

Towards a New Legislative Framework for Spatial Planning – the Environment and Planning Act

Marije Louwsma (Netherlands)

Key words: Legislation; Spatial planning; planning reform, digital information system, land policy instruments

SUMMARY

Spatial planning is about governing land use in relation to spatial developments. Apart from specific legislation for spatial planning, legislation from other fields of interest influences the direction of spatial developments. Environmental legislation for example, often enforces the reduction, or aim to mitigate negative effects of air pollution or carbon dioxide emissions. This may imply for example that certain land uses next to nature areas are restricted, because of the expected negative impact on the protected nature.

The Dutch government aims to simplify and improve legislation related to spatial planning and its environmental context by integrating the existing set of rules and legislation. Therefore, the proposed Environment and Planning Act merges 26 laws from environment, water, nature, spatial planning, and housing into a single Act, and simultaneously reduces the number of regulations and decrees from 240 to 14. One of these decrees describes the land policy instruments to manage access to land for the desired spatial development. These instruments include expropriation, pre-emption rights, land consolidation and land readjustment for example.

The Environment and Planning Act comes with a new digital system to allow equivalent access to information for all stakeholders. By one click on the map the initiator, citizen and government can retrieve information of that specific location on what is allowed and what not, which rules apply and if additional investigations are required. The digital system combines geo-information and administrative data and is organised by theme: air, soil, noise, water, waste, heritage, nature, external security, construction, and space.

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FIG Congress 2018

Embracing our smart world where the continents connect: enhancing the geospatial maturity of societies
Istanbul, Turkey, May 6–11, 2018

It is contested by some whether the proposed Act and its decree on land policy instruments will live up to the expectations. The dualistic nature of the land use plan (“omgevingsplan”) is criticised as it is meant to regulate existing land uses on the one hand and to direct new developments on the other hand. A point of concern with respect to the land policy instruments relates to the tension between providing legal certainty for land right holders and simultaneously providing flexibility for spatial developments, i.e. no blueprint planning but organic development based on public-private initiatives.

The aim of this paper is to reflect on where we stand now and on the way forward with respect to the new Environment and Planning Act, its land policy instruments, and the digital system that has to support the spatial planning processes.