bepalen of er voldoende onderbouwend onderzoek is gedaan om een besluit te kunnen nemen.” (Omgevingswet, 2014a, p.33)

> “The reform of the system of environmental and spatial planning legislation is also aimed at more efficient preparatory research to base decisions on. Preparatory research is not to be a goal in itself but has to contribute to sufficiently careful decision-making. It is primarily up to the competent authorities to determine whether sufficient preparatory research has been conducted in order to be sufficiently informed before taking a decision.” (Omgevingswet, 2014a, p.33)

Another statement on preparatory research in the explanatory memorandum is this one:

> “En er worden soms aanvullende onderzoekseisen gesteld uit angst voor procedurele fouten, zonder dat er sprake is van een feitelijke informatiebehoefte.” (Omgevingswet, 2014a, p.16)

> “Sometimes, additional preparatory research is demanded due to a fear of procedural mistakes, without an actual need for information.” (Omgevingswet, 2014a, p.16)

In the quote above, it is in my understanding stated that sometimes additional preparatory research is carried out in an attempt to limit that chances on procedural mistakes without such research adding anything to the quality of the decision to be taken. According to this quote, research is sometimes conducted as a result of anxiety about making possible legal mistakes. Preparatory research is thus sometimes seen as a necessity to avoid legal pitfalls.

Most of the individual members of the selected set of respondents see the environmental impact assessment as a necessity. As for instance expressed by this respondent with a professional – governance background who sees the environmental impact assessment not only as a necessity but also as currently used too late in decision-making process:

> “Het bekende punt, tenminste voor mij bekend, is dat zo’n MER-rapport- Ja terwijl de kogel feitelijk al politiek-bestuurslijker jaar door de kerk moet er nog zo’n optel opgekleurd worden. (...)

Mosterd na de maaltijd, dus je moet hem. Op het moment dat het een gegeven is moet je hem proberen anders te gebruiken, meer aan de voorkant dat je er ook wat mee doet.”
"The known issue, at least to me, is that such an EIA report - Yes, when the die has actually already been cast in political-administrative sense, an essay as such has yet to be made. (…) It comes too late in the day, so you have to- As soon as it is fact, you have to try to use it differently, more in an early stage that you are using it."

From the above, I conclude that the framing of preparatory research as a legal obligation is dominant. It is made because it has to be made, not because it is believed to add much. This conclusion finds concordance with one of the main findings in an article by Runhaar et al (2013) in which it was described that environmental impact assessments were often perceived as a legal necessity. As a result of this perception, the effectiveness of an environmental assessment as a corrective instrument was relatively high. But the usefulness of an environmental assessment as a supportive instrument in decision making and developing design alternatives was rather low. The respondent above implies that if the environmental impact assessment is used to start or guide a discussion about a project in the early phase of the decision-making process, the environmental impact assessment can be used as an instrument to support decision-making. Using the environmental impact assessment in that latter way means it can be used as an instrument to start a dialogue to come to shared values, which finds concordance with the New Public Service (Denhardt and Denhardt, 2000).

8.2.2 Environmental impact assessment to enhance environmental awareness
Runhaar et al (2013) also drew attention to the discourses on the environmental impact assessment and stated that in the hegemonic discourse, the attitude towards environmental assessments is rather positive, even despite it is seen as a necessity. The positive attitude towards environmental impact assessments is due to the fact that such assessments encourage to think about environmental protection and enhances environmental awareness (Runhaar et al, 2013). This finds concordance with the results yielded from the interviews with the selected set of actors. A respondent with a professional – governance background says this on environmental protection:

"[M]aar ik vind dat voor wat grotere ingrepen heel goed dat wij in de geciviliseerde westerse maatschappij een MER maken, waarbij wij kijken naar van datgene wat we van plan zijn te doen, wat zijn de milieueffecten daarvan? Want ik geloof er wel heilig in dat wij heel hard werken om onze planeet naar de [vernietiging] te helpen. En daarom is het wel goed dat wij onszelf dwingen om te kijken naar de milieueffecten van die ingrepen die wij doen."

"[B]ut I think it is a good thing that we, in the civilised western world, draw up an EIA for larger actions, and for which we look at that what we are planning to do, what will be its impact on the environment? Because I genuinely believe that we are working very hard to [destroy] our planet. And that is why it is only right that we force ourselves to review the environmental impact of the actions we take."

This respondent, in my understanding, argues that drawing up an environmental impact assessment is of perceived value because it stipulates thinking about anthropogenic environmental degradation. The environmental impact assessment stimulates environmental awareness.

8.2.3 The scope of the environmental impact assessment
Occurring in several interviews with the selected set of actors was the statement that the scope of a lot of environmental impact assessments is too broad. The respondent with an administrative - law background states:

"Ja kijk, voor mij is het dan buitengewoon belangrijk dat het, dat het [onderzoek, DH] echt, dat het meerwaarde heeft voor het besluit. En wat ik wel vaak hoor, nou ja, ja geregeld hoor dat is
dat allerlei dingen worden onderzocht die eigenlijk met het te nemen besluit niets te maken hebben. Dat het meer een hobby is, dat het leuk is om te weten maar dat daar het besluit absoluut niet anders door zou zijn geworden."

“Well look, to me it is extremely important that it, that it [preparatory research, DH] really, that it adds value to the decision. And what I constantly hear, well, yes often hear is that a lot of things are being investigated that have nothing to do with the decision that has to be made. That it is more of a hobby, that it is nice to know but that it would not have changed the decision whatsoever.”

This respondent, in my understanding, thinks that not all research conducted in the environmental impact assessment is of relevance for the decision-making process. A similar argument is made in the quote derived from page 220 of the explanatory memorandum of the Environment and Planning Act. Also in paragraph 8.2.4 and section 8.3, statements are to be found in which preparatory research is considered to be a hobby or an exploration to subjects that are not of relevance for the decision to be taken. These respondents, with an administrative or professional background, consider hobbies to be something that is interesting to explore in preparatory research without it being of perceived value for the decision to be taken. Framing this preparatory research as a hobby or as an exploration into (partly) irrelevant subjects indicates that these respondents are skeptical towards preparatory research. To me, it also indicates that these respondents see preparatory research as a matter of secondary importance, after all a hobby is never of core importance.

The respondent with the administrative – background in my understanding implies that all these not directly relevant aspects give the environmental impact assessment a too broad scope. In their study Runhaar et al (2013) found that of circa 443 respondents, a third considered the scope of the environmental impact assessment as too broad. As a result of that, environmental impact assessments are seen as hindrances to decision-making and as causing problems for administrative executives to distill the most important elements from them. The respondent with the administrative - law background also states:

"Alleen we hebben ook vooral het gevoel en dat krijgen we ook wel terug uit de uitvoeringspraktijk, dat er vaak ook nog weer wel wat extra dingen worden onderzocht omdat bijvoorbeeld een wethouder toch nog wat onzeker is, dat hij toch nog iets extra’s wil laten onderzoeken. Of dat hij eigenlijk niet wil, of dat er verkiezingen naderen en toch nog, en toch nog een keer een onderzoek doen om wat tijd te rekken denk ik wel eens. Of, dat staat wel vast dat dat zo is. Dus in de sfeer van voorbereidend onderzoek kan het, kan het strakker. Van wat is nou echt wezenlijk voor het te nemen besluit"

“Except we also mainly feel, and we got that back from the performance practice, that a lot of additional things are being researched as well, because an alderman is still a bit unsure for example, whether he still wants to have some extra things researched. Or that he actually does not want to, or that elections are coming up and still, and still do another research to gain some time, I think. Or, and it is certain that that is the way it is. So, in the spirit of preliminary research it can be, it can be more delimited. Of what is really necessary for making a decision.”

In my interpretation, the respondent claims that parties involved in the debate about the Environment and Planning Act also have the experience that preparatory research is not always limited to the elements that are of relevance for the decision to be taken.
In this light of arguments about too broad research scopes, a quote in the explanatory memorandum of the Environment and Planning Act draws attention. It is a quote expressing it will be left to the relevant competent authorities to determine the scope of the environmental impact assessment.

"Vergroting van de afwegingsruimte voor het bestuursorgaan om zelf te bepalen wat nodig is voor een goede besluitvorming. Niet alleen versterkt dit het karakter van de milieueffectrapportage als hulpmiddel bij besluitvorming, maar het betekent ook dat informatie die niet bijdraagt aan een goede besluitvorming, niet langer hoeft te worden verzameld. Het bevoegd gezag maakt in samenspraak met de initiatiefnemer een goede afweging van de vereiste reikwijdte, het detailniveau en de alternatieven die nodig zijn om een goed besluit te kunnen nemen." (Omgevingswet, 2014a, p.220)

"Increasing the discretionary space available to the governmental agency so it can determine what is necessary for good decision-making. Not only does this reinforce the character of the environmental impact assessment as a tool for decision-making, but it also means that information that does not contribute to good decision-making no longer needs to be collected. Together with the initiator, the competent authorities weigh properly the required scope, the level of detail and the alternatives that are needed to come to a good decision." (Omgevingswet, 2014a, p.220)

This is interesting because not only the quoted respondent considered the scope of the environmental impact assessment too broad, a third of Runhaar et al's (2013) 443 respondents were of the same opinion. So to me, it seems that there is a relatively widespread idea that the scope of environmental impact assessments is too broad. In this sense, the idea to let the competent authorities determine the relevant scope seems contradictory to the quote in this paragraph by the respondent with an administrative – law background that aldermen (in Dutch: wethouders) sometimes desire more research to be done because they are reluctant to take a decision based on the information available. Since aldermen represent the competent authorities, it is argued here that letting competent authorities determine the scope of an environmental impact assessment themselves only increases the risk of scopes becoming too broad.

It has been argued (section 6.3) that environmental policy integration can be seen as structured by New Public Management motives. The environmental impact assessment also focuses on integrating environmental policies (De Mulder, 2011). As such, the environmental impact assessment can be seen as a specific practice closely linked to the New Public Management discourse.

8.2.4 Environmental impact assessment conducted too late
From the quote below, it can in my understanding be derived that this respondent, with an academic – governance background, thinks that in the current situation the environmental impact assessment is conducted too late in the decision-making process. As a result of that, the environment impact assessment only has little perceived value to the decision in question.

"Kijk, de paradigmawisseling zoals die bedoeld is met de wet, die houdt in dat je niet meer aan de voorkant alles uitputtend onderzoekt en dan in een soort theoretisch model op de werkelijkheid legt en zegt "nou over tien jaar komt het dan zo uit". Maar dat je veel meer terwijl je doelen formuleert en je informatie op orde hebt en dan dus de monitoring, dus het dynamische wordt veel belangrijker. En dat moet ook geen vrijblijvende monitoring zijn."

"Look, this paradigm shift like it was meant with the Act, it means that you no longer extensively research everything early in a process and then apply it to reality in a kind of
theoretical model and say ‘well in ten years this is how it turns out’. But that you a lot more while you are formulating goals and have your information straightened out and that’s when the monitoring, so the dynamical is becoming much more important. And that monitoring should not be without obligations.”

The statements of this respondent is in line with what is expressed in the explanatory memorandum of the Environment and Planning Act on preparatory research. As expressed in the quote below.

"Mede hierdoor hoeft het brede onderzoek niet voorafgaand aan de wijziging of vaststelling van het omgevingsplan te worden gedaan. Het onderzoek kan worden uitgesteld en toegespitst op de feitelijke bouwplannen in een latere fase. Voor zover nog op een specifieke [variant] gericht onderzoek nodig is, wordt dat verschoven naar het moment dat bouwplannen concretere vormen aannemen of naar het moment van een aanvraag om een omgevingsvergunning. Het op deze wijze faseren van het onderzoek beperkt de onderzoekskosten, omdat onderzoek naar uiteenlopende uitvoeringsvarianten overbodig wordt.” (Omgevingswet, 2014a, p.154)

"Partially as a result of this, the broad research no longer needs to be conducted prior to the alteration or adoption of the municipal zoning plan. Research can be postponed and focused on the actual building plans in a later stage. As far as research aimed at a specific [alternative] is required, this is postponed until the moments the building plans become more definite or until the moment a request is made to issue an integrated environmental permit. Phasing research in this way limits research expenses, because research to a wide range of alternatives becomes obsolete." (Omgevingswet, 2014a, p.154)

In those statements, it is expressed that preparatory research should become a kind of second track in the planning process. In the early phase, when the initiative is not yet fully mature, research should have a relative wide and coarse scope. As time goes by and the initiative matures and becomes more specific, research should also become more oriented towards specificities.

8.2.4 Environmental impact assessment as decision-support tool
A respondent with an academic - spatial planning background and with considerable experience as a politician, but no longer active as such, elaborated on his experiences with environmental impact assessments as a politician. The following was said during the interview:

"Kijk op het moment dat je het hebt over bijvoorbeeld het aanleggen van infrastructuur waarbij je zegt ‘ja er zijn drie opties voor een weg of voor een tracé’, dan denk ik dat het nog steeds heel goed is om gewoon klassiek een m.e.r. te doen en de voor- en nadelen in beeld te brengen. (…) Maar als je hebt over wat we noemen organische gebiedsontwikkeling waarbij je (…) veel meer kijkt van ja welke functies komen hier, wie neemt het initiatief? Ja, dan is in mijn overtuiging een klassieke MER-studie waarbij je verschillende varianten onderzoekt, ja dan onderzoek je om het onderzoeken. En volgens mij heb je veel meer aan een benadering die zegt ‘oké we hebben ambities (…) En we gaan elk jaar of elke twee jaar houden we de thermometer erin en kijken we of we die doelen halen en als we ze niet halen, dan betekent dat voor de jaren die nog volgen dat we andere dingen moeten gebeuren of extra dingen.”

“Look, whenever you are talking about building infrastructure and you say: Yes, there are three options for a road or a route, I think it is still a very good thing to just do a classic EIA and map out the pros and cons. (…) But when talking about what we call organic area development in which you (…) review a lot more at the functions, who is taking the initiative?
Yes, then I believe a classic EIA study in which you investigate different varieties, yes then you do research for the sake of doing research. And I think you get more use out of an approach that says: ’al right, we have ambitions (…) And every year or every two years we are going to check on it and review whether we will reach those goals and if we do not, then that means that we will need to make other things happen or additional things for the coming years.”

What this respondent in my understanding states, besides that preparatory research is a necessity which is not always of perceived value, is that in case of relatively clearly defined development and developments with a more or less predictable path of development, environmental impact assessments can be carried out the way they are carried out under the existing legislation. More novel and organic developments require however a different approach to carrying out environmental impact assessments. A similar argument is to be found in the section on preparatory research (see remainder of this chapter).

This other approach to environmental impact assessment requires, in my understanding of the quote above, a method that is more focused on monitoring the effects a certain development causes and taking mitigation or adaptation measures if certain effects are found. In this sense, the environmental impact assessment becomes more of a decision-support tool. Runhaar et al. (2013, p.23) found that in the current situation the environmental impact assessment is hardly used as a decision-support tool or design instrument "stimulating actors to optimise environmental values". The Environment and Planning Act offers possibilities to use the environmental impact assessment as such (Omgevingswet, 2014a).

8.2.5 Deviating framing of preparatory research
According to Folkert et al. (2013), the alterations foreseen for the environmental impact assessment will lead to risks for nature and environmental protection because (Folkert et al, 2013):
- It will be less often required to analyse the environmental impact of potential alternatives for a certain development.
- The possibilities for societal participation in the environmental impact assessment are reduced.
- The assessment of the quality of an environmental impact assessment on the level of a project by the Netherlands Commission for Environmental Assessment is abandoned.

As a result of the latter point, the competent authorities can take a decision about the way the environmental impact assessment is drawn up for a project in which they themselves have a stake (Folkert et al, 2013). This is what is indicated by the quote in paragraph 8.2.3. Providing competent authorities with the possibilities to determine the scope of an environmental impact assessment thus not only runs the risk of a scope becoming too broad or too limited, it can also lead to competent authorities behaving opportunistically. It has to be noted that the authors of the report in which this is written work for the Netherlands Environmental Assessment Agency. So this organisation is more critical towards the ambition to reform the environmental impact assessment.

Another actor, expressing critique on the minister's ambition to reform the environmental impact assessment, is the Netherlands Commission for Environmental Assessment whose role will be limited itself. The chairman of this commission states (Helder and Nuesink, 2014, p.15):

"Juist waar de nieuwe wet [Omgevingswet, DH] meer flexibiliteit, vrijheid en maatwerk biedt met haar uitnodigingsplanologie, is het verschrikkelijk belangrijk dat je ijpunten inbouwt waarin je vaststelt of de richting en uitwerking nog past bij de milieukwaliteit die je overeind wilt houden. Vertrouwen op goede bedoelingen is één ding. Maar als je niet ijt, zul je weinig leren en niet weten waar en waarom het fout ging als je achteraf constateert dat het is misgegaan."
“Exactly when the new act [Environment and Planning Act, DH] offers more flexibility, freedom and customisation, it is incredibly important to put in benchmarks in which you determine whether the direction and execution still fit the environmental quality you wish to maintain. Trusting good intentions is one thing. But when you do not set verify, you will not learn much and not know where and why it went wrong when you in hindsight find out it went wrong.”

The chairman starts by expressing that especially in a juridical constellation with more space for flexibility, tailor made solutions and freedom, anchor points like the environmental impact assessment are required. The chairman, in my understanding, also states that trust only is not sufficient, anchor points are also important to learn from what went well and what did not went well so as to prevent future mistakes. In the interview he also states (Helder and Nuesink, 2014, p.15):

“De Commissie is één van de weinige objectieve en deskundige clubs die daarvoor staan gesteld. Helaas is die rol in het voorliggende conceptwetsvoorstel onvoldoende gehouden en dat stemt mij, naast bijvoorbeeld het feit dat zienswijzen in de voorfase zijn vervallen, niet gerust. Het past ook niet bij het gedachtegoed van Elverding met vroege sondering. Het risico dat een breed en flexibel plan bij zijn uitwerking in losse projecten alsnog tot nadelige en cumulatieve effecten leidt, is reëel.”

“The Netherlands Commission for Environmental Assessment is one of the few objective and professional clubs which exist for that. Unfortunately, that part has been kept up insufficiently in the proposal for the concept act at hand and that, together with the fact that views have lapsed in the preliminary phase for example, does not reassure me. It also not in line with Elverding’s range of thought with early cone penetration. The risk that a wide and flexible plan will still lead to adverse and cumulative effects during its execution in individual projects is real.”

What the chairman, to me, expresses here is that the current role of the commission matches with the idea of ‘sneller en beter’ (quicker and better) that governs the Environment and Planning Act. This because less-detailed and more flexible plans can lead to incoherent plans when anchor points are lacking. The environmental impact assessment can be the anchoring point that creates coherence between plans. Another statement by the chairman is also interesting (Helder and Nuesink, 2014, p.15):

“Het terugschalen van onze rol is denk ik ook gelegen in het feit dat een aantal mensen denkt dat m.e.r. als toetsend instrument het proces en de filosofie van de [O]mgevingswet hindert. Terwijl dat volgens mij niet het geval is. Ik begrijp dat mensen willen doorpakken, maar de balans in het concept van de wet is een beetje zoek. Wij zouden de positie van milieueffectrapportage er sterker in willen hebben omdat het een van de weinige zichtpunten is op de milieu-impact van het geheel. Dat past bij zorgvuldig omgaan met de beperkt beschikbare publieke ruimte waar Nederland voor staat.”

“The reducing of our part is I think also because many people think the EIA as a means of assessment obstructs the process and philosophy of the [E]nvironment and Planning Act. While I do not think that is the case. I understand people want to get on with it, but the balance in the act’s concept has been lost a bit. We would like to strengthen the position of the environmental impact in it because it is one of the few pointsof view on the environmental impact of the whole. That goes with carefully handling the hardly available public space which is typically Dutch.”
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Runhaar et al (2013) found that it are predominantly politicians with little to none experience with the environmental impact assessment who want to reform environmental legislation. Runhaar et al (2013) point in this context specifically to the development of the Environment and Planning Act and state that commissions such as the Netherlands Commission for Environmental Assessment are not required by supranational law. Abolishing the role of that very commission could be a step towards deregulation. Deregulation is linked by, among others, Denhardt and Denhardt (2000) to New Public Management. Therefore it is posited here that the limiting of the role of the Netherlands Commission for Environmental Assessment is an expression of New Public Management, particularly where it concerns the dimension of this discourse that propagates deregulation.

8.3 Preparatory research on a smaller scale
Besides preparatory research in the form of environmental impact assessments, there is also another form of preparatory research that is the object of study in this research. Research for spatial substantiations (ruimtelijke onderbouwingen) that are used to deviate from zoning plans (bestemmingsplannen). This deviating by means of a spatial substantiation takes place as part of the procedure as set out in The Environmental Licensing (General Provisions) Act (Wet algemene bepalingen omgevingsrecht). The preparatory research used to substantiate these spatial substantiations is much more small-scale and detail oriented than the research conducted for environmental impact assessments. With regard to preparatory research for these spatial substantiations, a respondent with a professional - spatial planning background and involved in carrying out preparatory research remarks:

“Dat vind ik voor een deel wat geneuzel in de marge. Onderzoek omdat het moet soms, onderzoek omdat het vanuit de wet gegeven staat. Dus daar zit wat mij betreft nog optimalisatie in om daar soms wat pragmatischer mee om te kunnen gaan, want ook voor onderbouwingen zijn soms enkele aspecten wel relevant. Ook heel veel niet en ja, ik probeer ook wel vanuit, voornamelijk bevoegd gezagen dan, dat daar toch gewoon nog heel veel aandacht, tijd energie, geld in moet worden gestoken. Want zij lezen het toch vaak zwart-wit in plaats van er zit nog een grijs gebied tussen.”

“I think that is partially some nonsense in the margins. Research because it sometimes has to be done, research because it provided by the law. So for me, that can be optimised to be more pragmatic about it, because even for foundations some aspects may be relevant. A lot of them are not, though and yes, I can sense from, mainly from competent authorities, that that needs a lot of attention, time, energy, money. Because they see it as being black and white in stead of there being a grey area in between.”

What this respondent, in my understanding, states is that not all parts of this preparatory research are always relevant and a more pragmatic approach would be welcome, again the perceived value of preparatory research is doubted. This respondent is of opinion that competent authorities approach this preparatory research for spatial substantiations as too black and white matter because they are afraid that if one specific, irrelevant, element is not researched extensively the Council of State will by definition disapprove the spatial substantiation when an appeal against it is filed. What this quote expresses is that the competent authorities struggle with approaching the law in a teleological way and do not dare to take a procedural risk. Which leads to the carrying out of all kind of preparatory research that is not directly of relevance for the decision in question. This is precisely the argument made by the minister of Infrastructure and the Environment in the explanatory memorandum of the Environment and Planning Act (Omgevingswet, 2014a).
What is however to be noted is that in the explanatory memorandum it is expressed that research expenses can be reduced by among others extending the period in which the results of the preparatory research are deemed to be valid (Omgevingswet, 2014a). Talking about the relevance of preparatory research, a respondent with a professional governance background notes:

‘Laten we nou wel wezen, als je hier (wijst uit het raam naar een grasveld, DH) een bodemonderzoek doet en nu zegt volgens mij de wet dat een bodemonderzoek vijf jaar geldig is, dan doe ik hier een bodemonderzoek en vervolgens gaan we hier ontwikkelen. Dat duurt heel lang, want het is crisis. En over zes jaar wil zich hier een bedrijf vestigen en het enige wat hier gebeurt in deze vijf jaar is dat er hondjes overheen lopen en die [ontlasten zich], en over zes jaar moeten we weer voor vijftigduizend euro bodemonderzoek doen. Dat is waanzin.’

‘Let’s be honest, if you do a soil survey here (points to a grass field outside, DH) and I think the law states that a soil survey validity lasts five years, then I will do a soil survey here and then we will develop here. That will take really long because there is a crisis going on. And in six years, a company will want to locate itself here and the only thing that will happen in these five years is dogs walking on these grounds and [emptying their bowels], and in six years we will have to do another soil survey, costing fifty thousand euros. That is madness.’

This respondent, in my interpretation, expresses that in some cases, it is good to deal with preparatory research in a different way. After all, if it can be proven that nothing has changed over the course of time, then the law should offer a possibility to use that as a motivation rather than demanding new research which will yield the exact same results as the previous results. This statement is supported by most of the interviewed actors. However, here it concerns a static or very slowly changing case in which it is relatively easy to motivate that no changes have occurred. While in more dynamic or more quickly changing cases (like matter involving acoustics or societal risk), it could be needed to carry out new preparatory research, or it is more difficult to motivate that changes in external influences have no effect. In the Environment and Planning Act this distinction is not made. It is only stipulated that preparatory research should, among others, be made valid over a prolonged period. It is also salient that the individual members of the selected set of respondents could quite easily describe how the minister could deal more pragmatically with research to static elements of the physical living environment, but little to none guidelines were given for dealing with more dynamic parts. So, reforming the research exercise seems rather difficult, also for the respondents from this thesis.

8.4 Research in another way

Most respondents do not expect that due to the Environment and Planning Act a lot of changes in the daily practice of spatial planning will be made. They argue, that more or less, the same considerations will be made and doubt whether administrative burdens and the amount of preparatory research will really be reduced. This is especially applicable to respondents framing the Environment and Planning Act in a sceptic of acquiescence way. These respondents argue that when taking the initiative for development of something, people still want to know the characteristics of a certain place, which will result in a quick scan prior to the actual preparatory research. This in fact could lead to even more research and research expenses. The people with most experience in spatial planning where in general the most sceptic about the development of the Environment and Planning Act. The respondent with an administrative - spatial planning background enunciated:

‘Je moet natuurlijk wel dat onderzoek plaatsen. En dat onderzoek doe je niet om het onderzoek maar om een bepaald sectoraal belang te onderzoeken. Of in welke mate dat invloed heeft op je gebiedsontwikkeling. Ja ik kan me voorstellen ook als de verplichting wat
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minder wordt dat je toch wil weten. Dus ook als je het onderzoek later mag doen. Precies dan ga je wel een soort quickscan uitvoeren."

"Of course, you have to create a setting for the research. And you do not do that research for the sake of investigating but to investigate a certain sectoral interest. Or how that influences your area development. Yes, I can imagine that even when there is less of an obligation, you still want to know that. So even when you get to do the research at a later time. That is when you do make a kind of quick scan."

The expectation that under the Environment and Planning Act the same considerations will be made is salient because Runhaar et al (2013) come in their discourse analysis of visions on the Environmental Impact Assessment to a similar conclusion. Their respondents did not expect that new considerations will be made as a result of the deregulation of the environmental impact assessment (Runhaar et al, 2013). With 443 respondents, the amount of respondents consulted by Runhaar et al (2013) was fairly large. Given the large number of people involved with preparatory research consulted by them and the similarities between their findings and the results of this research, it has to be noted that the opinion on reducing the research exercise and inherent expenditures is (relatively) unitary and shared broadly and similar to the one found by Runhaar et al in 2013.

8.5 Conclusion
In my understanding, there seems to be a kind of general acknowledging that preparatory research indeed needs another approach. In the debate about the Environment and Planning Act, it thus seems that there is a kind of consensus on this element of the law reform that the Environment and Planning Act is. The discourse on reducing research expenses is thus relatively unitary.

Furthermore, it has to be noted that the ambition to reduce research expenses can be seen as structured by an economic rationality and therefore as a manifestation of New Public Management (Denhardt and Denhardt, 2000; Bevir, 2011). Notwithstanding that, the individual members of the selected set of respondents, broadly acknowledge that the research exercise and expenditure seem to have become really broad as a result of the inception of all kinds of environmental norms and legislation. The ambition to revise the research exercise and reduce the research expenses seems to be endorsed by the selected set of actors. In line with the work of Ter Bogt (2008b) reducing the research exercise and expenses can, I argue, be seen as an attempt to live up to a demand issued by (the professional) society. It can however also be seen as a manifestation of New Public Management, making the debate ambiguous.

Just like in the research done by Runhaar et al (2013), mainly the actors framing the debate about the Environment and Planning Act and the law itself in a sceptical or acquiescence way did not expect that different considerations will be made under the Environment and Planning Act. But the selected set of actors also argues that the research expenditure needs to change. There thus is an expectation that not really much will change, but at the same time there is an argument that something should change.

8.5.1 Environmental impact assessment
The opinion on the environmental impact assessments, the respondents have seems to be comparable to the one Runhaar et al (2013) found in their study. Just like Runhaar et al’s 443 respondents the individual members of the selected set of actors consulted for this study see the environmental impact assessment as:

- a legal obligation;
- a positive instrument, despite making it can be a hassle, it also enhances environmental awareness and environmental protection;
- having a too broad scope.
Building on the work of De Mulder (2011) I have found that making a case for providing competent authorities with the possibility to determine freely what should be integrated in the environmental impact assessment is illustrative for the New Public Management discourse. The abolishment of the role of the Netherlands Commission for Environmental Assessment can be seen as a step towards deregulation of the government. Denhardt and Denhardt (2000) have been among the many who connected deregulation to New Public Management. Limiting the role of the commission mentioned before can thus also be seen as a manifestation of New Public Management.

The analysis of statements on the environmental impact assessment has led me to discover that it is acknowledged that a novel approach to the environmental impact assessment is not always necessary. In more 'classical' studies where multiple, pre-determined and well-defined options have to be analysed an environmental impact assessment in its current form is sufficient. Cases that are concerned with more organic-like development do require an environmental impact assessment that matches better with the dynamism of such projects.

The selected set of respondents might have a relatively coherent opinion on preparatory research in general and the environmental impact assessment in special, there are also two actors who, despite not being interviewed both, are more critical towards the minister's ambition to reform the environmental impact assessment. These actors are the:

- Netherlands Environmental Assessment Agency;
- Netherlands Commission for Environmental Assessment.

8.5.2 Small-scale preparatory research

The most notable statement on more small-scale preparatory research is that it should indeed be dealt with differently. Interesting is that the individual members of the selected set of actors can describe how they think the minister should deal with research to relative static parts of the physical living environment (soil, archaeology, et cetera). It is however not described by them how the minister should deal with preparatory research for the more dynamic elements that constitute the physical living environment. Such elements can change much faster than elements like the soil. While guidelines were given for dealing differently with research to static elements, I found that little to no guidelines for dealing differently with research to more dynamic elements were provided by the selected set of actors.

8.5.3 Overview of the debate about preparatory research

As already explained, the reduction of research expenses can, as an expression of economic rationality and focus on reducing government expenses (Denhardt and Denhardt, 2000; Bevir, 2000) be seen as a manifestation of New Public Management (see paragraph 8.2.1). It can however also be seen as living up to a societal demand (Ter Bogt, 2008a). This indicates that the debate about preparatory research in the Environment and Planning Act is ambiguous too.

Another manifestation of the New Public Management discourse is to be found in the ambition to abolish the role of the Netherlands Commission for Environmental Assessment, which can be seen as deregulation (see paragraph 8.2.5). According to, among others, Denhardt and Denhardt (2000), deregulation is characteristic for New Public Management. It has to be noted here that only two parties (see paragraph 8.5.1) are more critical towards the ambition of the minister of Infrastructure and the Environment to revise the research exercise. Moreover, the only party that is against abolishing the role of the Netherlands Commission of Environmental Assessment is that commission itself. That commission is thus relatively isolated in the debate about revising the research exercise and reducing research expenses.
The argument about using the environmental impact assessment (see paragraph 8.2.1) as an instrument to start or guide a dialogue to come to shared values early in a decision-making process can, I state, be seen as a manifestation of the New Public Service discourse. This is also the only statement in which the New Public Service discourse manifests itself in the debate about reforming the research exercise and reducing research expenses.

In general, it needs to be concluded that in the debate about revising the research exercise and reducing the amount of research expenses, the manifestation of both the New Public Management discourse and the New Public Service discourse is relatively latent. The selected set of respondents seems to agree with the minister of Infrastructure and the Environment that the research exercise needs another approach and that research expenses need to be reduced. This is indicated by the fact that the respondents in the interviews mainly talked about how the research exercise should be dealt with rather than on elaborating whether it really needs a new approach.
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9 COMPARING MANAGEMENT AND SERVICE

In this chapter, the last specific research question will be answered, this question is formulated as:

- How do the New Public Management discourse and the New Public Service discourse relate to each other in the debate about the Environment and Planning Act?

The specific research question will be answered using an adapted version of the table by Denhardt and Denhardt (2000, p.554), as shown on the next page.

In sections 6.11 and 7.9, the manifestations of the New Public Management discourse and the New Public Service discourse have been summarised. These summaries of the New Public Management discourse and the New Public Service discourse have subsequently been translated into the table (table 9.1) as shown on the next page. The table consists of ten rows (characteristics) that have been used by Denhardt and Denhardt (2000) to indicate the differences between each perspective on the steering of governments.

Table 9.1 shows that fourteen characteristics have been found that are in line with the New Public Management discourse of Denhardt and Denhardt (2000). Ten characteristics have been found that, according to Denhardt and Denhardt (2000) are characteristic for the New Public Service discourse. Thus, the New Public Management discourse is dominant in the debate about the Environment and Planning Act. However, the dominance of the New Public Management discourse is not completely clear cut, since there are ambiguities between that discourse and the New Public Service discourse, this ambiguities are discussed in section 9.2.

9.1 A latent manifestation of the New Public Service

The Environment and Planning Act has been written from a predominantly governmental perspective (Tonnaer, 2014). This while it has been the ambition of the minister of Infrastructure and the Environment to involve all actors active in the physical living environment in the development of that act. As for instance expressed in this quote from the respondent with the administrative–law background:

"[M]aar we proberen de uitvoeringspraktijk er ook bij te halen. Omdat het uiteindelijk echt in de praktijk moet worden opgepakt en uitvoerbaar moet zijn allemaal. Dat moet ook helpen voor de dagelijkse problemen."

"But we try to involve the practical execution. Because it has to be adopted in spatial planning practice and all of it to has to be feasible. That too should help in order to overcome the troubles of daily practice."

The manifestation of the New Public Service discourse in the debate about the Environment and Planning Act currently seems to be rather piecemeal and not really articulated. As for instance expressed in the argument by Tonnaer (2014) that citizen involvement in the creation of the physical living environment seems to be limited to the middle phases of the decision-making process. While it is especially citizen involvement in the first and last stages of that decision-making process that can let the New Public Service perspective flourish, (see section 10.2).

Compared to this manifestation of the New Public Service discourse, the New Public Service discourse is much more clearly identifiable in the debate about the Environment and Planning Act I argue. The manifestation of the New Public Management discourse is less diffuse than the manifestation of the New Public Service discourse. In addition to that, I found that the arguments in which the New Public Management discourse houses are less ambiguous than the arguments in which the New Public Service discourse is found.
### Table 9.1 Occurrence of the New Public Management discourse and the New Public Service, adapted from Denhardt and Denhardt (2000, p.554)

<table>
<thead>
<tr>
<th>Core elements</th>
<th>New Public Management</th>
<th>New Public Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary theoretical and epistemological foundations</td>
<td>An instrumentalist perspective on the state.</td>
<td>The propagation of a more varied approach to knowledge so as to make use of the self-governing ability of society.</td>
</tr>
<tr>
<td></td>
<td>A strong focus on environmental issues.</td>
<td>Emphasizes the importance of procedural fair play, without dedicating attention to the context in which one has to come to procedural fair play.</td>
</tr>
<tr>
<td></td>
<td>Top-down, hierarchical, and goal-oriented.</td>
<td>Emphasizes the importance of procedural fair play, without dedicating attention to the context in which one has to come to procedural fair play.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Focusing on mutual interests among all relevant actors for creating shared values and the building of coalitions to achieve mutual interests together.</td>
</tr>
<tr>
<td>Prevailing rationality and associated models of human behaviour</td>
<td>Self-interest and professional obligation of citizen participation to enhance trust in decision-making process and speed up decision-making.</td>
<td>Communicative rationality.</td>
</tr>
<tr>
<td></td>
<td>Citizen participation to reduce formal consultation so the primary control over the decision-making process can stay with the government and the government can keep steering.</td>
<td></td>
</tr>
<tr>
<td>Conception of the public interest</td>
<td>To whom are public servants responsible?</td>
<td>To whom are public servants responsible?</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Role of government</td>
<td>Taking up a role as broker of interests and as a negotiator to find ways to finance developments because the government has insufficient financial means to realize the development on its own.</td>
<td>Taking up a role as broker of interests and as a negotiator to find ways to finance developments because the government has insufficient financial means to realize the development on its own.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mechanisms for achieving policy objectives</td>
<td>Non-governmental actors are means through which policy objectives can be achieved (with or without)</td>
<td>Sharing responsibility between governmental and non-governmental actors.</td>
</tr>
<tr>
<td></td>
<td>Working with outcome-oriented regulation.</td>
<td>A dialogue to find mutual interests and to come to a mutually obtained agreement.</td>
</tr>
<tr>
<td></td>
<td>The appointment of actors in society as the performers of governmental policies and plans in such a way that the government maintains control.</td>
<td></td>
</tr>
<tr>
<td>Approach to accountability</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative discretion</td>
<td>Limited for lower tiers of government.</td>
<td></td>
</tr>
<tr>
<td>Assumed organizational structure</td>
<td>No clear demarcation between the authorities and responsibilities each tier of government has, so policies can undermine interventions outside their actual domain.</td>
<td></td>
</tr>
<tr>
<td>Assumed motivational basis of public servants and administrators</td>
<td>Serving society.</td>
<td>Adhering to the wishes of clients to make sure the government continues to achieving a societal demand.</td>
</tr>
</tbody>
</table>
9.2 Ambiguity

What I also found in this research is that there are overlaps between the New Public Management discourse and the New Public Service discourse in the debate about the Environment and Planning Act. The debate is ambiguous, which means that elements of that debate contain manifestations of both the New Public Management discourse and the New Public Service discourse. This section elaborates on these ambiguities.

Section 7.1 and 7.3 report on the ambition of the minister of Infrastructure and the Environment to use the Environment and Planning Act to steer society on the basis of governmental ambition, to facilitate societal initiatives and to share responsibility. This finds concordance with the New Public Service. In section 6.8 it has been found that the under the Environment and Planning Act, the government will determine goals and it is left to non-governmental actors how these goals need to be achieved. When these non-governmental actors do not behave in a way desired by the government, the government intervenes. This makes non-governmental actors performers of governmental policies and the government itself retains steering capacity. Which matches New Public Management (Denhardt and Denhardt, 2000). On the one hand the minister of Infrastructure and the Environment states it wants to take up a facilitating role and hand over responsibility to societal actors. But on the other hand that same government wants to keep its steering capacity, which leads me to argue that little to none responsibility is handed over.

When the above is connected to the argument by Tonnaer (2014) that citizen involvement is limited to the middle phase of a decision-making process, the image of a government that wants to hand over decision-making and steering capacity to society but simultaneously cannot let go of its steering role emerges. The limited discretion lower tiers of government have and the possibilities the national government has to take back decision-making capacity is also indicative for the inability of the government under the Environment and Planning Act to let go of its steering role, I argue. So, the Environment and Planning Act testifies to a change in steering mechanisms. But when it comes to making choices for a certain mechanism, it is still ambiguous.

What I also found to be ambiguous is the role definition of non-governmental actors (see section 6.2). If non-governmental actors are limited to people who have a stake in a development or just private sector enterprises instead of all citizens, the participation of such actors is not truly inclusive. Neither is the objective of the participation of non-governmental actors clearly defined (see section 6.6). When the objective of that participation is to bring in local knowledge, it matches the ideas of the New Public Service. When the objective is to reduce appeal procedures, it matches New Public Management. With regard to the enhanced possibilities offered to citizens to employ activities for both themselves and society at large, the explanatory memorandum accompanying the Environment and Planning Act is ambiguous again (see section 7.2). Citizens employing activities for the benefit of society at large is in line with the New Public Service (Denhardt and Denhardt, 2000). But citizens employing activities for predominantly their own benefit is linked to New Public Management (Du Gay, 2001; Benington, 2011; Thomas, 2013). Yet another ambiguous element in the explanatory memorandum of the Environment and Planning Act is the building of coalitions of governmental and non-governmental actors (see section 7.4). When such coalitions are built to realise mutually agreed on goals, it matches with the New Public Service. When such coalitions are predominantly built for financing purposes, it finds concordance with New Public Management.
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The relation between the New Public Management discourse and New Public Service discourse is also ambiguous, I state. In this sense, the Environment and Planning Act can indeed be seen as a codification of a change, but it is a change that has not completely crystallised out yet and still contains a lot of elements of older paradigms.

Because the debate about the Environment and Planning Act still has a long way to go (implementation of the act is scheduled for 2018), it has to be noted that the dominance of the New Public Management discourse found in this study is not set in stone. In my opinion, the dominance current dominance of the New Public Management discourse is, to speak with Allmendinger and Haughton (2013), a temporal variegation. In the snapshot of the debate about the Environment and Planning Act this thesis is, New Public Management is found to be dominant. Which is not to say that this will not change anymore. The debate about the Environment and Planning Act can still shift towards the New Public Service discourse (Denhardt and Denhardt, 2000), as time goes by.

9.3 Conclusion

With regard to the current dominance of the New Public Management discourse, attention needs to be drawn to section 6.4 in which is stated that the current division of responsibilities between different tiers of government will not be changed and that the national and provincial government retain the ability to overrule lower tiers of government. Attention also needs to be drawn to section 6.5 in which it is stated that the government can order lower tiers of government to make policies for certain topics (this has been called ordered decentralisation). This to me evokes the impression of a hierarchical division of responsibilities in which the national government retains central control for its own benefits. In the explanatory memorandum accompanying the Environment and Planning Act it is however also acknowledged that there is a mutual dependence between public and private actors (Omgevingswet, 2014a). A result of this mutual dependence is that the national government cannot hierarchically impose (policy) objectives and base cooperation with other public and private actors on the hierarchical ideas as expressed in sections 6.4 and 6.5 (Van Ark, 2005).

Van Ark (2005) goes on to argue that most governments are not aware of their own position within the societal contexts. Governments are also not aware of the limitations that are inherent to their position. These limitations are the result of interdependencies on other public and private actors (Van Ark, 2005). Acknowledging these interdependencies as done in the explanatory memorandum of the Environment and Planning Act (Omgevingswet, 2014a), is one step but it is not sufficient. The limitation of citizen involvement to the middle phases of a decision-making process and the government-centic perspective from which the explanatory memorandum is written (Tonnaer, 2014) indicate that the lesson that cooperation between public and private actors based on hierarchical governmental coordination does not work (Van Ark, 2005) is not remembered easily. This, then, leads to the relation between the New Public Management discourse and the New Public Service discourse. To me, the dominance of the New Public Management discourse indicates that the minister of Infrastructure and the Environment still presumes that the government can base its workings on hierarchically imposing policy objectives. The principles stemming from the New Public Service discourse can subsequently be used by the national government to let developments desired by the government take place by cooperating with other actors when that government lacks coordination possibilities to hierarchically impose the realisation of developments. The latent manifestation of the New Public Service discourse is, in my understanding, due to the fact that it is seen as an auxiliary power source to be used by the government when it does not have the means to get something done itself.
10 Discussion

In this chapter, it is described how the results found in this research relate to the expectations I had at the beginning of that research. Furthermore, this chapter elaborates on new questions that have risen as a result of this research and in line with that provides some recommendations for further research.

The objective of this research was to explore how elements of both the New Public Management discourse and New Public Service discourse feature in the debate about the Environment and Planning Act and the position of preparatory research in that act. By answering the specific research questions 3 till 6, this objective has been achieved. I wanted to obtain a more in-depth understanding of this because (following Sharp and Richardson (2001)), I identified the New Public Management discourse and the New Public Service discourse to be present in the debate about and the explanatory memorandum of the Environment and Planning Act in a top-down way. New Public Management planning can lead to a democratic deficit, hampering democratic, inclusive and long-term planning by focusing predominantly on cost effectiveness (Sager, 2009) and limiting interactions with citizens (Denhardt and Denhardt, 2000). The New Public Service provides a solution to this by giving decisions taken collectively by citizens a central role in the decision-making process, but can also be used to lubricate New Public Management planning (Bengs, 2005) and legitimise existing power relations (Allmendinger, 2009). The fact that the Environment and Planning Act is currently in development provides the opportunity to analyse the manifestations of the New Public Management discourse and the New Public Service discourse in the debate about the Environment and Planning Act. Because that debate is still going on, different tiers of government and societal actors that will be affected by the Environment and Planning Act, can choose to put more emphasis on a discourse. In order to put more emphasis on a discourse, these actors need to have insight in the way the New Public Management and the New Public Service discourse manifest themselves. This insight is provided in this research. This insight can, I argue, subsequently be used by these tiers of government and societal actors to understand the debate about the Environment and Planning Act and steer that debate to come to truly democratic, inclusive and long-term planning conform the principles of the New Public Service.

10.1 Limitations

Inherent to this study are, despite its careful execution, some limitations. This section deals with them.

10.1.1 Number of respondents

For this research, the selected set of respondents has been stratified in nine different backgrounds. For each background, at least one respondent has been interviewed. However, it is to be expected that besides the selected group of respondents, more people have an opinion on the Environment and Planning Act and that each background could be expanded with more respondents. Therefore, a larger amount of respondents would have contributed to an enhanced understanding of the discourses in the debate about the Environment and Planning Act.

10.1.2 Research focus

Originally, the research started with the ambition to solely seek for manifestations of the New Public Management discourse in the debate about the Environment and Planning Act. During the data collection phase of this study, the focus of the research shifted to also include a search for manifestations of the New Public Service discourse. This shift in focus was due to the fact that I found statements in both the debate about and the explanatory memorandum of the Environment and Planning Act that pointed to a discourse that put more emphasis on coming to a citizen-driven form of planning. By means of literature by predominantly Denhardt and Denhardt (2000), I identified these statements as part of the New Public Service discourse and decided to shift the focus of the research how the New Public Management discourse and the New Public Service discourse relate to each other. To include the
search for the New Public Service discourse, the research questions have changed from a strict focus on the New Public Management discourse to a focus on both discourses. Whereas the identification of the New Public Management discourse was done in a top-down way prior to the start of the research (Sharp and Richardson, 2001), the New Public Service discourse was identified during the research. The expansion of the research to also include the New Public Service discourse was possible within the limitations set by the data collection and analysis method. However, if the research was characterised by a focus on both the New Public Management discourse and the New Public Service discourse from the start, the results of the research might have been more detailed.

10.1.3 Focus on New Public Management rather than decentralisation

In my opinion, the focus on the New Public Management discourse can also be seen as a limitation because it is a really broad discourse. Instead of focusing on the New Public Management discourse and the New Public Service discourse, this thesis could also have been focused on a more specific discourse propagating decentralisation. Decentralisation is one of the focal points of the Environment and Planning Act, as for instance expressed in the ambition of the minister of Infrastructure and the Environment to have most spatial planning issues dealt with at the lowest possible tier of government, thereby limiting its own role (Omgevingswet, 2014a).

In the explanatory memorandum accompanying the Environment and Planning Act, a lot of statements are to be found that relatively straightforwardly point to the ambition to decentralise. Decentralisation is an element of New Public Management (Hood, 1991; Denhardt and Denhardt, 2000). But I see decentralisation as less conceptually incoherent (Hood, 1991; Markusen, 2003) and a less volatile philosophy (Allmendinger and Haughton, 2013) than New Public Management. Because something is either decentralised or not. Whereas New Public Management can, in my understanding, mean different things in different context due to its conceptual incoherence and volatile character. In this light, I see New Public Management as an abstract meta-discourse and decentralisation as a more specific discourse stemming from the New Public Management discourse. A discourse analysis focused on a decentralisation discourse rather than the New Public Management discourse might have resulted in more insights in the division of power and responsibilities between different tiers of government and between government and societal actors. As such, a discourse analysis focused on a decentralisation discourse can provide a more nuanced understanding of the debate about the Environment and Planning Act because it is more focused to one specific subject and not on a meta-discourse like New Public Management.

10.2 Government centric perspective

Having analysed the explanatory memorandum of the draft version of the Environment and Planning Act, Tonnaer (2014) comes to the conclusion that it features a distinct government centric perspective. Because (Tonnaer, 2014):

- Only the governmental body issuing a plan needs to stick to that plan.
- Little to none consideration is given to the initiating and enterprising citizen.
- The realisation that the involvement of citizens, societal organisations and enterprises is of perceived value to the making of plans does not seem to be really manifest in the Environment and Planning Act.

Tonnaer (2014) continues to argue for more citizen involvement and a more ‘open mind’ of the legislator and has also posited that the explanatory memorandum accompanying the Environment and Planning Act testifies that the government is predominantly active in the first and the last stages of the political process. Especially in the midst of that process, freedom is left to citizens, societal organisations and enterprises. Tonnaer (2014) goes on to argue that the role of the government in the first and last stages of the political process should change too. In the first stage, the government should focus on getting
citizens really involved in the development of policies. During the last stages, the government should focus on stimulating horizontal forms of supervision and monitoring to come to a collaborative structure for sharing leadership (Tonnaer, 2014). Here, I argue that enhancing citizen involvement in the first and last stages of a project is indeed helpful to build coalitions of actors which together can come to mutually agreed upon goals. Because people have different perceptions of the truth and forms of knowledge (Allmendinger, 2009), bringing people together leads to practical wisdom (Sandercock, 1998). It helps to, as Healey (1992, p.253) puts it make “sense together while living differently”. Which helps to make decisions on matters that are of collective concern (Healey, 1992). Sense making while living differently is of perceived value to decision-making, because decision-making involves making use of knowledge. Knowledge is not static and can change (De Bruijn and Leijten, 2007; Martens and Van Weelden, 2014). Decision-making should thus be based on the best available knowledge (Næss et al, 2013). Here, I claim that involving citizens, in all phases of the decision-making process, would really do right to the New Public Service perspective. An argument that has been endorsed by Hanssen et al (2009). With the involvement of non-governmental actors in the decision-making process limited to the middle phases of that process (Tonnaer, 2014), it seems that the New Public Service perspective is not really articulated yet. The Environment and Planning Act currently indeed contains elements from the New Public Service, but enabling more citizen involvement in the first and last stages of the political process will make the Public Service perspective at least a little more articulated.
Chapter 11 Conclusion

11 CONCLUSION
In this chapter the findings as stated in this thesis so far are translated into a conclusion that answers the general research question as raised in chapter 2 of this thesis.

11.1 The influence of the discourses
The objective of this research was to explore the manifestations of the New Public Management discourse and the New Public Service discourse in the debate about the Environment and Planning Act. Special attention has been paid to the position of preparatory research in that act. The New Public Management discourse and the New Public Service discourse manifest themselves in the statements enumerated in sections 6.11 and 7.9. In the debate about the Environment and Planning Act, the New Public Management discourse is found to currently be dominant.

As described in section 2.5, various authors have pointed at the risk of New Public Management planning leading to a democratic deficit as a result of too much emphasis on enhancing efficiency and effectivity. Other authors have emphasised that the New Public Service discourse can alter this by giving decisions taken collectively by citizens a central role in the decision-making process (Denhardt and Denhardt, 2000). However, it has been stated that the New Public Service can also be a means to legitimise and continue New Public Management planning (Bengs, 2005).

In this research, I have shown that in the debate about the Environment and Planning Act, the New Public Management discourse and the New Public Service discourse are used interchangeably. This means it is not completely clear yet how the debate about the Environment and Planning Act will crystallise out. It also means that the dominance of New Public Management found in this research is not completely clear cut. Nonetheless, given this dominance, the risk at a democratic deficit in spatial planning governed by the Environment and Planning Act remains.

The minister of Infrastructure and the Environment desires to let citizens participate by means of open communication between society and the government. The Environment and Planning Act is seen as a means to achieve this ambition. In that participation process, the government takes up a facilitating and stimulating role rather than a steering role (Omgevingswet, 2014a). From my research it follows that this matches the New Public Service discourse. But it also follows from my research that the government will only take up a facilitating role when it needs to cooperate with public and private actors when it cannot or does not want to realise a development on its own. This because the New Public Service discourse is employed by the government as a secondary means to get something done when that government does not have other means at its disposal. Given this and the limitation of participation possibilities to the middle phase(s) of a decision-making process (Tonnaer, 2014) in combination with the current dominance of the New Public Management discourse, the Environment and Planning Act in its current form will lead to New Public Management planning. With all issues described in paragraph 2.3.7. So as to come to a New Public Service planning that is truly democratic and inclusive, expanding participation possibilities (Tonnaer, 2014) and devising steps for enhancing participation in planning processes is the first essential step to be taken.

What is left, then, is the issue whether putting more emphasis on elements of the New Public Service discourse is sufficient to mitigate this dominance of the New Public Management discourse. Expanding possibilities for citizen participation, in all phases of a decision-making process (Tonnaer, 2014) and devising steps for enhancing participation in the decision-making process are seen as first steps to come to New Public Service planning. But that is presumably not sufficient, I argue. In order for spatial planning based on the New Public Service discourse to really gain ground, the government needs to be aware of the fact that cooperation between the government and other public and private actors cannot be based on hierarchical cooperation (Van Ark, 2005). That the government is not the sole actor in steering or
servicing society and is dependent on other public and private actors is acknowledged in the Environment and Planning Act (Omgevingswet, 2014a). However, in my understanding, that acknowledgement is not used to come to a strategy for cooperation between actors not based on hierarchical cooperation. Without such a strategy, spatial planning by means of the New Public Service discourse cannot succeed.

Diefenbach (2009) has found that the emphasis New Public Management puts on enhancing efficiency and effectiveness to reduce costs, narrows the scope and limits the quality of public services. This orientation on reducing costs also changes the understanding of the public interest and leads to governmental products and services becoming attuned to the wishes of powerful actors and people willing to pay for these services. As a result of this, the idea of the public interest and of public service are forced to the background. When decline of the public interest and the public service causes problems solutions are provided that typically lead to more New Public Management (Diefenbach, 2009). More cost reduction in spatial planning might therefore, I argue, give rise to an augmented dominance of the New Public Management discourse and an ongoing decline of the public interest and the public service.

New Public Management is also used by its adherents to secure their own positions and interests (Diefenbach, 2009). This means that a strategy to come to planning conform the New Public Service discourse might not even gain ground, because New Public Management reinforces itself and because such a strategy implies that the adherents of New Public Management have to abandon their own position.

11.2 The debate about the Environment and Planning Act
In the debate about the Environment and Planning Act, the Environment and Planning Act is framed in three different ways:

1. positive;
2. negative;
3. acquiescence.

Moreover, I have been found that the debate about the Environment and Planning Act is not yet seen as a political issue, in the sense that it has so far to been a topic of extensive debate in the national Parliament. This is due to the fact that the orders in council, which will give the necessary content to that law, are not yet published. So far, the Environment and Planning Act is merely a framework for the orders in council. Those orders in council will give content to the Environment and Planning Act and will make it susceptible to political debate. On the other hand, the fact that the debate about the Environment and Planning Act is not yet seen as a political issue, can also be the result of New Public Management depoliticising debates (Sager, 2011; Fawcett and Marsh, 2014; Hay, 2014 Olesen, 2014).

11.3 Preparatory research
The ambition of the minister of Infrastructure and the Environment to revise preparatory research and reduce research expenses is shared broadly by the selected set of respondents. There seems to be some kind of overall consensus that another approach to preparatory research is required.

The ambition to reduce research expenses is structured by economic rationality and therefore is an utterance of a New Public Management discourse (Denhardt and Denhardt, 2000), I argue. This applies to both large-scale preparatory research like environmental impact assessments and to more small-scale preparatory research used to base spatial substantiations on.

Notwithstanding the above, there thus seems to be a general acknowledgement that preparatory research should be dealt with in another way. The research exercise seems to have become really
broad and the research expenses seem to have become relatively high as a result of the inception of all kinds of environmental norms and legislation. The ambition to revise the research exercise and the research expenses of the minister of Infrastructure and the Environment is endorsed by the set of selected respondents. The research exercise needs an approach that makes it more efficient and effective, they state. Here attention is directed to the argument made by Ter Bogt (2008b) that enhancing efficiency and effectivity does not necessarily have to be structured by a New Public Management discourse. Striving to enhancing efficiency and effectivity can also have risen to prominence as a result of a societal demand (Ter Bogt, 2008b). Here, I is argue that there is a societal demand here to deal differently with preparatory research and to reduce the research expenses. Thus, again ambiguity is encountered, I state. On the one hand reducing research expenses is structured by the New Public Management discourse, but on the other hand is it also demanded by members of (the spatial planning) society.

More definite is the ambition to abolish the role of the Netherlands Commission for Environmental Assessment. This ambition is aimed at deregulation and deregulation is part of New Public Management (Padt, 2006). Abolishing the role of the Netherlands Commission for Environmental Assessment is thus seen by me as a manifestation of New Public Management.

In general the manifestation of the New Public Management discourse in the debate about reducing research expenses is relatively latent. Even more latent to me is the manifestation of the New Public Service discourse in the debate about reforming the research exercise and reducing research expenses. The only manifestation of the New Public Service discourse is to be found in paragraph 8.2.1. In that paragraph, a respondent with a professional – governance background states that the environmental impact assessment should be used as a decision-support instrument and as an instrument to start a dialogue among all actors involved in the decision-making process to come to shared values.

11.3.1 Environmental impact assessment

The opinion the selected set of respondents has about the environmental impact assessment of the respondents, is comparable to the one Runhaar et al, (2013) found in their study of the environmental impact assessment. Just like Runhaar et al’s 443 respondents, the individual members of the selected set of respondents consulted for this study see the environmental impact assessment as:

- a legal obligation;
- a positive instrument, despite making it can be a hassle, it also enhances environmental awareness and environmental protection;
- having a too broad scope.

Building on the work of De Mulder (2011), I have also found that a focus on providing competent authorities with the possibility to determine freely what should be integrated in the environmental impact assessment points at the presence of the New Public Management discourse. The abolishment of the role of the Netherlands Commission for Environmental Assessment can be seen as a step towards deregulation of the government. Denhardt and Denhardt (2000) have been among the many who connected deregulation to New Public Management. Limiting the role of that commission can, I claim, thus be seen as a manifestation of New Public Management.

What I also found is that a number of respondents claim that a novel approach to the environmental impact assessment is not always necessary. In procedures where multiple, pre-determined and well-defined options have to be analysed, an environmental impact assessment in its current form is sufficient. Cases that are concerned with more organic-like development do require an environmental impact assessment that matches better with the dynamism of such projects.
11.3.2 Small-scale preparatory research
The most notable statement on more small-scale preparatory research is that it should be arranged differently. The individual members of the set of selected respondents can describe how they think the minister should deal with research to relative static parts of the physical living environment (soil, archaeology, et cetera). It is however not described how the minister should deal with preparatory research for the more dynamic elements that constitute the physical living environment, for example acoustics or societal risk. While suggestions were made for dealing differently with research to static elements, little to no suggestions for dealing differently with research to more dynamic elements were provided by the selected set of respondents. These dynamic elements are (logically) more prone to change than static elements, which makes it more difficult to come up with generic suggestions for dealing differently with this type of preparatory research.

11.4 Suggestions for further research
This section elaborates on suggestions for further research that have come up as a result of this research.

11.4.1 Early analysis
It has to be taken in mind that the Environment and Planning Act is not implemented yet. It is expected to come into force in 2018. This thesis is an early discourse analysis of the debate about the Environment and Planning Act. Therefore, the conclusions have to be placed in the context of the proceeding development of the Environment and Planning Act. In my opinion, it is interesting to analyse the discourse in that debate over a prolonged period of time to gain insight in discursive changes. In order to see how the Environment and Planning Act evolves in the debate and during the implementation, I would recommend carrying out at least one analysis similar to this one.

The above is augmented by the fact that the orders in council that give content to the Environment and Planning Act still need to be published. Since the orders in council will be published after presentation of this thesis, it might prove of relevance to carry out a research similar to this one after the orders in council have been published in order to complement this early analysis and to monitor the development of the Environment and Planning Act.

11.4.2 Environmental impact assessment as decision-support tool
The question has to be asked as to whether the environmental impact assessment will really be used as a decision-support tool (section 8.2.4). It has been posited by Sager and Sørensen (2011) that politicians usually are not willing to adapt to expected results as yielded by, among others, environmental impact assessments because they do not want to be dependent too much on formal methods in making decisions. Taking the above into consideration, I state that it remains questionable whether using the environmental impact assessment more as decision-making tool will result in other outcomes because these outcomes are not defined completely by the environmental impact assessment but also by political rationality. This can be addressed in further research.

11.4.3 No active politicians interviewed
For this research, several actors in the debate about the Environment and Planning Act have been interviewed, but no active politicians were part of the selected set of respondents. So the reason for finding a relatively coherent discourse on preparatory research might be that a potentially deviating discourse has not been explored. A revision of environmental legislation based on the views of politicians who have little experience with environmental impact assessments might be detrimental to the effectiveness of environmental impact assessments (Runhaar et al, 2013). A discourse analysis of politician's views on environmental impact assessments could be carried out to explore if this is so. Another reason to explore the vision of active politicians on preparatory research is to analyse how their
discourse relates to the relatively coherent and unified opinion about preparatory research and environmental impact assessments found in this research and the relatively coherent vision on the environmental impact assessment found by Runhaar et al (2013).

11.4.4 Preparatory research as a hobby
In paragraph 8.2.2, it is written that respondents with an administrative or professional background consider preparatory research to be a hobby or an exploration of (partly) irrelevant subjects. These respondents see preparatory research as a matter of secondary importance. The Ministry of Infrastructure and the Environment involves spatial planning professionals in the development (Omgevingswet, 2014a). This makes it interesting to explore whether and how people with an administrative background working in the development of the Environment and Planning Act adopted the perception of the professionals of preparatory research as a hobby. Or whether it was the other way round. The latter is interesting in the light of the findings by Runhaar et al (2013) that it are mainly politicians with little experience with environmental impact assessments that are sceptical about it. Professionals are usually quite positive about the environmental impact assessment. These politicians consider the environmental impact assessment as a costly and time-consuming hindrance and the Environment and Planning Act provides an opportunity for politicians to argue against it (Runhaar et al, 2013). Runhaar et al (2013) raise the question whether politicians have forced their sceptical discourse on professionals (who then influence administrative actors) and if so what the implications might be? Framing preparatory research as lacking perceived value at least evokes the impression of scepticism towards that research by administrative and professional actors. Which does not seem in line with the findings of Runhaar et al (2013) that professionals are usually quite positive about the environmental impact assessment. Therefore, I suggest to conduct additional research to who adopted whose discourse and what the implications of this adoption are.

11.4.5 Monitoring research expenses
In paragraph 8.2.4, it is stated that a process of more continuous preparatory research throughout development processes in the physical living environment should be obligated. This to me evokes the question whether that would really lead to a reduction in research expenses. After all, continuously monitoring an initiative would require more man power and more research, which could lead to more costs. But maybe the reduction of research expenses in other fields could compensate for this possibly increasing research expenses.

11.4.6 Perception of preparatory research
Building on the work of Ter Bogt (2008b), it has been argued that the selected set of respondents is (relatively) unanimous in following the governmental line of reasoning when arguing that the research exercise should be dealt with more efficiently and effective. Ter Bogt (2008b), when arguing that enhancing efficiency and effectivity does not necessarily have to be a product of New Public Management but a product of societal demand, focused on the latter. In order to see whether there really is a societal demand to deal differently with preparatory research, a more large-scale research to the perception of society (and not just the spatial planning society) on the research exercise and inherent expenditure would be of perceived value. Because it will provide the opportunity to see whether there really is a societal demand to deal more efficiently and effective with preparatory research.

11.4.7 Arguments on preparatory research
In section 8.5 it is explained that with regard to preparatory research, not much will change under the Environment and Planning Act. Simultaneously, the same actors express that the research expenditure needs to change. There thus is an expectation that nothing much will change, while at the same time it is argued that changes need to take place. This incongruence between argument and expectation requires additional research to see where the incongruence comes from.
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Figures and tables
Figure cover and title page: Independent Audit (09 November 2011) ‘Remuneration Committee - Option Scheme’ [online], available: http://www.independentaudit.com/cartoon/page/4/ [accessed 05 October 2014].


APPENDIX I INTERVIEW GUIDE

Onderwerpen interview [naam respondent]

Naam: Daniël Hollemans
Functie: Masterstudent Land Use Planning Wageningen University/Lid studentonderzoeksteam Omgevingswet bij Antea Group
Locatie/Datum: [adres interviewlocatie]
Onderwerp: Ontwikkeling Omgevingswet/positie van voorbereidend onderzoek in de Omgevingswet

INTRODUCTIE INTERVIEWER
- Persoonlijke introductie;
- Studentonderzoeksteam Omgevingswet Antea Group.

ORGANISATIE INTERVIEW
- Doel van het interview;
- Duur van het interview;
- Alle informatie wordt behandeld als vertrouwelijke informatie;
- Resultaten worden geanonimiseerd;
- Toestemming om interview op te nemen.

INTRODUCTIE RESPONDENT
- Huidige functie;
- Soort organisatie (onderneming, overheid, maatschappelijk, academisch)?
- Belang/betrokkenheid/rol organisatie in de ontwikkeling van de Omgevingswet?
- Duur van betrokkenheid bij de ontwikkeling van de Omgevingswet?
- Hoeveelheid tijd/geld/hulpbronnen die organisatie besteedt aan de ontwikkeling van de Omgevingswet?
- Hoe ziet u de invloed van uw organisatie in (het debat over) de ontwikkeling van de Omgevingswet?

ONTWIKKELING OMGEVINGSWET
- Wat is uw visie op het huidige systeem van milieu- en ruimtelijke ordeningsrecht?
- Wat is uw visie op de Omgevingswet?
- Welke verwachting hebt u van de Omgevingswet?
- Maken minder regels het omgevingsrecht ook echt simpeler en/of bruikbaarder denkt u?
- Welke probleemdefinitie ligt, volgens u, aan de Omgevingswet ten grondslag?
- Op welke manier hebt u die probleemdefinitie zien veranderen?
- Welke actoren hebben volgens u de meeste invloed op de ontwikkeling van de Omgevingswet?
- In het huidige stelsel van wet- en regelgeving is met wat inventiviteit al veel mogelijk, is de Omgevingswet dan echt noodzakelijk?
- Wat zijn volgens u de belangrijkste onderwerpen/aandachtspunten in de hervorming van het stelsel van milieu- en ruimtelijke ordeningsrecht?
- Wanneer is de eerste aanzet tot de ontwikkeling van de Omgevingswet gegeven?
- Wat waren volgens u sleutelmomenten in de ontwikkeling van de Omgevingswet?
Appendix I Interview guide

- Wat is, volgens u, de invloed van het advies van de Commissie Elverding (Sneller en Beter) op (het debat over de ontwikkeling van) de Omgevingswet?
- Wat betekent 'sneller en beter' voor u? Hoe definieert u sneller? Hoe definieert u beter?
- Welke veranderingen in het debat over de ontwikkeling van de Omgevingswet hebt u opgemerkt/meegemaakt?
- Wat was uw rol in die veranderingen?
- Met welke andere wetshervormingsprocessen zou u de ontwikkeling van de Omgevingswet willen vergelijken?
- In hoeverre lijkt de ontwikkeling van de Omgevingswet op de stelselherziening die geleid heeft tot de Algemene wet bestuursrecht?
- Hoeveel ruimte krijgen lagere overheden en rechtspersonen om maatwerkconstructies te ontwikkelen in de Omgevingswet volgens u?
- Wat is, in uw ogen, een kritische succesfactor in de implementatie van de Omgevingswet?
- Welke actoren of belangen zijn volgens u tot nu toe onderbelicht gebleven in het debat over de ontwikkeling van de Omgevingswet?
- Hoe verhoudt de Omgevingswet zich, in uw ogen, tot het Europees recht?
- Is het mogelijk om geen nationale koppen op de Europese richtlijnen/wetten te plaatsen?
- Hoe verhoudt de Omgevingswet zich, in uw ogen, tot het staatsrecht?

VOORBEREIDEND ONDERZOEK & ONDERZOEKSLASTEN

- Wat is uw visie op voorbereidend onderzoek (zoals milieueffectrapportages)? Maakt het beslissingsprocessen beter? Of leidt het tot tijdsverlies? Of hebt u een totaal andere visie op dat voorbereidend onderzoek?
- Wat voor ervaringen met voorbereidend onderzoek hebt u?
- Wat betekent voorbereidend onderzoek, zowel professioneel als persoonlijk, voor u?
- Welke fase neemt bij ruimtelijke planvorming de meeste tijd in beslag?
- Vindt u een instrumentele benadering van voorbereidend onderzoek effectief en efficiënt?
- Wordt er volgens u voldoende gedaan met de informatie die uit voorbereidend onderzoek komt?
- Leidt het anders omgaan met voorbereidend onderzoek tot het maken van andere afwegingen in besluitvormingsprocessen denkt u?
- Welk resultaat denkt u dat het terugdringen van onderzoekslasten heeft?
- Hoe kan het terugdringen van onderzoekslasten volgens u leiden tot een systeem van milieu- en omgevingsrecht dat echt beter is?
- Welke veranderingen in het debat over de positie van voorbereidend onderzoek hebt u opgemerkt/meegemaakt?
- Wat was uw rol in die veranderingen?
- Hoe moet, volgens u, het resultaat van voorbereidend onderzoek getoetst worden?
- Welke positie zou u voorbereidend onderzoek in de Omgevingswet willen geven?
- Waarom wilt u voorbereidend onderzoek die positie geven?
- Op welke manier poogt u voorbereidend onderzoek die positie te geven?

TOT SLOT

- Welke (beleids)documenten over de (ontwikkeling van de) Omgevingswet moeten volgens u onderworpen worden aan een discoursanalyse?
- Andere mogelijke interviewkandidaten?
- Indien geïnteresseerd kan de scriptie na afronding toegestuurd worden.
**APPENDIX II INVITATION AND PROGRAMME WORKSHOP**

Geachte heer/mevrouw,

Onlangs heb ik u gesproken over uw visie op de (ontwikkeling van de) Omgevingswet. Op dit moment ben ik de verschillende interviews die ik afgenomen en diverse beleidsdocumenten aan het analyseren om te achterhalen hoe en op welke manier het zogenoemde New Public Management-discours en New Public Service-discours zich manifesteren in de (ontwikkeling van de) Omgevingswet is. Het gesprek met u heeft mij geholpen om dat te achterhalen. Graag wil ik u hierbij nogmaals bedanken voor uw inbreng. Om mijn onderzoek van extra diepgang te voorzien wil ik graag gezamenlijk met een aantal van mijn respondenten reflecteren op mijn onderzoeksresultaten en discussiëren over enkele stellingen. Dit wil ik doen door een workshop te organiseren en hierbij wil ik u graag uitnodigen voor die workshop.

**Opzet**

De workshop wordt gehouden op vrijdag 23 januari in het kantoor van Antea Group, Beneluxweg 125 Oosterhout (Noord-Brabant). De workshop begint om 10:00 en duurt uiterlijk tot 12:00.

De workshop wordt begeleid door twee onderzoekers. Als initiatior en uitvoerder van het onderzoek neem ik de presentatie en de leiding van de discussie op mij. Een tweede onderzoeker (een medestudent die momenteel ook een afstudeeronderzoek uitvoert) observeert de workshop en maakt aantekeningen van opvallende feiten. Daarnaast waarborgt deze observerende onderzoeker de objectiviteit van de workshop doordat hij niet direct betrokken is bij het onderzoek.

De workshop wordt geopend met een korte inleiding van de inzichten die het onderzoek tot nu toe heeft opgeleverd. Vervolgens worden enkele, aan de bevindingen gekoppelde stellingen, voorgelegd. U wordt uitgenodigd om op basis van die stellingen met elkaar in discussie te gaan.

Hopelijk kunt u bij deze workshop aanwezig zijn. Gelieve voor vrijdag 16 januari aan mij te laten weten of u de workshop wel/niet bij kunt wonen. Indien de workshop, door te weinig aanmeldingen, geen doorgang kan vinden, dan wordt dit uiterlijk één week voor aanvang van de workshop aan de deelnemers bekend gemaakt.

**Programma**

10:00
Opening workshop, vaststellen doel en toelichten programma.

10:15
Presentatie tussentijdse resultaten en mogelijkheid tot het reageren op die resultaten.

10:45
Discussie op basis van stellingen. Rond 11:00 zal er tijd zijn voor een korte pauze.

11:45
Gezamenlijk reflectie op de workshop en de ontwikkeling van de Omgevingswet en de invloed van het New Public Management-discours en New Public Service-discours op de ontwikkeling van die wet en de wet zelf.

12:00
Afsluiting workshop.
Stellingen

Stelling 1
Een minder strenge wetgeving die meer ruimte laat voor ontwikkeling leidt tot het interen op niet-economische belangen.

Stelling 2
Als u nu een stelsel van wet- en regelgeving op het gebied van ruimtelijke ordening zou mogen ontwerpen voor de Nederlandse samenleving, dan zou dat er net zo uitzien als de Omgevingswet.

Stelling 3
De Omgevingswet versterkt vooral de posities van bestuurders en niet zozeer die van de burgers of natuur-/milieuorganisaties.

Stelling 4
Het is niet zozeer de complexiteit van het omgevingsrecht dat planvormingsprocessen moeilijk en langdurig maakt maar de restrictiviteit van het omgevingsrecht.

Stelling 5
Als voorbereidend onderzoek later in het planvormingsproces mag worden uitgevoerd leidt dat niet noodzakelijk tot minder onderzoekslasten doordat er bijvoorbeeld een quickscan uitgevoerd wordt om de lokale situatie te verkennen.