

GENERAL COUNTRY INFORMATION

STATISTICAL DATA		
Area	34.000 km ² , 41.500 km ² including water	
Population	16,645,000 inhabitants	
12 Provinces		
Largest area	5.700 km ²	Friesland
Largest population	3.450,000 inhabitants	Zuid-Holland
Smallest area	1.400 km ²	Utrecht
Smallest population	365.700 inhabitants	Flevoland
483 Municipalities		
Largest area	464.92 km ² .	Noordoostpolder
Largest population	744.000 inhabitants	Amsterdam
Smallest area	1.75 km ² .	Bennebroek
Smallest population	1.195 inhabitants	Vlieland

PROVINCES

1. Drenthe
2. Flevoland
3. Friesland
4. Gelderland
5. Groningen
6. Limburg
7. Noord Brabant
8. Noord Holland
9. Overijssel
10. Utrecht
11. Zeeland
12. Zuid-Holland



Map 1: Administrative boundaries

LEVEL	TYPE OF ARRANGEMENT
Central Government	<ul style="list-style-type: none"> • Legislation • Policy statements • National planning key-decisions which can contain legally binding elements (i.e. designation of certain areas for specific types of land use).
Provincial Government	<ul style="list-style-type: none"> • Policy statements • General proposals for land use. Plans have mostly the character of recommendations, but they can also contain legally binding elements.
Regional Level (General Administration)	Structure Plan ("Structuurplan")
Municipal Government	<ul style="list-style-type: none"> • Policy statements • Study and policy statement on the future development of the municipality as a whole ("structuurplan") • Detailed proposals for use of land. (Municipal land use plans containing legally binding elements).

PART I: PLANNING FRAMEWORK

- Administrative competences for planning

The goal of planning is:

- to prevent any changes in the use of land and buildings which might endanger the interests of the community, its individual members or the ecosystem of the environment
- to stimulate any changes in the use of land and buildings which might improve the quality of life in the community, of its individual members and/or the quality of the ecosystem of the environment.

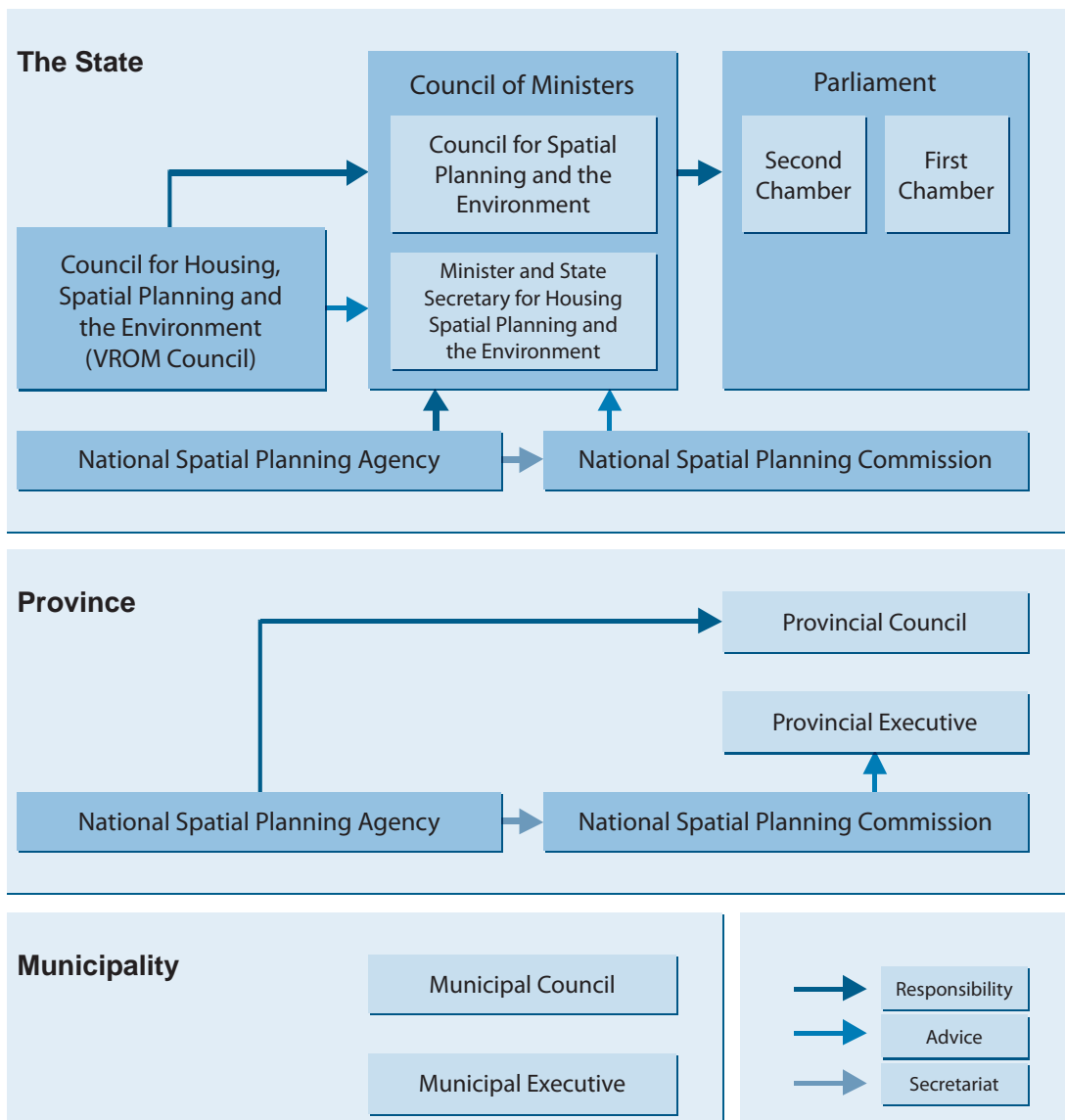
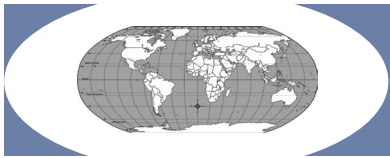


Diagram 1: Instruments of Spatial Planning



- Type of change

Changes in the use of land and buildings are defined as the carrying out of building, engineering, mining or other operations in, on, over or under the land, or the making of any material change in the use of any building or land. It includes: deposit of waste material, erection of any two or three dimensional constructions, the use of land and buildings for all types of agricultural activity including forestry, nature reserves, etc.

No special (land use) approval is required for the maintenance of dikes, roads and services and internal alterations of buildings. Land and building uses are divided into categories; change within a category does not need consent.

- **Planning legislation**

- Main planning legislation and implementation instruments

The current Spatial Planning Act in the Netherlands has been valid since 1965. A revised form of this Act has been in force since July 1986. In 2000 the procedure for local projects has been revised to make the act more flexible. A more fundamental revision of the Act has come into operation in 2008, together with the new Land Development Act 2008 to reduce rules and procedures and decentralise initiatives to lower tiers of government and the private sector. .

There is also the Interim Urban and Environmental Procedures Act. The government is examining a better use of public private partnerships as well as recovery and settling costs of planning at regional level. It also examines ways to reduce landscape clutter with “the Beautiful Netherlands project”, “the Space and Culture Action Programme”, an extension of the spatial planning policy document, the motorway route design programme and actions on the architecture of industrial estates. The Landscape Quality Guide 2006 is providing the framework for these initiatives. The Nature Conservation Act enables local authorities to protect valuable landscape vistas.

Administrative structure and implementation instruments						
	LEVEL	POPULATION	DESCRIPTION	NAME	SCALE	DESCRIPTION
1	Nation State	100% 16 million	The Netherlands Ministry of Housing, Spatial Planning and Environment (VROM)	Planning and Key Decisions, e.g. The Fourth Report on Urbanisation	Words and Diagrams 1: 500,000 Maps	National Key Decision (certain aspects have force of law) National Spatial Strategy (No force of law)
2	Province	10% (average) 0,4 -3,5 million	Provincial Planning Authority	Regional Plans with force of law for sections of the province	Words and Diagrams Maps 1: 50,000	Streekplan (regional plan, no force of law)
3	Urban Region	<10% < 1 million	Cooperative Body of Adjoining Municipalities (with common interests and goals)	Area Plans and research reports	Words and Diagrams Maps	Structure Plan with common guidelines (no force of law)
4	Municipality	0.05 – 4,5%	Town Council – Department of Housing and Planning – or – Private Planning Consultants	(A) Structure Plans (B) Land Use Plans	1: 10,000 Reports 1: 500 Maps	Structure Plan – policy statements, specific proposals for location and control of development Land use plans with force of law
5	Borough	200,000	Elected body of city districts (stadsdeelraad)	Controlling power over building permissions (no plans)	–	



The most important features of the planning system are as follows.

The planning system involves the three Dutch administrative levels: State, Province and Municipality. The state is divided into 12 provinces and they contain 483 municipalities. Each administrative level is free to define its own planning goals and the contents of its own plans. There is no formal hierarchy between the different plans, although specific key-decisions (“concrete beleidsbeslissingen”) have to be taken into account at lower administrative levels.

At central governmental level spatial planning documents are called National Planning Key-decisions. Key-decisions can contain policy statements as well as the designation of certain areas for specific types of land uses (e.g. nature reserves). The status of a Key-decision is somewhere between a policy statement and an act; legally binding elements in this document must be taken into account at provincial and municipal level. To obtain this status a National Planning Key-decision must be approved by the Dutch Parliament

At provincial level the regional plan (streekplan) is the main planning tool. These regional plans have mostly an advisory character and contain general proposals for the direction of urban-, recreational-, and industrial-development and the use of land in a certain area. Regional plans can contain legally binding elements though, which must be taken into account at municipal level. At the regional level (kaderwetgebieden) there is an obligation to have a structure plan (structuurplan).

Of the three levels of planning the municipal level is the most important one.

PART II: PLANNING PROCESS

- **Planning system**

- **Plan making**

At municipal level two types of plans exist. The first is the “Structuurplan” (Structure plan) which contains a study and a policy statement on the future development of the municipality as a whole. This plan needs approval by the Municipal Council.

The second is the “Bestemmingsplan” (Land use plan). This plan is mandatory for the area outside the built-up area; for the built-up area itself it is not mandatory.

It contains information about the intended changes in the use of land and buildings in the foreseeable future. This information concerns not only the function but also the form of these changes. The planning horizon of this plan is 10 years.

This plan has force of law, which means that its contents are binding for the individual as well as for the municipality itself. All building permits and other developments must be in accordance with the intentions and regulations of this plan.

Because of the far-reaching consequences of the land use plan public participation is an obligation. At the end of the planning process the draft of the plan is open to public inspection and objections can be filed against the plan with the municipality.

At this stage of the planning process the plan is also screened by the “Inspector of spatial planning of the State” to check whether the plan contains conflicting elements with the national planning goals. If so he can also file complaints.

The Land use plan must be approved by the Municipal Council, which, in making its decision, will take the objections filed against the plan into account.

Later, if they are not satisfied with the decision of the municipal government, those who have contested the plan at municipal level can contest the plan again at provincial level and in court.

Because of the judicial status of the land use plan it also requires the approval of the provincial government, even if no objections to the plan are filed.

This approval makes it possible for the provincial government to test the plan against its own planning policy. In case of disagreement, approval of the plan can be withheld. However, these powers of intervention are circumscribed by a number of regulations.

In the case of disapproval the municipality has the obligation to prepare a new land use plan in accordance with the intentions of the provincial or central government within the period of one year.

Similar to the rights held by the public and other interested parties, the municipality can contest the disapproval of the plan in court, if it does not agree with the planning intentions of the provincial or central government.

- **Implementation**

Land needed for developments may, in the case that it cannot be bought on the free market, be acquired by expropriation. The price to be paid is set in court, and is mainly equal to the market value of the land in its current use (before its development).

To prevent undesirable changes in land use during the period of plan preparation, there is a possibility to postpone approval of any building permission for the period of one year.

- **Development control**

Municipal land use plans have to be approved by the provincial government. In case of differences in contents between municipal and provincial planning policies the higher authority can intervene.

Consent or permission to change the use of land or buildings, or to erect any construction is required and issued by the municipality. Building permissions must be tested against the land use plan. In case of conflict the permission must be refused unless exemption is granted.

- **Participation and appeal**

Citizens have the right to oppose any planning proposal, either at governmental, provincial or municipal level. If a plan is contested, it may depend on judicial approval, whether or not it acquires legal force.

Citizens can also oppose a building permission. If the permission is in accordance with the land use plan (and building legislation) the permission will and must be granted.

PART III: EVALUATION

• **Application of the planning system in practice**

The current Spatial Planning Act has been in force since 1965. Over time, the Act became increasingly open to criticism. The weak points of the Act manifested themselves, mainly, in the contents and the implementation of the land use plans. Because of the elaborate possibilities for appeal and the lack of time limits in the decision making process, long delays during the planning process occurred. Even if no appeals were lodged the planning process from start to final approval would take about 4 years; if some interested party lodged an appeal it would take the Crown another 3 to 4 years to make a final decision.



By that time most of the land use plans were already out of date by the time they finally acquired legal force. This was not only a handicap for the municipalities but also a negative element of the protection of private interests. Consequently, this led to a frequent and improper use of “anticipation-procedures”: a kind of short-cut procedure which meant “ad hoc” physical planning. Because of these problems several revisions of the 1965 Act became necessary.

In a 1986 revision the procedures for the approval of a land use plan were curtailed considerably. The entire duration of the procedure was reduced to 1 year in case no objections, and to 3 years if objections are filed. In a more recent evaluation (2000) these changes were judged to be insufficient. An important goal of this new revision was to provide a more efficient procedure for the implementation of investment projects.

After all these revisions the 1965 Act has become so complex that even high official institutions (Raad van State) call it a patchwork. The underlying philosophy has been changing as well. That is why for example professional planners and the parliament have asked for a more fundamental revision of the Act.

The new Spatial Planning Act (Wro) - implemented in 2008 - contains new rules for spatial planning. These rules focus on combining goals for an efficient and transparent policy development with goals for a strict maintenance of law and order and simplified legal protection. Important features of the new Act are deregulation, decentralisation and a focus on development. On each of the three administrative levels of The Netherlands (national, provincial and local) three components of spatial planning will benefit from a legal framework: structure plans (structuurvisie), (Digital) land use plans, and project decisions.

Structure plans are strategic policy documents replacing the present formal plans: national plan, regional plan (streekplan) and local plan (structuurplan). These plans only contain policy statements with no legally binding elements. To implement these policies, other instruments, such as the land use plan, general national (algemene maatregel van bestuur, amvb) or provincial (verordening) enactments, or instructions (aanwijzingen) are made available. (Digital) land use plans should facilitate spatial developments and legal maintenance at the same time. A project decision procedure has to be followed by a revision of the particular land use plan (such a project decision is possible at each of the three levels of scale). On the national level this provision replaces the current national projects procedure (rijksprojectenprocedure).

Related to this is a recent (2005) evaluation by a commission of the Dutch parliament of the deliberation deficits in the procedures of national projects as the High Speed passenger train and the designated (betuwe) Track for freight trains. A major conclusion of this evaluation is that national projects like these should be evaluated ex ante in the context of a (national) structural vision, including different alternatives.

The new “Wro” rules clearly facilitate the (re)-combination of development perspectives and strategic projects at the three levels of scale into a more efficient and interactive way than the existing rules, although the changes proposed for project planning is still not completed.

- **Recent innovative development in spatial planning**

Closely related with the new Spatial Planning Act 2008 are some other interesting developments in Dutch spatial planning:

- **New national spatial planning strategy**

A new National Spatial Planning Strategy was adopted by the Dutch Parliament (Tweede Kamer) during spring 2005. The main objectives of this Strategy are: strengthening the international competitive position of the Netherlands; promoting strong cities and a vibrant, dynamic countryside; securing and developing important national and international spatial values; and ensuring public safety.

The National Spatial Planning Strategy contains the planning procedures for local and regional governments, but the national government is seldom responsible for the results concerning the basic quality of standards. Where national interests are at stake, guidance from the national government may be necessary. In several



such cases, the national government is responsible for the results. The national government also chooses to be selectively and directly involved in specific tasks regarding spatial development related to the National Spatial Structure, which often involves major investments. In strategic tasks related to the National Spatial Structure, the national government is involved as a partner in its own right. National involvement is greatest in projects in which many elements of the national spatial structure converge or intersect, such as the Randstad conurbation.

- **New cooperation between central and regional government**

Two proposals are in preparation to improve the performance of the national government as a partner in regional developments:

There is a move to make the organisation of the Agency for National Services and Properties (Dienst der Domeinen) and the Agency for Rural Areas (Dienst Landelijk Gebied) more efficient. This is being achieved through a shared service centre for estate brokerage and green developments.

A new initiative is to create a National Public Development Agency for complex regional developments. The Agency will become a centre of expertise and will have the instruments to synchronise and optimise often conflicting state interests (goals, projects, property rights). The Agency will co-operate with other public and private developers in complex situations.

- **The modernisation of the land policy**

Land policy will support different goals:

- a decisive implementation of spatial policy
- an equitable distribution of costs and benefits related to spatial developments;
- the improvement of the quality of the land policy. This includes a greater say for stakeholders, shareholders and the (future) inhabitants of the area. An important instrument to support these goals is the new Land Development Act supporting the co-operation between public and private partners with a legal frame for the distribution of specified costs and benefits and preventing free riders who want to develop but refuse to share the costs to improve the quality of the area.

Christopher Anderton
Jan C. Goedman
2008