



**PLANNING FOR STATES  
AND NATION-STATES**  
IN THE U.S. AND EUROPE

*Edited by*

Gerrit-Jan Knaap, Zorica Nedović-Budić,  
and Armando Carbonell

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 LINCOLN INSTITUTE  
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PLANNING FOR STATES  
AND NATION-STATES





## Introduction

The fundamental challenges of building and sustaining human settlements have not changed significantly for centuries. Humans need shelter, sanitation, transportation, nutrition, social interaction, and economic production. The relative urgency of these challenges, however, has changed over time, as have the planning and public policy approaches to address them. Since the turn of the last century, climate change, economic development, social justice, and community revitalization have risen to the top of the planning agenda. To address these issues, planners have conducted extensive research, developed and marshaled new technologies, and adopted a variety of new tools and policy instruments. In addition, planners and policy makers in some European nations and some U.S. states have significantly changed the relative roles of international organizations and national, state, regional, and local governments. That is the focus of this volume.

As demonstrated in the case studies that follow, changes have occurred in the planning roles of governments at multiple levels on both sides of the Atlantic. In the United States, during the first term of the Obama administration, the federal government launched several new initiatives to facilitate collaborative planning at the metropolitan scale. Beginning in the 1970s, some states strengthened and then loosened oversight of local planning, some assigned new responsibilities to regional governments, and still others prepared and adopted statewide development plans. In Europe,



changes in the roles of governments have been more dramatic and widespread, beginning with the creation of the European Union (EU) and the emergence of pan-European planning frameworks (Hooghe and Marks 2001; Newig and Koontz 2014). To foster unity and economic growth, the EU promulgated principles of spatial development for its member nations. Some European nations adopted national spatial development strategies, while others delegated more responsibilities to regional and local governments. In addition to internal adjustments, there was a transfer of approaches and practices between some of the states, which, along with other changes, made spatial planning, including land use planning, more complex. Because many of these institutional changes are relatively new, it is nearly impossible to determine what effects they have had on the efficacy of plans or on the quality of human settlements. Nevertheless, these nations and states serve as valuable laboratories in which to explore alternative strategies for planning at the supralocal scale.

### **A Meeting of Minds**

The opportunity to examine and discuss the institutional foundations of planning and the relative roles of governments brought scholars, practitioners, students, and others to Dublin, Ireland, in October 2012 for a two-day symposium presented by the Lincoln Institute of Land Policy and organized by the School of Geography, Planning and Environmental Policy at University College, Dublin, and the National Center for Smart Growth Research and Education at the University of Maryland. The conference, titled “Planning for States and Nation-States: A Transatlantic Exploration,” was held in the historic Newman House on St. Stephen’s Green and featured overview papers on the structure of planning in the United States and Europe and case studies of five U.S. states and five European nations. Each presentation was followed by commentary from a senior official from the corresponding state or nation.<sup>1</sup>

The conference in Dublin extended ongoing conversations about regional planning, spatial planning, smart growth, sustainability, and state growth management on both sides of the Atlantic. Particularly germane to the discussion in Dublin was a series of books published by the Lincoln Institute on state and regional planning in the United States (DeGrove and Miness 1992, 2005; Seltzer and Carbonell 2011), state-level smart

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<sup>1</sup> This statement is generally true for most cases, although in some, the practitioner had significant academic experience. In the case of New Jersey, the author was primarily a practitioner, and the commentator was an academic.

growth (Ingram et al. 2009), and European spatial planning (Faludi 2002, 2007, 2008).<sup>2</sup> The conversations in Dublin also extended work by scholars at University College, Dublin, on Irish spatial strategy (Fox-Rogers, Murphy, and Grist 2011; Grist 2011, 2012a, 2012b; Williams 2011; Williams and Boyle 2012; Williams, Walsh, and Boyle 2010), and by scholars at the National Center for Smart Growth Research and Education on state planning in Maryland (Frece 2008; Lewis, Knaap, and Sohn 2009). Thus, the sponsoring organizations came to Dublin steeped in the subject matter and eager for new insights and productive dialogue about the role of states and nation-states in land use and spatial planning.

### **The Case Studies**

The papers presented in Dublin included case studies of plans and planning frameworks in California, Delaware, Maryland, New Jersey, and Oregon in the United States and in Denmark, France, Ireland, The Netherlands, and the United Kingdom in Europe. These states and nation-states were not chosen randomly or to be representative. Instead, each was selected because it took a new and innovative approach to planning, especially at the supralocal scale. The presumption was that an examination of planning institutions and planning practices in these 10 states and nation-states would provide insights into new institutional approaches to planning and offer valuable lessons for other states and nation-states—especially for the nation of Ireland, which was updating its national spatial strategy, and the state of Maryland, which was constructing its first state development plan.

### **The Approach**

The chapters included in this book address the changing foci, scales, and approaches taken by states and nation-states to adapt to the ongoing transformations of global and local societal contexts and circumstances. Broad suprastate and national institutions tend to be inert (although the EU context has generally been more dynamic than that in the United States, in part because legal responsibility for land use planning formally belongs to states in the United States and to nations in Europe), but some states

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<sup>2</sup> Other important works on European spatial planning include Dühr, Colomb, and Nadin 2010; Faludi 2010; Reimer, Getimis, and Blotevogel 2014; Stead and Cotella 2011; and Waterhout 2008. The work most similar to ours is the comparative study by Alterman (2001), which includes 10 national case studies and the United States as a single entity.

and nation-states are quite active in their efforts to guide and influence spatial development. Comparing planning frameworks in an international context is always difficult, especially among nations that have different sociopolitical, legal, administrative, and cultural contexts and speak different languages. All these differences pose challenging methodological and terminology problems (Nadin and Stead 2013). Literal translations are often misleading because words have meaning only in their own linguistic context. Seemingly simple concepts, like land use planning, can connote a wide variety of activities and processes depending on the constitutional, cultural, and geographic context. Further, comparative approaches can be biased when they are written from the perspective of a given nation. It is important, therefore, to define a few terms, express some underlying presumptions, and describe the scope of this book's exploration.

Friedmann (1987) defines planning practice broadly as “a social and political process in which many actors, representing many different interests, participate in a refined division of labor” (25). He views planning as one element in the public domain, which is defined as the territorially based system of social relations that include political, legal, and bureaucratic practices. As a societal activity, planning is heavily dependent on a mix of cognitive, cultural, social, economic, and political institutions (Alden, Albrechts, and Rosa Pires 2001). Verma (2007) suggests that “institutions such as government or market provide the framework within which planning operates; other institutions rooted in cultural norms, mores, and practices, also provide the context for planning” (1).<sup>3</sup>

In this book, planning frameworks are first defined as the laws, regulations, and norms that frame the planning activities of all levels of government, where planning activities include both land development controls (e.g., comprehensive planning and zoning in the United States and spatial and comprehensive urban planning in Europe) and plans that address the spatial aspects of functional areas, such as transportation, water and wastewater disposal, economic development, or climate change. These plans are sometimes called functional plans in the United States and sectoral plans in Europe. This framing of the scope of planning comports

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<sup>3</sup> March and Olsen (1989) define institution as “a stable collection of rules and practices defining appropriate behavior for specific groups of actors in specific situations” (1). The rules reduce uncertainties and increase reliability of expectations in daily interactions and activities between all societal players in the private, public, and nonprofit sectors. Peterson and Shackleton (2002) add legal status (laws) and powers to the construct of institutions. In the spirit of neo-institutionalism, the authors suggest that institutions develop their own interests, agendas, priorities, and group loyalties by influencing political debates.

with the term “spatial planning,” which, when stripped of its normative content, is defined by the European Union as follows: “Spatial planning refers to the methods used largely by the public sector to influence the future distribution of activities in space . . . to co-ordinate the spatial impact of other sectoral policies, . . . and to regulate the conversion of land and property uses” (CEC 1997, 24).

Second, there is a particular interest in the plans and spatial policies of supralocal levels of government: unions of nations, nation-states, and regions. This is not to dismiss the significance of local land use or functional plans. Analyses in this book affirm that most of what is considered land use or spatial planning occurs at the local level on both sides of the Atlantic. But it is the laws, regulations, and practices of higher levels of government that give those local plans validity, legal standing, and potential to influence policy.

Perhaps most important, there is a basic assumption that in the context of planning, it is instructive to contrast the EU with the U.S. federal government and to compare European nations with states in the United States. There are many reasons why such comparisons are problematic. Faludi identifies several in his chapter, and Masser (1992) highlighted the problem of transferability in his early discussion of mutual learning between Europe and United States. Yet, such comparisons are apt for two reasons: (1) the EU, like the U.S. federal government, has an explicit interest in the spatial distribution of activity, but no express authority to engage in the planning or regulation of land; and (2) the authority to plan and regulate land use belongs to the independent European nations, as it does, according to the U.S. Supreme Court, to the individual states in the United States. Within these parameters, the EU, the U.S. federal government, European nations, and states in the United States have taken widely differing approaches to land use and spatial development, as described in the chapters that follow. The differences in these approaches reflect large variances in geography, resources, governance structures, languages, perceptions, and cultures, as well as the perceived importance and urgency of specific issues (e.g., competitiveness, environmental protection) and their designation as being of state or national interest. Those differences, too, are addressed in the chapters that follow. What is more, exploring the similarities and differences in these approaches offers useful insights concerning the roles and the influence of planning at the state and nation-state levels. Our intent is not to offer a comprehensive analysis of alternative planning frameworks in Europe and the United States or to develop some grand synthesis or taxonomy. These cases are clearly insufficient for such a task. Instead, our goal is to document what is happening in some interesting

nations and states and to see what trends can be identified and what lessons can be drawn from these selected cases. The concluding chapter presents some trends and lessons, but the primary insights from this collection come from the individual case studies, not from the short summaries or the attempts at synthesis.

To facilitate comparative analysis, the authors of the case studies were asked to address the following:

- Geographic context and general structure of government.
- Structure of land use governance and roles of the local, regional, and national governments.
- Factors that shaped the development of the plan, planning framework, or development strategy.
- Planning participants, information foundations, and planning processes.
- Key elements of the plan, planning framework, or development strategy content.
- Vertical and horizontal coordination.
- Plan implementation tools and processes.
- Key outcomes and lessons.

The detailed structuring of the case materials, however, was left to the authors, with the understanding that the nature of the case would dictate the emphasis and organization of the contents.

Before turning to planning frameworks and practice, it is worth asking how comparable U.S. states and European nation-states are with regard to size and population density. It is well known that the United States as a whole has more than twice the land area of the EU and just more than half the population, which suggests wide disparity. However, a review of population, land area, and population density for the selected states and nation-states reveals more congruity (table I.1).

California, the third-largest state in area, lies between the United Kingdom and France (the largest European country) in territorial extent and has just more than half the population of each. Maryland is comparable to The Netherlands in land area but has only a bit more than one-third the population; New Jersey, although somewhat lower in population density than The Netherlands, has a higher density than the other four European countries. Oregon is the outlier in its very low aggregate density, and Delaware is exceptionally small.

**TABLE I.1**  
*Case Study States and Nation-States Profiles*

Country / State	Area (Square Kilometers [km <sup>2</sup> ] / Square Miles [mi <sup>2</sup> ])	Population	Density (People per km <sup>2</sup> / per mi <sup>2</sup> )	Per Capita Income (US\$)
Denmark	43,000 km <sup>2</sup> / 16,602 mi <sup>2</sup>	5,534,738	129 per km <sup>2</sup> / 333 per mi <sup>2</sup>	56,210
The Netherlands	37,000 km <sup>2</sup> / 14,286 mi <sup>2</sup>	16,574,989	485 per km <sup>2</sup> / 1,160 per mi <sup>2</sup>	46,054
France	550,000 km <sup>2</sup> / 212,365 mi <sup>2</sup>	64,658,856	118 per km <sup>2</sup> / 304 per mi <sup>2</sup>	39,772
United Kingdom	243,610 km <sup>2</sup> / 94,058 mi <sup>2</sup>	62,471,264	256 per km <sup>2</sup> / 664 per mi <sup>2</sup>	38,514
Ireland	69,825 km <sup>2</sup> / 26,959 mi <sup>2</sup>	4,467,854	64 per km <sup>2</sup> / 149 per mi <sup>2</sup>	45,863
New Jersey	22,588 km <sup>2</sup> / 8,722 mi <sup>2</sup>	8,791,894	389 per km <sup>2</sup> / 1,008 per mi <sup>2</sup>	56,477
Maryland	32,133 km <sup>2</sup> / 12,407 mi <sup>2</sup>	5,773,552	179 per km <sup>2</sup> / 465 per mi <sup>2</sup>	51,724
Delaware	6,447 km <sup>2</sup> / 2,489 mi <sup>2</sup>	897,934	139 per km <sup>2</sup> / 361 per mi <sup>2</sup>	69,667
Oregon	254,805 km <sup>2</sup> / 98,380 mi <sup>2</sup>	3,831,074	15 per km <sup>2</sup> / 39 per mi <sup>2</sup>	44,447
California	423,970 km <sup>2</sup> / 163,695 mi <sup>2</sup>	37,253,956	89 per km <sup>2</sup> / 228 per mi <sup>2</sup>	51,914

NOTE: Areas of U.S. states include land and water.

SOURCES: U.S. Census (2010) (population and area of U.S. states); Eurostat (2010) (population and area of EU countries); World Bank (2012) (per capita income of EU countries); U.S. Government Revenue (2013) (per capita income of U.S. states, \$47,482).

## Overview of the Book

At the Dublin conference, case studies from the United States and Europe were presented in alternating fashion to facilitate transatlantic comparison and conversation. This highlighted the many similarities and challenges faced by U.S. states and European nation-states. This book, however, presents first the case studies from the United States, and then the case studies from Europe. This organization offers the larger perspective of practices and trends on each of the two continents and leaves a discussion of international contrasts for the concluding chapter.

### The Framework for Planning in the United States

As described in the opening chapter by Patricia Salkin, dean and professor of law at the Jacob D. Fuchsberg Law Center at Touro College, the U.S. federal government has the authority to exercise only those powers expressly granted in the U.S. Constitution. Planning and regulating land use are not among them; land use planning and regulation, therefore, remain the responsibility solely of states. But although the federal government has no authority to plan and manage land, it has great influence on the location and nature of human activity. It spends billions of dollars per year, for example, on transportation, housing, and public infrastructure and owns more than 650 million acres of land. A survey of planning scholars, for example, identified the 1956 Federal Highway Act as the most influential determinant of urban form in the United States over the past 50 years (Fishman 2000).

Federal regulations are also highly influential. The Clean Air and Water Acts, for example, impose no restrictions on land use, but by establishing targets for ambient air quality and nutrient loadings to rivers, lakes, and streams, both acts profoundly influence local land use plans, regulations, and development patterns. The National Environmental Policy Act (NEPA) promulgated a U.S. national policy to protect the environment and established the President's Council on Environmental Quality. NEPA's most significant effect was to set up procedural requirements for all federal government agencies to prepare environmental assessments and environmental impact statements that outline the environmental effects of proposed federal agency actions, including major investments in transportation, energy, housing, and other projects that influence development patterns. As Salkin describes, many other policies and programs of federal agencies also have major impacts on land use and development patterns.

More recently, the Obama administration has established a new channel of federal influence on land use planning and metropolitan development. In 2009, the secretaries of the Department of Transportation and the Department of Housing and Urban Development and the administrator of the Environmental Protection Agency signed a memorandum of understanding (MOU) establishing the Sustainable Communities Partnership. The MOU served as the foundation for a number of new grant programs, including regional sustainable communities planning grants. Regional sustainable community planning is now under way in 74 metropolitan areas across the country. The stated purposes of these pathbreaking grants include urban revitalization, environmental protection, social justice, and sustainable development, but an equally important purpose is

to establish new interinstitutional relationships and promote greater inclusion and participation in metropolitan-level planning.

As Salkin also describes, the U.S. Supreme Court has held that land use planning and regulation are legitimate means by which states can meet their responsibilities to promote the health and welfare of their citizens. Subsequently, after the Department of Commerce published model zoning and planning enabling acts in 1924 and 1928, respectively, most states delegated responsibility for land use planning and regulation to local governments. State agencies have frequently prepared and adopted functional plans for transportation, economic development, and, most recently, climate change, but few states ever became directly involved in land use planning and regulation.

Some states, however, did become engaged. Vermont, Hawaii, California, Minnesota, Maine, and others led what Bosselman and Callies (1971) famously called a “quiet revolution in land use control” to describe the growing intervention of state and regional governments in land use planning and regulation. These states required local governments to plan, asserted the state’s authority to regulate areas of statewide concern, created statewide land use commissions, and in other ways sought to limit or usurp local land use authority.

In her concluding comments on the future of land use control in the United States, Salkin asserts that the federal government will never have a controlling role in land use regulation, and she expresses optimism about the ability of local governments to fill the gap. She does not address the future of the quiet revolution. Armando Carbonell, senior fellow and chairman of the Department of Planning and Urban Form at the Lincoln Institute of Land Policy, in his response to Salkin, identifies several other avenues through which the federal government influences land use and the location of human activity, often indirectly, and usually without careful consideration. For this reason, he characterizes the failure to pass a national land use act as a significant “missed opportunity.” Further, although he recognizes the substantial resistance to passing such an act, he argues that the need to address large-scale problems such as climate change should strengthen our resolve to challenge such resistance.

### State Case Studies

In the absence of a federal framework for planning and zoning, the practice of planning and zoning in the United States is prescribed in state land use statutes and regulations. These prescriptions vary widely. After the publication of the model planning and zoning enabling acts, most states



simply delegated responsibility for planning and zoning to local governments. Others, however, including those discussed here, have taken a far more active role.

## OREGON

As described by Ethan Seltzer, professor of urban studies and planning at Portland State University, Oregon has long been regarded as having the best-performing land use program in the United States. In 1973, Oregon's Senate Bill 100 required local governments to prepare comprehensive land use plans and adopt regulatory instruments consistent with those plans. A newly established state Land Conservation and Development Commission (LCDC) was required to review and acknowledge every local plan. If the LCDC determined that a local plan did not meet the state's 19 land use goals and guidelines, the state could withhold state funds and rescind the authority of that local government to issue building permits. Over time, and through the acknowledgment process, administrative rules refined the 19 goals into a highly detailed set of statewide regulations.

Senate Bill 100 also established several unique land use institutions to support the Oregon planning system, including a state-level Department of Land Conservation and Development and a land use court of appeals. In addition, by referendum, the Portland metropolitan area established the nation's only directly elected regional government and charged it with overseeing local planning in that area. Despite these unique and influential state and regional institutions, planning in Oregon is state supervised but remains predominantly local in character.

Although Oregon's planning framework is simple in structure and has been challenged frequently in the courts and at the ballot box, empirical evidence suggests that it has been effective in several regards, especially farmland preservation and urban growth containment. But, as Seltzer notes, Oregon has no statewide land use or development plan, and although it has periodically adopted plans for transportation, economic development, and, most recently, climate action, these plans are not well integrated with local plans or with one another. Since the 1980s, state agencies have not prepared functional plans.

In his conclusion, Seltzer expresses concern that Oregon's exclusive reliance on local plans could impede its ability to address climate change, economic revitalization, or social equity. In his response, Richard Whitman, natural resources policy director in the Oregon Office of the Governor, demurs. According to Whitman, a large part of Oregon's success may lie in not trying to plan everything. Rather, the success of the Oregon program stems from a policy framework where local institutions are given space to develop their own specific solutions.

## CALIFORNIA

As described by William Fulton, formerly of Smart Growth America and now director of the Kinder Institute for Urban Research at Rice University, California is among the states that delegated most but not all land use authority to local governments. In 1971, California required local governments to plan, and subsequently required those plans to contain housing elements that prescribed how local governments were to meet their share of affordable housing. In 1970, California adopted the California Environmental Quality Act, modeled on the National Environmental Quality Act, which required large development projects to pass a complex environmental review process. The California Coastal Commission, established in 1972, was also an innovative new regional institution in its day. But planning in California remains dominated by local governments and the state government exercises very little oversight.

In 2008, however, the state of California adopted a bold new initiative to address climate change. Specifically, Governor Arnold Schwarzenegger signed Senate Bill 375, which required metropolitan planning organizations (MPOs) to develop transportation and land use plans that meet greenhouse gas targets adopted by the California Air Quality Resource Board.<sup>4</sup> Senate Bill 375 did not, however, reduce the authority of local governments to plan and manage land use. California's dilemma, as a result, is that local governments retain near-complete authority over land use, but MPOs are required to meet greenhouse gas targets through land use planning. To address this conundrum and to encourage cooperation, the state and the MPOs offer incentives for local governments to follow MPO plans, but it remains uncertain whether the combination of financial and other incentives is sufficient to motivate local governments to cooperate.

Fulton is skeptical that incentives will be sufficient, rather dismissively calling the influence of state and regional governments the power to "nudge." Mike McKeever, executive director of the Sacramento Association of Governments, is more optimistic. According to McKeever, MPO plans have the power to change behavior, contain measurable performance standards, were developed using advanced tools and techniques, and have national implications. As a result, he asserts, these plans will be a game changer in several of California's largest regions.

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<sup>4</sup> A metropolitan planning organization (MPO) is a federally mandated and federally funded transportation policy-making organization in the United States that is made up of representatives from local government and governmental transportation authorities (Wikipedia). MPOs represent local governments and work in coordination with state departments of transportation and major providers of transportation services to conduct regional transportation planning for urban areas of the United States (U.S. General Accounting Office 2009).

## NEW JERSEY

In 1935, New Jersey enabled local governments to plan, as has been done by every other state in the nation. But as described by Martin Bierbaum, who has held several key positions in New Jersey state government, New Jersey has perhaps the best-known and longest-standing state development plan in the nation. In 1986 the Governor of New Jersey signed the New Jersey State Planning Act, which established a state planning commission and required it to develop, adopt, and implement the New Jersey State Development and Redevelopment Plan. The state development plan did not replace local plans. Instead, to ensure coordination between the state and local plans, the legislature prescribed a complex cross-acceptance procedure for identifying and resolving differences between state and local plans. Before long, however, the process grew cumbersome and politically charged and took years to complete.

Since the adoption of the state development plan, its influence and the attention it has received have vacillated in successive gubernatorial administrations. As Bierbaum tells it, however, the ride has been rough, and it is clear that the New Jersey plan has failed to meet the lofty objectives of its original supporters. Most recently, the administration of Governor Chris Christie developed an entirely new state plan, focused primarily on economic development and lacking the cross-acceptance process and a state plan map. Although the State Planning Commission has yet to adopt the new plan, and there have been few formal changes in state policy or planning law, it is clear that the weight of the planning process in New Jersey has moved again from the state to the local level.

Bierbaum closes with a long list of lessons drawn from his extended experience with the New Jersey state plan. He never says that the benefits were not worth the effort. In his summary, however, he describes the experience as moving from “ambitious goals” to “implementation quagmire” to “scaled-down redefinition.” Frank Popper, professor of planning and public policy at Rutgers and professor of environmental studies at Princeton University, is much less diplomatic in his commentary. According to Popper, the saga of the New Jersey state plan is only a metaphor for planning in the United States in general and state planning in particular. According to Popper, in the American approach of low-regulation capitalism, higher-level planning is unnecessary if the economy is growing and may be counterproductive if it is not.

## MARYLAND

According to Gerrit-Jan Knaap, director of the National Center for Smart Growth Research and Education at the University of Maryland, Mary-

land is the only state that rivals California and Oregon in its adoption of bold new approaches to planning, and it has an equally long tradition of leadership in land use and environmental policy. Maryland established the first state planning commission in 1933, required local governments to plan in 1992, and adopted the pathbreaking Smart Growth and Neighborhood Conservation Act in 1997. The act required local governments to designate priority funding areas, to which the state would target urban-related expenditures; it also encouraged local governments to designate rural legacy areas, to which the state would direct land preservation expenditures. Ever since, the targeting of state expenditures has been the signature feature of Maryland's approach to smart growth.

Long before anyone in Maryland uttered the words "smart growth," however, the state passed legislation in 1959 that required the Maryland Department of Planning to develop and adopt a state development plan. More than 50 years later, Governor Martin O'Malley signed PlanMaryland, the first new state development plan in the United States in decades. The plan established six place designations and invited local governments to designate land for any or all such designations. According to the plan, once the Smart Growth Subcabinet approves these designated places, state agencies will then target program funds toward them. Since the plan was adopted, state agencies have been developing and refining implementation strategies, and local governments have begun submitting requests for place certification.

As of December 2013, however, only two local governments had submitted applications for place designation, and the state implementation strategies remain incomplete. Further, the 2012 General Assembly, at the behest of the Maryland Association of Counties, passed HB1201, which prohibits the state from making any budgetary or regulatory decision based on PlanMaryland, thus quelling local opposition but also severely limiting its potential efficacy. Richard Hall, Maryland secretary of planning, acknowledges that PlanMaryland has its limitations, but asserts that the O'Malley administration has established an important "beachhead" that future administrations can enhance and strengthen.

#### DELAWARE

With little fanfare or national attention, Delaware crafted a state planning framework that combines elements of the Oregon, New Jersey, and Maryland planning systems. As described by Rebecca Lewis, assistant professor of urban planning, public policy, and management at the University of Oregon, Delaware required local governments to plan in 1988 and in 1994 created the Cabinet Committee on State Planning Issues to review and certify those plans. In 1999, the state adopted its first state development

plan, called “Delaware Strategies for State Policies and Spending,” now in its third iteration. The key component of the plan, targeted state spending, has remained intact through three gubernatorial administrations. The plan essentially divides the state into four tiers of investment and targets expenditures from specific state government programs toward each of those tiers. The state also reviews major land use decisions—such as comprehensive plans, some types of rezoning, and large subdivisions—through a process called the Preliminary Land Use Service. The framework is multifaceted and still young, but thus far, it has survived for two decades with remarkably little local controversy or national exposure.

According to Lewis, a number of factors have contributed to Delaware’s low profile. First, Delaware is a very small state, with just three counties and fifty-seven municipalities. The potential for conflict diminishes when the participants are few and know one another well. Second, Delaware is relatively wealthy, and the state bears the lion’s share of expenditure on schools, roads, and some healthcare services. Targeted spending works best when the spending at stake is large. Finally, because the program is young, it has underdeveloped monitoring systems, and thus has undergone little rigorous analysis by scholars or policy activists. As a result, little is known about whether or how it works.

In her conclusion, Lewis asserts that the state plan was developed with little public participation, fails to address climate change, and is nearly silent on issues of equity, but she closes with a quite favorable assessment of Delaware’s approach to state and local planning. In her reply to Lewis, Constance Holland, director of the Delaware Office of State Planning Coordination, disagrees with the contention that the public lacked opportunities for participation, observing that the creation of local plans involved multiple public meetings and opportunities for public comment. She also notes that the state has focused on sea-level rise as the most important consequence of climate change; she does not address the issue of equity.

Together, the overview of the role of the federal government and the five state case studies provide very different stories about the evolution of supralocal institutional structures of planning in the United States. Again, these five states are not a representative sample, but it is clear that some interesting experiments in institutional reform are occurring in them, and that the ascendant influence of state governments proclaimed by Bosselman and Callies (1971) is long past. This issue is discussed in the concluding chapter.

### The Frameworks for Planning In Europe

As described by Andreas Faludi, emeritus professor and guest researcher of spatial policy systems in Europe at Delft University of Technology, the

European Union, like the federal government in the United States, has no authority to engage in spatial or land use planning, but influences land development and the spatial distribution of activity through regional development initiatives, environmental directives, and structural and cohesion funding with the intent to foster pan-European cooperation, coordination, and integration. Thus, as in the United States, local governments predominantly perform land use planning, but European nations have a much longer heritage of spatial, sectoral, and development planning for larger regions. This heritage, however, is quite diverse and consists of many kinds of planning systems. Within each system, national plans often provide broad national development strategies and guidelines for plans at lower levels of government; regional plans integrate physical development with social, economic, and environmental policies; and local plans are site specific and address the physical and urban design elements of the built environment. This hierarchical ideal, however, is rarely achieved.

The tradition of national planning in Europe dates to the end of World War II, when national development or reconstruction plans were necessary for postwar rebuilding. Several European nations still have national development plans and complementary national spatial strategies, but the influence and importance of those plans has diminished steadily since reconstruction. In the past decade, in particular, nations once known for their ambitious and extensive commitment to planning, for example, France, Denmark, The Netherlands, and England, have failed to adopt new national plans or have expressly placed greater emphasis on regional and local plans.

In Europe, each sovereign nation establishes the formal foundations of planning. As a result, these foundations reflect a variety of traditions and governance structures. Faludi, drawing on Esping-Anderson (1990) and Stead and Nadin (2009), identifies a Nordic model (which includes Denmark), an Anglo-Saxon model (which includes Ireland and the United Kingdom), and continental/corporatist models (which include France). The Netherlands and Denmark, he claims, are sometimes considered part of the Nordic model and sometimes part of the conservative/corporatist model but have more recently moved toward the liberal Anglo-Saxon model. Within these governance frameworks, a variety of planning cultures and traditions has evolved: comprehensive-integrated planning, land use management, regional economic planning, and urbanism, as described in *The EU Compendium of Spatial Planning Systems and Policies* (CEC 1997). Except for the urbanism tradition, the archetypes are represented by European case studies. Even though the planning systems have changed (in some cases substantially) since the *Compendium* was published, these traditions and their relevant representatives are introduced in Faludi's chapter, particularly given their relevance as the *European Spatial Development*

*Perspective (ESDP)* was prepared. The diversity of traditions is reflected in terminology as well, ranging from *aménagement du territoire* in France to “town and country planning” in England, *Raumordnung* in Germany, and *ruimtelijke ordening* in The Netherlands. Although these terms generally connote what “urban planning” means in the United States, there are important and nuanced differences.

In addition to strong national frameworks where they still exist, pan-European-level policies, although not land use plans of any kind, are forming increasingly influential frameworks for planning and policy at all levels, from state to local, and multistate regions in particular. These frameworks have been developed with the establishment and subsequent enlargements of the European Union and major policy initiatives—agricultural, transportation, environmental, regional development, and cohesion policies—that require harmonization and integration across the EU territory. They also prompt the need to translate these policies into spatial terms and make them coherent.

According to Waterhout (2008), European spatial planning is based on the *ESDP* (CEC 1999); the INTERREG program to stimulate transnational cooperation; the European Spatial Planning Observation Network (ESPON), which monitors spatial development trends in member countries; and the Territorial Agenda that was adopted in 2007 and followed by Territorial Agenda 2011 in support of Europe 2020—A Strategy for Smart, Sustainable and Inclusive Growth (CEC 2010). Waterhout argues that European spatial planning is in the process of institutionalizing, although not without challenges and divergences from the common path. The concept of territorial cohesion succeeding the concepts of spatial planning and spatial development is intended to make pan-European development policy more spatially explicit. Territorial cohesion and equity in development are embedded in the European model of society, but they run against the conflicting aims of global competitiveness and territorial cohesion at the national scale as well as sustainability (Faludi 2007).

More specifically, the EU’s development policies were aimed at (1) economic and social cohesion; (2) conservation and management of natural resources and cultural heritage; and (3) more balanced competitiveness of the European territory. The *ESDP*, which was adopted in 1999 by the ministers responsible for spatial planning in the member states and the members of the European Commission responsible for regional policy, spatially articulated and supported these goals (CEC 1999).

The *ESDP* was broadly construed to provide policy frameworks to address the spatial impacts of sectoral policies of the European Community and the member states, including the Community Competition Policy;

Trans-European Networks (TEN); Regional Policy; the Common Agricultural Policy (CAP); Environmental Policy; Research, Technology, and Development; and lending activities of the European Investment Bank. The *ESDP* was also to offer general guidelines to regional and local authorities to achieve balanced and sustainable development of the European territory. The spatial development guidelines promote the following:

1. Polycentric and balanced urban systems as well as the strengthening of the partnership between urban and rural areas.
2. Integrated transport and communication concepts that support the polycentric development and parity of access for cities and regions to infrastructure and knowledge to be realized gradually.
3. Development and conservation of natural and cultural heritage through wise management.

The guidelines were intended to be applied in such a way that cultural diversity and identity would be maintained and regionally adaptable approaches were encouraged and expected. The *ESDP* was not an attempt to replace national policies and plans and to impose a unified planning system approach or compulsory solution. In any case, the *ESDP*, which was only informally adopted, had only marginal and mostly indirect influence on planning activity in every member nation. The territorial agendas of 2007 and 2011 (the latter developed in conjunction with the *Europe 2020* strategic document) had a similarly marginal effect. In contrast to those optional policy guides, the EU directives and programs (INTERREG, ESPON, URBACT, and structural and cohesion funds) seem to have received more tangible consideration by national and subnational planners in member states.

In the end, Faludi is not optimistic about the role of the EU or European spatial planning in general. The EU, he suggests, will continue to address spatial issues, at least indirectly, as a result of its continuing focus on economic competitiveness and territorial cohesion. But the biggest advances in spatial planning among EU members, and Europe in general, will continue to be through the process of mutual learning and unified or harmonized European planning will increasingly lose its influence.

In his remarks on Faludi's chapter, Brendan Williams, lecturer in the School of Geography, Planning, and Environmental Policy at University College, Dublin, does not dispute Faludi's central thesis, but argues that Faludi does not address the key globalization trends that may transcend the EU and its influence on nation-states and their planning and development systems. These include international financing of the urban development



process, which subjects development plans and policies to wider fluctuations in international capital flows.

### National European Spatial Strategies and Frameworks

In Europe, responsibility for land use and development control lies with individual nations. To a large extent, this is true for spatial planning as well. But European nations differ even more than U.S. states in heritage, culture, and language. Additionally, as Faludi makes clear, they also do not share a common constitutional framework. Thus, in many respects, land use and spatial planning in Europe vary more extensively than in the United States.

#### FRANCE

According to Anna Geppert, professor of urban and regional planning at the University of Paris–Sorbonne, the *European Spatial Development Perspective* is based largely on the French concept of *aménagement du territoire*, a term that has no accurate English translation, but generally connotes strategic spatial planning. The French focus on regional economic planning reflects, in part, the long-standing attempt to distribute economic activity throughout the nation, not just in and around Paris. To implement the regional planning process, in 1967 France established a hierarchical system of land use planning in which the national government established guidelines for planning urban regions to which detailed local land plans by municipalities must conform.

In 1982, however, nearly all planning functions were devolved to regional and municipal governments. Ever since, France has had several coordination and visioning attempts but no formally adopted national spatial strategy, only a series of sectoral plans for transportation, culture, energy, natural resources, and other matters. These national plans are typically sector specific, provide little spatial detail, and seldom include a comprehensive map. At the local level, municipalities must produce detailed plans for their particular jurisdictions, and voluntary associations of municipalities prepare plans for the larger metropolitan area in which they are located, as well as sectoral plans for metropolitan areas in such areas as transportation and housing.

Since the push to decentralize, France has experimented with a number of bottom-up spatial planning processes, but according to Geppert, these typically produce joint investment strategies rather than shared spatial visions or common objectives. The results, Geppert concludes, lack a coherent national spatial strategy or vision. In his reply to Geppert, Jean Peyrony, director general of Mission Opérationnelle Transfrontalière,

concedes that the French national government has not for many years provided strong leadership in either sectoral or land use planning. He maintains, however, that beneath the long trend toward decentralization and local, bottom-up voluntary planning, France exhibits more continuity and coherence than Geppert suggests.

#### DENMARK

As described by Daniel Galland, associate professor of urban and regional planning in the Department of Development and Planning at Aalborg University, and Stig Enemark, professor of land management at Aalborg University, planning in Denmark has historically featured a comprehensive national planning framework implemented in a highly structured hierarchy of national, regional, and local plans. Over the past two decades, however, as a result of interrelated political and economic factors, the land use roles of local, regional, and national governments have significantly transformed the scope and structure of Danish spatial planning. In 2007, as part of a radical reconfiguration of Denmark's administrative and political structure, the sectoral planning functions of counties were transferred to the national level, and land use planning functions were transferred to the municipal level. With the exception of the plan for Greater Copenhagen, which is still prepared by the national government, municipalities became responsible for both urban and rural planning within their region.

Under the current Danish planning system, regional governments have no planning responsibilities except healthcare administration. As economic development and competitiveness have become the overarching national interests and goals, regional growth forums have been established to foster business development strategies. The national Ministry of the Environment continues to issue national planning reports and directives as needed to promote national interests in critical infrastructure and maintains a dominant role in the Finger Plan Directive for Greater Copenhagen. The reports have been issued by each new government, with the latest ones in 2006 and 2010, but they have failed to include any explicitly spatial expression.

In their conclusion, Galland and Enemark lament the loss of the coherent and integrated features of the Danish planning system and their replacement by one that pays less attention to the integration and coordination of policies and strategies, lacks the potential for strategic and geographic thinking, and has less power to make plans matter. Moreover, they suggest that the abolition of the county role in 2007 has increased the risk of spatial fragmentation and has decreased coherence across diverse policy institutions and instruments. Jane Kragh Andersen, a geographer

in the Danish Ministry of the Environment, does not agree. She claims instead that the Planning Act has strengthened the strategic aspects of national, regional, and local plans and has increased political interest and public participation.

#### THE NETHERLANDS

According to Barrie Needham, emeritus professor of spatial planning at Radboud University, The Netherlands has perhaps the longest and best-known tradition of national spatial planning, based in no small part on its centuries-old battle against the sea. For years, its national spatial plans included national industrial and infrastructure strategies and detailed land use plans nested in a hierarchy of national, provincial, and local plans. For several decades, as a result, Dutch national plans had significant influence on the allocation of national resources and the distribution of people and activities throughout the country.

In the first decades after World War II, national, provincial, and municipal governments worked cooperatively to implement the national spatial plan. In the 1990s, however, as cooperation and coordination became more difficult and costly, the national government passed legislation that strengthened its powers over local governments (a form of centralization), but at the same time, it reduced its efforts to pursue a national spatial strategy (a form of decentralization).

The first four national spatial plans maintained a remarkably consistent and prescient set of principles for spatial development. A fifth national development plan was published in 2000, but the conservative government elected shortly after the plan was prepared never adopted it. Reflecting the expression “Decentralize when possible, centralize what must,” the last three cabinets (since 2006) have pursued an explicit policy of decentralization, giving local governments more autonomy and expressly responding more vigorously to market forces. As a result, the current approach to national spatial planning in The Netherlands is limited only to those issues deemed of national significance and includes only conceptual designations of land uses, relies on regional governments to prepare investment plans, and articulates a division of planning responsibilities for use only if voluntary agreements cannot be formed.

Needham offers few personal views on the merits of this devolution of planning responsibilities, but he states that national planning “has been successful in many respects” and “is not a hopeless cause.” He notes, however, that it is too early to assess the efficacy of the new decentralized approach. Henriëtte Bersee, head of policy studies in the Directorate for Spatial Development at the Ministry of Infrastructure and the Environment, similarly offers no assessment. Instead, she elucidates the challenges

facing the national government of The Netherlands and lists national spatial interests.

#### UNITED KINGDOM

In the United Kingdom in the early 1900s, Parliament did not retain direct powers to plan; instead, the powers of intervention, new state housing development, and regulation of private housing development were handed to local governments. In the following decades, the central government acquired planning powers of its own, but only as a consequence of World War II and the need to rebuild cities, infrastructure, and the economy in the national interest. Since 1945, the central government has retained these powers, while also permitting the monitoring of local authorities in their operation of the planning system.

Mark Tewdwr-Jones, professor of town and country planning at Newcastle University, describes how these powers have changed dramatically over the past 70 years. After 1999, devolution in Wales, Scotland, and Northern Ireland further fragmented the meaning of the word “national” in policy and planning terms. In the 21st century, the push toward regional spatial planning in England has also rebalanced national planning matters in favor of subnational interests. Scotland, Wales, and Northern Ireland are in the process of creating new national planning frameworks, national spatial plans, and subnational spatial policies. England is not doing the same. Instead, after a brief attempt to plan at the regional level, planning responsibilities at that level were abolished, but were retained at the local-government level along with the introduction of new sublocal arrangements that gave more power to neighborhoods and citizen groups under the guise of localism.

Because of this trend toward devolution, decentralization, regionalism, and localism over the past 20 years, Tewdwr-Jones argues that it is increasingly questionable whether the United Kingdom now possesses anything that could be regarded as a national planning system, since so much has changed spatially and within policy-making institutions and processes across different parts of the country. He also fears that although England’s place-based intelligence holds a potential for growth, the removal of structures that link the localized and diverse community planning approaches will make spatial coherence and coordination more difficult. Leonora Rozee, OBE, chartered planner, and visiting professor in the Bartlett School of Planning at University College London, adds that the lack of any spatial dimension in national policy creates serious doubt about the effectiveness of a process designed to make decision making quicker and clearer and to base it on effective early engagement with communities, at least in England. At the same time, Scotland, Wales, and Northern Ireland

are strengthening their spatial frameworks and making national land use planning and evidence-based planning prominent features of the evolving systems.

#### IRELAND

Ireland is one of the few European nations that is not fully following the trend toward decentralization of planning authority, according to Berna Grist, senior lecturer in the School of Geography, Planning, and Environmental Policy at University College, Dublin. Beginning in 1989, Ireland adopted a series of national development plans, largely following EU guidelines. Subsequently, in 2002, the Department of the Environment and Local Government developed the Irish National Spatial Strategy, which was based on recommendations in the third national plan. This strategy identified critical gateways and hubs and articulated explicit intentions to decentralize economic activity away from Dublin and throughout the state. Because the 2008 collapse of the Irish economy is blamed in part on lax planning policies, Ireland is now rethinking that strategy, strengthening regional development guidelines, and imposing new consistency requirements on local governments. Under the new evidence-based planning regime, local plans must conform more closely to regional planning guidelines, and local plans will have quantitative limits on how much development can be allowed. The future role of the National Spatial Strategy is currently in flux as the new government, elected after the property crash, examines policy and planning issues that prevailed during the property bubble.

Niall Cussen, senior planning adviser in the Department of Environment, Community, and Local Government, acknowledges that the implementation of the National Spatial Strategy had both high points and low points, including both the unfortunate loss of funds to support its implementation and the resistance to the strategy even by some of the national agencies. He argues, however, that a more enduring benefit of the implementation process has been the building of a more coordinated and evidence-based system of planning at the national, regional, and local levels. Further, the institutional context for planning in Ireland is receiving much-needed attention as work on the development of a successor to the National Spatial Strategy advances.

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As this overview illustrates, the frameworks for land use and spatial planning vary extensively across Western Europe and the United States. On both sides of the Atlantic, local governments carry much of the load, especially with respect to community development, neighborhood revitalization, and development control. Yet, the role of regions, states, and na-

tions remains important, especially in sectoral or functional planning. Land use planning in many European nations has been extensively decentralized to the local level, much as it has in the United States. Few European nations still prepare ambitious national plans that guide national investments or local land use plans and regulations. Instead, land use planning in Europe, while still far more comprehensive in its sectoral detail than in the United States, has come to resemble its North American counterpart more than ever. An interesting exception is Ireland, which continues to expand the role of regional authorities, largely following the principles of spatial planning formally promoted by the European Union's spatial policy framework and guidelines.

In the United States, neither state development planning nor state intervention in local planning is growing rapidly. Indeed, despite the demonstrated success of the Oregon program and the growing recognition of the need to break down silos and to integrate policies horizontally and vertically, land use planning in the United States remains a fiercely local affair—perhaps increasingly so. In Europe, national spatial planning practices are changing their foci from national comprehensive planning to limited interventions in selected areas of national interest, and national governments are devolving most land management activities to localities. That said, the case studies suggest that national governments in Europe have retained extensive planning authority for themselves, especially with regard to sectoral planning.

Although several states and the federal government in the United States, and the EU and national governments in Europe, are providing financial and other incentives for intergovernmental coordination and planning at the regional or metropolitan scale, it remains far from certain that incentives alone will generate the changes in local plans and regulations required to institute meaningful changes in land consumption, travel behavior, and access to opportunities—changes that are needed to make cities and metropolitan areas more productive, equitable, and environmentally sustainable. If such challenges cannot be addressed, other kinds of experiments in institutional planning reforms may become more common on both sides of the Atlantic Ocean. These issues are explored in the conclusion of this volume.

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# Land Use Regulation in the United States

## *An Intergovernmental Framework*

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In the United States, the federal government regulates land use on federally owned lands, but outside those lands, its involvement in land use regulation is limited to areas involving the environment. A small number of state governments have embraced a state-level role in land use regulation, but local governments across the country make most of the very basic, but important decisions with respect to how land uses are allocated and regulated.

The current system of land use control in the United States is relatively new compared with those of its European counterparts. It was not until 1916 that the first comprehensive zoning ordinance in the United States was adopted by the city of New York.<sup>1</sup> In the 1920s, the U.S. Department of Commerce drafted model planning and zoning enabling acts. These models shaped the early regulatory regime for local land use control in the United States and still influence the design and implementation of most land use laws today.

To meet present sustainability demands, the fragmented system of U.S. land use control and land resource allocation must be better managed.

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<sup>1</sup> “As happened in England after the great fire of 1666, the march of unwanted land uses up-town precipitated a crisis leading to the creation of a Commission which recommended stricter land use controls to protect the City’s economy, private property values, and public health and safety” (Nolon and Salkin 2006).

This will require leadership at all levels of government and a commitment to building trust and relationships that will enable all levels of government to determine the most appropriate level at which to control decision making on specific issues.

### **Early System of Land Use Control in the United States**

Under the U.S. Constitution, the federal government has only limited powers. Specifically, the 10th Amendment's reserve clause holds that all powers not given to the federal government in the Constitution are reserved to the states. Among those powers not listed in the Constitution and thus left to the states are the oft-mentioned police powers that affect the health, safety, and welfare of residents. The constitutions of all 50 states authorize the various state governments to adopt laws that enforce the police power of the states. Zoning and other land use tools are among the most widely accepted legislative and regulatory tools of state police power. Despite the broad grant of power this may appear to give states, land use planning is traditionally delegated, legislatively, to localities because of the traditional belief that land use control and zoning are primarily matters of local concern.

Before the 20th century, local land use planning as we know it did not exist. Urban settlers and developers shaped the landscape through their "own sweet will" (*Village of Lynbrook v. Cadoo*, 252 N.Y. 308, 315 [1929]), and restrictive covenants, common-law nuisance provisions, and a few municipal actions to promote safety (such as fire and building codes) were all that limited the improvement and development of land (Salkin 2011). In partial reaction to this uncoordinated, haphazard practice, which had various and sometimes undesirable economic impacts, municipal governments began to institute land use controls, such as zoning.

Land use regulation in the form of zoning in the United States is most often traced to the protests of New York City merchants concerned with the proximity of factories to their retail establishments. Manhattan borough president George McAneny created the Fifth Avenue Commission in 1911 to study the problem, and a proposal emerged to limit the height of buildings in the area. Soon after, contemporary reformers saw the benefits of this idea for smarter growth throughout a city that was inundated with new citizens every day. This led the City Council to enact the New York City Zoning Resolution of 1916, which contained three provisions with three sets of restrictions for building within the city: (1) use restrictions; (2) bulk restrictions; and (3) administrative restrictions. The use restrictions separated city land into four kinds of districts: (1) residential; (2) business; (3) unrestricted; and (4) undetermined. These designations

prohibited incompatible uses from locating within these districts (Makielski 1966). The bulk restrictions instituted prohibitions on the height and size of buildings according to their use districts. These regulations included five levels of height districts, each of which “limited the height of the building at the street line to a varying multiple of the street width” (Meck, Wack, and Zimet 2000, 344). Finally, the administrative restrictions of the resolution contained enforcement provisions, including the Board of Standards and Appeals, to hear appeals from zoning restrictions, and the Board of Estimate, to amend the code when necessary.<sup>2</sup> In 1920, the New York Court of Appeals (the state’s highest court) upheld this resolution as a proper exercise of the state’s police power (*Lincoln Trust Co. v. Williams Building Corp*, 229 N.Y. 313 [1920]).

The New York City Zoning Resolution was the catalyst for a larger movement by local governments across the country to control the development of land within their jurisdictions. The resolution’s recognition that certain land uses were incompatible with, and should be separated from, one another quickly caught on in other states. Within five years of the passage of the New York City Zoning Resolution, “roughly twenty states had authorized some or all municipalities to pass comprehensive zoning ordinances,” and within ten years that number doubled, resulting in vast increases in the number of local zoning ordinances (Wolf 2008, 29).

### **The National Response to Local Land Use Regulation**

By the end of the 1920s, nearly 800 municipalities nationwide had adopted land use measures (Toll 1969). In response to this phenomenon, as well as public health concerns about urban dwellers in unzoned cities and the belief that home ownership would have economic and social benefits, the U.S. Department of Commerce created a committee to draft model zoning and planning acts and another to draft a state housing code (Meck, Wack, and Zimet 2000). It is important to note that the model acts reinforced the idea that the role of the federal government was simply to encourage and support local control in land use regulation. In retrospect, the existence of these model acts served to achieve some degree of national uniformity in approach while permitting variation among states and localities.

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<sup>2</sup> The Board of Estimate also had to abide by the Twenty Percent Rule: if 20 percent of property owners affected by a change in the zoning code objected to the change, the board was required to pass an amendment to the zoning code unanimously, rather than by a simple majority (Makielski 1966).

## The Standard State Zoning Enabling Act and the Standard City Planning Enabling Act

The federal government released the Standard State Zoning Enabling Act (SZEA) in 1924 and published a revised version in 1926 (Wolf 2008). The SZEA “was intended to delegate the state’s police power to municipalities to remove any question over their authority to enact zoning ordinances” (Meck, Wack, and Zimet 2000, 344). All 50 states adopted the act (Villavaso 1999), and scholars continue to document the profound and lasting impact that the model planning and zoning enabling acts have had on current state and local land use regulatory regimes. The SZEA provided a blueprint for local municipalities to enact zoning laws by creating a system where localities could regulate land uses within their jurisdictions while also respecting the property rights of landowners.<sup>3</sup> The SZEA further showed municipalities how to enact and amend zoning ordinances, as well as how to authorize a zoning commission to propose proper legislation for zoning (Meck, Wack, and Zimet 2000).

The Standard City Planning Enabling Act (SCPEA) was drafted in 1928 as a companion to the SZEA. The primary purpose of the SCPEA was to develop a “master plan for the physical development of the municipality, including any areas outside of its boundaries which, in the drafting commission’s judgment, bear relation to the planning of the municipality” (American Planning Association 2002, 7–11). The SCPEA was further intended to “transform the process of land division from one that merely provided a more efficient and uniform method for selling land and recording . . . land to one in which local governments could control urban development” (Meck, Wack, and Zimet 2000, 346).

By 1930, 47 states had adopted zoning enabling legislation. Thirty-five states had adopted enabling legislation based on the SZEA, and 10 states had used the SCPEA. Today, the enabling legislation in nearly every state reflects the influence of either the SZEA or the SCPEA (Meck, Wack, and Zimet 2000).

## Failed Attempt to Enact a National Land Use Law

The National Land Use Policy Act (NLUPA) was introduced in 1970 with the intent of supplementing and enhancing the coordination of govern-

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<sup>3</sup> This was first referenced in *Standard State Zoning Enabling Act Under Which Municipalities May Adopt Zoning Regulations* by the Advisory Committee on Zoning, Department of Commerce (1926), [www.planning.org/growingsmart/pdf/SZEnablingAct1926.pdf](http://www.planning.org/growingsmart/pdf/SZEnablingAct1926.pdf). A second model act, *A Standard City Planning Enabling Act*, was published in 1928 but was never as popular as the SZEA, likely because it gave less authority to planning authorities (Villavaso 1999).

ment action at the state level (Kayden 2000), but it was never adopted.<sup>4</sup> The legislation would have created a federal agency to ensure that all federal agencies were complying with state plans and would have provided incentives for states to create similar agencies to coordinate with their local municipalities. States would have been eligible to receive federal funding, and the proposal would have created a national data system to help state and local governments engage in more sophisticated land use planning—conditioned on a state creating a land use plan. These state plans were meant to operate as evolving blueprints, allowing “broad local input and constant revision as more was known and as conditions changed” (Nolon 1996, 552). Together, these provisions of the NLUPA would have resulted in coordination and integration and would have lessened conflicts and confusion among land use authorities at the federal, state, and local levels (Nolon 1996).

Despite the name of the act, which implies that the federal government would have had even stronger influence over local land use planning, the proposed legislation did not give the federal government the express authority to plan or regulate land use and development. Instead, it was meant to ensure a more collaborative process among the federal, state, and local governments in land use planning and development.

### Examples of Federalism and Local Land Use Regulation

A number of federal environmental statutes, such as the National Environmental Policy Act, the Clean Water Act, and the Endangered Species Act, may be implicated in reviewing land development applications, but none of these environmental laws provide for direct federal control of the local land use process. There are, however, a handful of federal laws that impose specific zoning standards on local governments (Davis 1986; Lambert 1982; Sax 1977). One of these is the Fire Island National Seashore (FINS) Act of 1964, which creates a framework intended to allow limited private development along with the preservation of natural resources and public recreational opportunities. Congress granted the secretary of the interior broad powers over Fire Island, including over the local land use authorities originally in place there.<sup>5</sup> The secretary has authority to acquire property in the area, through purchase or condemnation, “‘improved property,’ zoned in a manner not ‘satisfactory to the Secretary,’ or which had been ‘subject to any variance, exception, or use that fails to conform to any

<sup>4</sup> The act passed the Senate twice, but died in the House of Representatives.

<sup>5</sup> However, in drafting the act, “Congress carefully avoided interfering with the power of the municipalities on the Seashore to enact zoning ordinances or grant zoning variances” (*Biderman v. Morton*, 497 F.2d 1141, 1144 [2d Cir. 1974]).

applicable standard contained in regulations [issued by] the Secretary” (*Biderman v. Morton* 1974, p. 1144). The secretary also has the power to “issue regulations . . . specifying standards that are consistent with the purposes of this Act for zoning ordinances which must meet his approval,” and is required to review local zoning ordinances to determine whether the local ordinances comply with federal regulations. The secretary is prohibited from approving any zoning ordinances or amendments to zoning ordinances that are adverse to the purpose of the act.

Less direct is the Coastal Zone Management Act (CZMA) of 1972, designed to increase state involvement in efforts by the federal government to protect the coastline (Weaver 2002). The act was a response to a growing concern that the nation’s coasts were becoming polluted because of the piecemeal development of coastal ecosystems without an overall strategy for comprehensive coastal management (Straub 1992). Some of its supporters felt that the CZMA should have been part of a larger national land use management initiative. Pursuant to the act, the National Oceanic and Atmospheric Administration provides states with funds necessary to enhance their waterfronts. States then are authorized to allocate a portion of the grants to local governments, area-wide agencies, a regional agency, or an interstate agency. State governments typically regrant the federal dollars they receive under the act to local governments for a variety of land use planning and zoning initiatives, including (1) development of local land use plans; (2) feasibility and natural features studies; (3) drafting of related provisions in local zoning ordinances; and (4) waterfront redevelopment studies.<sup>6</sup> To access the federal pass-through dollars from their respective states for the development of local waterfront revitalization plans, local governments must agree to follow the federally approved state coastal policies and to have the state government review and approve their local plans. Although local governments retain some level of flexibility in the design of the local waterfront plan and must ensure consistency with future local land use regulations, federal control rests in the required consistency with the federally approved state policies or management plans (Salkin 2005a).

### Reemergence of Federal Influence on Local Land Use Control in the 1990s

Since 1990, the federal government has enacted a series of federal laws that continue to influence local land use decision making, but none of them

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<sup>6</sup> See New York Department of State, Division of Coastal Resources, “Local Waterfront Revitalization Program (LWRP),” [http://nyswaterfronts.com/aboutus\\_lwrp.asp](http://nyswaterfronts.com/aboutus_lwrp.asp).

set forth a national policy or plan. Taken as a group, however, they suggest that the federal government believes that it has some role to play in the land use regulatory process. For example, Congress enacted the Americans with Disabilities Act (ADA) in 1990 to ensure that individuals with disabilities have equal access to facilities and activities. Although the language of the statute does not specifically indicate that it applies to local land use planning and regulatory decision making, the Department of Justice made it clear in early guidance documents that the ADA does indeed apply to local land use regulations (Dalton and Miller 2006).

#### EXAMPLES OF FEDERAL STATUTES THAT INFLUENCE LOCAL LAND CONTROL

In 2000, the Religious Land Use and Institutionalized Persons Act (RLUIPA) was enacted, in part to eliminate discrimination in land use regulation. Section 2 of the law provides in part, “No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that . . . [the regulation] is in furtherance of a compelling governmental interest” (42 U.S. Code 2000, et. seq). The RLUIPA also prohibits governments from treating religious groups on “less than equal terms” with nonreligious groups and precluding religious uses. There is little doubt that RLUIPA has had a profound impact on land use planning and control. According to a report issued by the U.S. Department of Justice, in the first 10 years after RLUIPA was enacted, the department opened 51 investigations of communities, filed seven lawsuits, participated in 10 amicus briefs to defend the constitutionality of the statute, and collected millions of dollars in damages from violators (U.S. Department of Justice 2010).

Congress enacted the Telecommunications Act of 1996 (TCA) with the intent of reducing the effect that disparate or piecemeal local land use regulation had on the broad implementation of a wireless communications network. The TCA preempts state and local zoning and land use regulation “that materially limits transmission or reception by satellite earth station antennas or imposes more than minimal costs on users of such antennas . . . unless the promulgating authority can demonstrate that such regulation is reasonable” (Pub. L. No. 104 1996).<sup>7</sup>

Among other things, the TCA bars local governments from completely banning wireless towers within their jurisdictions, prohibits

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<sup>7</sup> “Reasonable” means that the local regulation has “clearly defined health, safety or aesthetic objective[s] that [are] stated in the text of the ordinance” and does not unduly burden access to satellite service.



discriminatory or preferential zoning by a local government in favor of one provider over another where substantially the same services are provided, and forbids localities from banning the siting of radio towers on the basis of environmental factors, such as radio frequency emissions. Further, the TCA requires local land use boards and commissions to make a timely response to applications and mandates that any denial must be in writing and “supported by substantial evidence contained in the written record.” The statute further mandates that decision makers must render a decision in a reasonable period.

The Energy Policy Act of 2005 (EnPA) affects local land use planning in communities by allowing the use of eminent domain to obtain a right-of-way for the siting of electric transmission facilities and by giving the federal government extensive control over the interstate siting of such facilities. Specifically, the Federal Energy Regulatory Commission (FERC) can issue construction permits for interstate transmission facilities in areas the secretary of energy has designated as “national interstate electronic transmission corridors,” preempting the local siting process by giving the FERC the exclusive authority to site electric transmission lines and interstate natural-gas pipelines, storage facilities, and terminals.<sup>8</sup> Although a company seeking to place transmission lines must abide by state and local zoning ordinances, where there is a conflict between the ordinances and the FERC regulations, the FERC requirements will prevail (Federal Energy Regulatory Commission 2001). The EnPA also grants operators of interstate energy transmission facilities the authority to obtain a right-of-way on private land. If a facility operator cannot come to terms with a landowner to obtain a right-of-way to construct or modify the transmission facility, the operator may initiate eminent domain proceedings in court. Exercise of this right further preempts local land use plans and zoning regulations.

#### INCREASING TREND OF FEDERAL AGENCY INFLUENCE

The federal government has continued to take notice of the importance of the land use regulatory regime, the control or influence over which may be integral to the accomplishment of various policies and goals. This reality is manifested in a growing number of programs enacted by federal agencies that seek to influence local land use decision making through the use of a variety of tools and techniques, including fiscal incentives, such as grants. Equally strong, however, is the reality that certain agencies, such as the Department of Defense, can make decisions about the siting or

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<sup>8</sup> 16 USC 824(p)(a) and 15 USC 717b–1(b) mandate that a state agency be consulted by the commission. Note that this does not include wind energy facilities.

removal of federal installations that could have profound economic impacts on communities. When these decisions are based in part on local land use regulatory regimes, the federal government can significantly influence changes in the local regime. Although most of the federal programmatic activity is uncoordinated and is initiated solely by an individual agency, several of these programs have been developed and administered through a collaborative and comprehensive effort among multiple federal agencies that strive to fulfill a unitary purpose (table 1.1).

#### THE DEPARTMENT OF DEFENSE

The Department of Defense (DoD) owns several thousand buildings and facilities throughout the United States, which cumulatively occupy over 30 million acres of land. Despite being one of the largest landholders in the United States, the DoD is often overlooked in the context of local land use planning and control, but its influence, particularly through its economic impact on local communities, is immense. The DoD has expressed concerns that “the encroachment of civilian land use activities too near an installation negatively affect DoD missions and operations, expose the public to potential health and safety risks, and become a national defense issue” (Department of Defense Office of Economic Adjustment 2005). As a result, with the cyclical Base Realignment and Closure (BRAC), many localities find that they have inadequate land use regulations to prevent a base closure or to deal with the sudden disappearance of a DoD installation.

Through its Office of Economic Development (OED), the DoD offers the opportunity to engage in joint land use studies (JLUSs). JLUSs are basic collaborative planning processes funded by the DoD whereby department representatives and the local government identify encroachment issues around a military base, and subsequently the local government updates its zoning and land use regulations to address these concerns. JLUSs are aimed at promoting “cooperation in land use planning between the military and civilian communities as a way to reduce adverse impacts on both military and civilian activities” (Santicola 2006, 1). The DoD is also authorized to enter into agreements with local governments or private entities to restrict incompatible land uses close to military installations. Although the DoD does not encroach on local land use control in the traditional sense, the reality is that failure to address DoD needs in local land use regulations can have devastating economic impacts on its host communities.

#### THE ENVIRONMENTAL PROTECTION AGENCY

The President (Nixon) and Congress established the Environmental Protection Agency (EPA) in 1970 to set and enforce environmental standards,

monitor and analyze the environment, and assist state and local government in controlling pollution. The EPA has stated that it “recognizes that land use planning is within the authority of local governments,” but it further notes that “land use planning plays a critical role in state and local activities to both mitigate greenhouse gases and adapt to a changing climate,” and that “although land use planning is an integral responsibility of local governments, state-level policies and support for local efforts . . . are critically important” (EPA 2015). The EPA funds a variety of programs that may influence local land use planning.

#### THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

In the 1930s, Congress established the Federal Housing Administration and the Public Housing Administration to deal with home ownership and low-income rental assistance (Thompson 2006). These federal agencies began to shift their focus to urban development. “To address the multiple problems of people living in the nation’s burgeoning cities that had grown rapidly and haphazardly in the first half of the twentieth century,” Congress passed the Housing Act of 1949 (Thompson 2006). The centerpiece of this act was the so-called slum-clearance program, which authorized federal grants to local land use authorities for the acquisition, demolition, and redevelopment of blighted areas and further established a direct relationship between local municipalities and what would soon be the Department of Housing and Urban Development (HUD).

In the 1950s and 1960s, HUD’s focus on urban development was broadened. In 1954, the HUD 701 Program provided federal funds for urban planning, land use studies, surveys, and other local land use plans to promote the healthier growth and redevelopment of population centers. In 1966 the federal government enacted the Model Cities program, which gave funding to municipalities to implement five-year comprehensive plans for cities. The program, administered through HUD, required local citizen participation in the preparation and implementation of the five-year comprehensive plans for each designated city. Recognizing the intersection of affordable housing and local land-use planning and regulatory controls, HUD continues to provide incentive-based funds conditioned in part on localities engaging in comprehensive planning of development (Thompson 2006).

In 1991, the Kemp Commission, appointed by HUD Secretary Jack Kemp, released a report, *Not in My Backyard: Regulatory Barriers to Affordable Housing*, which launched an attack on local land use controls as a leading cause of increased housing costs. In addition to the creation of a clearinghouse on regulatory barriers to affordable housing, in 1994, as part of HUD’s Affordable America’s Affordable Communities Initiative, the

department launched the Bringing Homes Within Reach Through Regulatory Reform Program, “designed to encourage some 25,000 local government officials and community leaders throughout the country to work together to identify solutions to the housing affordability challenge.” This effort targeted zoning tools viewed as exclusionary.

#### THE DEPARTMENT OF TRANSPORTATION

Congress created the Department of Transportation (DOT) in 1966 to ensure a fast, safe, efficient, accessible, and convenient transportation system that meets our vital national interests and enhances the quality of life of the American people. The federal transportation planning infrastructure, which includes the DOT’s Federal Highway Administration (FHA), has specific, statutorily defined land use planning requirements, including consulting with local land use planning authorities. This further reflects the DOT’s enabling legislation, which recognizes that it is in the national interest to encourage the growth of a safe national transportation infrastructure that will “foster economic growth and development within and between States and urbanized areas.” Transportation regulations are intended “to be consistent with local comprehensive land use planning and urban development objectives” (USC 134[a][1]).

#### INTERAGENCY COLLABORATION

As noted here, for the most part, individual federal agencies engage in relationships with local governments in regard to the aspects of land use regulatory control that are relevant to an agency’s mission. More recently, several agencies have collaborated, pooling fiscal and programmatic resources to promote greater sustainability through an intergovernmental partnership aimed at influencing local land use planning and control behaviors. The secretaries of HUD and the DOT and the administrator of the EPA founded the Partnership for Sustainable Communities (PSC) in 2009 to enable more prosperous communities.<sup>9</sup>

Under the PSC, each agency uses federal grants and programs to further their shared interests in the form of programs that affect the sustainability of towns, cities, and regions.<sup>10</sup> Additionally, the PSC has removed

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<sup>9</sup> “Developing more sustainable communities is important to our national goals of strengthening our economy, creating good jobs now while providing a foundation for lasting prosperity, using energy more efficiently to secure energy independence, and protecting our natural environment and human health” (U.S. Environmental Protection Agency, Partnership for Sustainable Communities 2010). *www.sustainablecommunities.gov/*.

<sup>10</sup> Each member of the PSC has a role to fill for the comprehensive venture to be a success. HUD’s role is to provide resources to assist in the implementation of sustainable development; the DOT uses funding to integrate transportation in ways that directly support sustainable communities; and the EPA uses funding and resources to provide technical assistance to

regulatory and policy barriers that would impede the goals of the partnership. Finally, the PSC adheres to six livability principles that guide the goals and funding allocation of this partnership.<sup>11</sup> The PSC provides this assistance in the form of various federal programs and initiatives, such as the Transportation Investment Generating Economic Recovery (TIGER) program, the Sustainable Communities Regional Planning Grant program, and the Smart Growth Implementation Assistance program. Each of these programs includes provisions affecting the control of land use and zoning by local and state governments.

The TIGER program was originally created through the American Recovery and Reinvestment Act of 2009.<sup>12</sup> Administered by the DOT, TIGER grants are for the purpose of improving the nation's infrastructure. The grants are discretionary and are awarded to local municipalities that submit applications addressing both primary and secondary goals under the program, including sustainability, economic stimulus, innovation, and the collaborative nature of the project. Although the selection criteria do not directly call for the revision of local and regional planning, certain aspects of TIGER projects could affect local and state land use regulations and policies and could require localities to indicate a willingness to make changes.<sup>13</sup> Rezoning and variances may be necessary to satisfy certain TIGER criteria. For example, a successful applicant must attempt to fully integrate transportation not only in residential neighborhoods and communities, but also in places of interest, such as places of employment and

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communities implementing sustainable planning, as well as assisting in the development of "environmental sustainability metrics and practices." Notice of Funding Availability (NOFA) for HUD's Fiscal Year 2010 Sustainable Communities Regional Planning Grant Program (2010), <http://archives.bud.gov/funding/2010/scrpgsec.pdf>.

<sup>11</sup> The first guiding principle is to develop additional transportation opportunities within a community, reducing greenhouse gas emissions and reliance on foreign oil, as well as lowering transportation costs. The second principle is to promote the use of equitable and affordable housing, creating such housing in new locations and with increased energy efficiency. The PSC also strives to enhance economic competitiveness through creating "reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers, as well as expanded business access to markets." Of particular importance to local government officials is the guiding principle of supporting existing communities. Through this principle, the federal government will fund programs that revitalize communities, such as increasing transportation, "mixed-use development and land recycling." Additionally, the partnership's livability principles seek to promote the sixth livability principle, to fund programs that value and enhance the unique characteristics of neighborhoods by promoting "healthy, safe, and walkable neighborhoods." Last, the partnership will also strive to coordinate federal funding.

<sup>12</sup> Notice of Funding Availability for Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure under the American Recovery and Reinvestment Act, 74 Fed. Reg. 28,755, 28,757 (June 17, 2009), <http://edocket.access.gpo.gov/2009/pdf/E9-14262.pdf>.

<sup>13</sup> Land use decisions, regulations, and plans can have a profound impact on many of the selection criteria, such as revitalizing existing transportation opportunities and creating new ones, as well as promoting environmental sustainability.

locations to purchase commodities.<sup>14</sup> In addition to transportation integration, local planners may also need to implement a strategy of reducing transportation altogether. This effort would be facilitated by the rezoning of communities on a large scale, breaking from exclusionary methods of contemporary zoning, and integrating retail, commercial, and other nonresidential uses within neighborhoods. Therefore, the competitive bidding process to win these funds may provide incentives for more sustainable local land use regulations.

The PSC also supports the Community Challenge Grants (CCG) program, administered by HUD. The CCG program is aimed at fostering reform and reducing “barriers to . . . affordable, economically vital, and sustainable communities.” It directly affects and influences land use planning because it states in the overview on its website that efforts to obtain these grants “may include amending or replacing local master plans, zoning codes, and building codes, either on a jurisdiction-wide basis or in a specific neighborhood, district, corridor, or sector to promote mixed-use development, affordable housing, the reuse of older buildings and structures for new purposes.” CCG grants are awarded on the basis of six livability criteria determined by the PSC. Further, eligibility for funding is conditioned on seven activities designated by HUD. These activities directly influence land use planning; some even require a complete revision of the town’s zoning for mixed use or altered zoning for the sake of energy or transportation efficiency.<sup>15</sup>

Another initiative of the PSC is the Sustainable Communities Regional Planning Grant (SCRPG) program, which is administered by HUD but coordinated in conjunction with the DOT and the EPA. The SCRPG program is aimed at “planning efforts that integrate housing, land use,

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<sup>14</sup> The notice states, “Particular attention will be paid to the degree to which such projects contribute significantly to broader traveler mobility through intermodal connections, enhanced job commuting options, or improved connections between residential and commercial areas.”

<sup>15</sup> Notice of Funding Availability for the Department of Housing and Urban Development’s Community Challenge Planning Grants and the Department of Transportation’s TIGER II Planning Grants, 75 Fed. Reg. 36,246, 36,248-49 (2010), <http://edocket.access.gpo.gov/2010/pdf/2010-15353.pdf>. HUD designated seven activities required for funding: (1) the creation of a master or comprehensive plan that promotes low-income housing areas with retail and business uses, as well as “discourag[ing] development not aligned with sustainable transportation plans or disaster mitigation analyses”; (2) mirroring the goals of the partnership, a focus on the alignment of planning and the goals of livability and sustainability; (3) calls for a wholesale revision of local zoning, requiring movement toward inclusionary mixed-use zoning as well as using inclusionary and form-based codes to promote the interests of fair housing; (4) alteration of zoning codes to increase energy efficiency, affordability, and the salubrity of housing options; (5) creation of strategies to locate low-income housing in mixed-use neighborhoods and transit corridors; (6) integration of low-income housing into areas with few existing affordable housing options; and (7) “planning, establishing, and maintaining acquisition funds and/or land banks for development, redevelopment, and revitalization that reserve property for the development of affordable housing within the context of sustainable development.”

economic and workforce development, transportation, and infrastructure investments.” Consortia made up of local governments, regional planning agencies, nonprofit organizations, and private industries must be created to receive funding from SCRPG. Again, the program is based on the PSC’s six livability principles. The SCRPG parallels the TIGER program in that there is no mandatory requirement for revision to the local zoning or land use planning of the consortium municipalities seeking the funds, although program criteria make it clear that the localities that are stronger candidates for the grant should demonstrate their willingness to be flexible in terms of land use and planning in its application. These three federal programs are not the only ones that have the effect, if not the stated goal, of influencing local land use planning and regulatory control, but they are good examples of how federal agencies can, absent preemptive mandates from Congress, have a profound impact on zoning and land use regulatory regimes.

Today, the federal government exerts varying degrees of influence over local land use controls through approaches ranging from incentive-based programs to preemptive legislation and regulation. At one end of this spectrum are legislative and programmatic initiatives that simply serve to provide guidance or perhaps to reward certain local land use planning and implementation strategies; at the other end of the spectrum, new laws have emerged that go beyond mere encroachment on local land use policy and preempt local control. Still another set of statutes neither provides incentives nor entirely preempts local control, but the directive influence exerted in these approaches results in decisions that are not based entirely on local desires and plans. Federal programs that construct or pay for the construction of federal facilities strongly influence surrounding land uses as well (Bosselman, Feurer, and Richter 1977).

Although neither Congress nor the president has articulated a national land use policy to inform local zoning or other land use controls, a *de facto* and perhaps *ad hoc* policy exists that continues to be implemented through numerous laws and funding programs with incentives (Salkin 2008). John R. Nolon explains that “there is confusion over the role that each level of government should play regarding land use planning and regulation,” and that to move forward with any meaningful reform, there must be clarification of the appropriate role of each level of government and how these roles should be coordinated (Nolon 2005). Fred Bosselman’s admonition from more than three decades ago remains true today: “Land use is a changing and controversial area of the law, in which federal policy could move in one of several different directions in the coming years” (Bosselman, Feurer, and Richter 1977, 7). We are left with a complex patchwork of both direct and indirect regulations and policies at all levels of

government that challenges the traditional notion of local land use control.

### The Role of the States

Historically, localities in the United States have promulgated land use controls on their own initiative through local planning processes designed to address matters of local concern, but regional and state governments began exercising more control over local land use by the 1970s. This increased control was due in large part to the belief that the local political process that controls land use decision making is incapable of addressing challenges that span municipal boundaries and therefore demand a broader view.

### The Quiet Revolution

Fred Bosselman and David Callies first recognized the phenomenon of de-localization in land use controls in their seminal report for the Commission on Environmental Quality, *The Quiet Revolution in Land Use Control* (1971). Bosselman and Callies found that land use in the United States, dominated by a local government decision-making process, had developed into a feudal system in which municipalities decided land use issues for their own egocentric benefit, increasing their tax base and alleviating their perceived social problems.<sup>16</sup> They explained that locally dominated systems provided municipal officials with paltry incentives to consider the land use needs of nearby communities or even the regions of which the municipal governments were a part. This self-protecting behavior by the localities was noticed by state and regional authorities, who began to encroach upon municipal land use authority.

A number of regional and statewide statutory models emerged to address issues of larger geographic significance, such as the environment and pollution.<sup>17</sup> Bosselman and Callies characterized this creeping, but steady encroachment on traditional local land use authority as “the Quiet Revolution.” Since the 1970s, states and, more notably, the federal government have adopted statutes and initiated programs that have significantly

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<sup>16</sup> “It has become increasingly apparent that the local zoning ordinance, virtually the sole means of land use control in the United States for over half a century, has proved woefully inadequate to combat a host of social problems of statewide significance, social problems as well as problems involving environmental pollution and destruction of vital ecological systems, which threaten our very existence” (Bosselman and Callies 1971, p. 3).

<sup>17</sup> In many instances, local officials may not address issues of larger geographic significance because of the lack of perspective, funding, or support (U.S. General Accounting Office, Environmental Protection 2001).



influenced and encroached on local land use control, setting the stage for an ongoing power struggle over control of policy and decision making with regard to community planning and the land use regulatory regime. In addition to preempting local land use in certain areas, many states also engage in state-level land use planning, or “state planning,” which is mostly concerned with broad land use issues that have statewide implications, such as economic development, environmental issues, infrastructure, housing, and coordination among different municipalities.

State planning came onto the scene during the early 20th century, around the same time as modern land use controls. In the 1930s and 1940s, the federal government promoted state planning and sought professional state planning boards in consideration for federal financial assistance. This movement disappeared by the early 1950s, when the belief that localities were the best authorities to make land use decisions gained general acceptance. However, as *The Quiet Revolution* revealed, a number of states quietly began taking a proactive approach to land use planning again in the 1950s and 1960s.

### Emergence of Smart Growth

After unsuccessful attempts to address the inefficiencies of the system of land use control, smart growth emerged in the 1990s as a lightning rod focusing attention on creative ways to rethink and redefine an almost century-old system (Salkin 2002a). The movement attempted to convince states that fragmented local land use regulation was inadequate to address sustainable development or smart growth concerns, but it stopped short of clearly advocating for state or federal control of land use regulation. Rather, the smart growth movement can be credited with creating the impetus for many states to modernize their outdated planning and zoning enabling acts (Salkin 2002a). An overriding theme in the smart growth movement is that no single approach works best for every region and community, and as a result, each locality has taken an individual approach to designing and implementing new land use systems to produce more favorable land sustainability patterns.

From 1991 to 2001, 17 governors issued 19 executive orders on planning and smart growth, and more than 2,000 land use or planning bills were introduced in statehouses across the country, of which approximately 20 percent were enacted into law (Salkin 2002a). The movement may have peaked in 2001, when 27 governors initiated planning and smart growth proposals. Some of this activity can be traced to the modernization efforts initiated by the American Planning Association through the publication of Stewart Meck’s *Growing Smart Legislative Guidebook* (2004). Although a

number of governors continued to list smart growth actions among their initiatives in the early years of the 21st century, framing sustainable development purely around smart growth may have proved to be short-lived at both the federal and state levels as grant programs and new smart growth initiatives have diminished in number and size. Furthermore, ballot initiatives in support of smart growth were popular in 2000, but by 2007 the pendulum had swung in the opposite direction with a series of ballot initiatives designed to promote agendas in opposition to zoning, land use controls, and eminent domain.

Strong evidence exists of continuing interest and active implementation of smart growth principles and strategies at the local government level (although they are not always labeled as such). Perhaps this can be attributed to the trickle-down effect of policies and programs adopted earlier. Furthermore, social equity issues are finally being linked to land use planning and controls, and there is a growing realization that sustainable land use policies are the key to dealing effectively with many of the challenges presented by climate change. These two major issues also provide an opportunity to address a missing ingredient of success: better-integrated cooperation and coordination among all levels of government. Updated state planning mechanisms allow states to articulate policy and goals not only for the state government, but also for municipalities and regional authorities. Additionally, effective state planning can coordinate policy throughout governments and agencies at all levels to ensure that land use is managed efficiently and effectively, and that the goals of the state and the locality are realized. State planning can coordinate all aspects of localized land use planning—economic development, infrastructure, public welfare, and natural resources, to name a few—so that local land use policies are implemented in a manner that is consistent with state and regional goals and policies.

### **Regionalism and Land Use Regulation**

During the 1970s and 1980s, several states began examining and implementing new strategies to encourage regional growth management. Some states required that regional impacts be evaluated as part of the local planning process, and that local plans be consistent with those of neighboring jurisdictions, as well as with those of regional entities, which were responsible for reviewing the local plans. Vermont and Rhode Island require by statute a certification process to ensure that local plans are consistent with regional and state plans. Additionally, Vermont's Land Use and Development Act, commonly known as Act 250, requires special procedures for the approval of projects with regional impacts.

**TABLE 1.1***Institutions, Agencies, and Organizations Active in Land Use Planning in the United States*

**Federal Government:** The federal government consists of the executive, judicial, and legislative branches. It carries out governmental powers and functions, but has limited land use control.

**States:** The states enforce the police power, as authorized in all 50 state constitutions.

**U.S. Department of Commerce:** The U.S. Department of Commerce created a committee to draft model zoning and planning acts.

**U.S. Department of Justice:** The U.S. Department of Justice enforces the elimination of discrimination in the land use regulatory context.

**U.S. Department of Defense (DoD):** The U.S. Department of Defense makes decisions regarding federal installations and is one of the largest landholders in the United States.

**U.S. Department of Housing and Urban Development (HUD):** The U.S. Department of Housing and Urban Development manages federal funds to create affordable housing, as well as comprehensive planning of urban development.

**U.S. Department of Transportation (DOT):** The U.S. Department of Transportation has the responsibility of ensuring an efficient and accessible transportation network.

**Metropolitan planning organizations (MPOs):** Metropolitan planning organizations develop and manage transportation plans and funding. The federal government requires that they be established in metropolitan areas with a population of 50,000 or more.

**Environmental Protection Agency (EPA):** The Environmental Protection Agency establishes and enforces environmental standards.

**Federal Energy Regulatory Commission (FERC):** The Federal Energy Regulatory Commission has exclusive authority to site electric transmission lines, pipelines, storage facilities, and terminals.

**Partnership for Sustainable Communities:** The Partnership for Sustainable Communities promotes sustainable communities. It is a partnership of HUD, the DOT, and the EPA.

In addition to the concept of regionalism contained within a local land use planning scheme, some states have created regional entities designed specifically to protect significant cultural, natural, or environmental resources. These include the Cape Cod Commission, established by the Commonwealth of Massachusetts to work with the region's 15 towns and, among other things, prepare a regional land use plan. The commission is also tasked with approving development proposals that have regional

impacts and must weigh the benefits of proposed developments against expected negative impacts. In New York, the Adirondack Park Agency was established as an independent state agency to conserve, protect, preserve, and develop the park and forest preserve lands. The park is spread over 12 counties and 105 town and village governments and occupies six million acres filled with unique scenic, aesthetic, wildlife, recreational, open-space, historic, ecological, and natural resources. The legislation directs the agency to develop and implement a regional land use and development plan for the park. Regulatory control is divided between the agency and local governments, which can assume jurisdiction for certain regional land use decisions if the agency approves their local land use programs.

A number of states have updated their planning laws over the past few years to require local comprehensive plans to address regional issues and intergovernmental planning. Smaller states, such as Delaware and New Jersey, have created state planning maps that identify the growth policies to be encouraged in specific areas. In addition to these efforts, incentives for intergovernmental planning have played an important role in encouraging regional cooperation.

Today, much of the regional planning taking place across the United States is a result of the work of approximately 400 metropolitan planning organizations (MPOs). Federal transportation law requires state, county, and local governments to create MPOs in metropolitan areas with a population of 50,000 or more. MPOs are charged with developing transportation improvement plans to guide the expenditure of federal surface transportation funds and must consider local land use planning as they create their plans. This federal law attempts to achieve both vertical integration among federal, state, and local levels and horizontal integration, for example, between the EPA and the federal DOT. Within metropolitan areas, MPOs provide an opportunity for local governments and state agencies to coordinate land use planning and regulation, which dictate where people live and at what densities, and transportation planning, which must accommodate the population as it grows and resettles on the landscape (Nolon and Salkin 2006).

### **The Future of Land Use Control in the United States**

It has been well accepted throughout the history of land use regulation in the United States that some issues may demand an intergovernmental agenda, while others may be better addressed by a single governmental entity. It is not likely that there will ever be a controlling federal role in land use regulation. This is not a negative story, however, because history reveals much innovation and accomplishment at the local government level

with regard to sustainability agendas. Despite calls for national direction and policy on land use regulation, the reality is that diversity of geography and attending pressures and opportunities demand greater flexibility to best address these challenges. However, sustainability challenges, especially in the areas of energy, the environment, and social justice, necessitate a renewed commitment to meaningful interjurisdictional cooperation. Business as usual, with uncoordinated and sometimes diametrically opposed policies, is simply not conducive to a sustainable future. In the federalism schematic, it is most appropriate for the federal government to recommend broad policies and incentives for implementation and to provide state and local governments with the authority to engage in necessary planning and the development of area-appropriate regulatory regimes. Effort is needed to ensure that these state and local plans are coordinated horizontally and vertically to produce a system of effective and sustainable land use control.

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## *Commentary*

ARMANDO CARBONELL

Patricia Salkin sees a generally weak land use role of the federal government in the United States, with the exception of broad federal environmental laws and the control of federally owned lands. Without disputing this characterization, I argue that one should not underestimate the significant existing and potential future impacts on land use of the federal government's environmental regulatory powers and its direct management of federal lands. The chapter also describes the national government's more recent active intervention in local land use regulation in such areas as ensuring access to facilities by those with disabilities, preventing unreasonable burdens on religious institutions, and preempting potentially disruptive or inefficient local regulation of the telecommunications infrastructure. A wide range of federal incentive programs and subsidies, as well as grants for infrastructure development, housing, and metropolitan planning, also have implications for land use.

Salkin's chapter describes the role of the individual states in both negative and positive terms: negative in preempting local authority in areas of statewide interest (e.g., mining, agriculture, and special categories of housing), and positive in engaging in state planning, which had its heyday in the 1930s and 1940s with federal encouragement but died down by the 1950s, only to revive partially during the 1960s with the so-called quiet revolution. There can be no argument that the United States has a



fragmented and highly decentralized planning system in which only a small number of states take a strong role in land use regulation and control, while most land use decisions are left to 39,000 units of local government.

According to the Congressional Research Service, the federal government owns 650 million acres, or 28 percent of the total U.S. land area. Federal land dominates in the American West, which paradoxically happens to be the home of the fiercest defenders of private property rights: 84.5 percent of the land in Nevada is federally owned; 69 percent in Alaska; and more than 50 percent in Utah, Oregon, and Idaho. The chapter cites a number of environmentally oriented federal statutes, including the National Environmental Policy Act (NEPA), the Clean Water Act, and the Endangered Species Act (ESA), as being “implicated” in land development regulation, although they do not directly control the local development review process. Some of these federal regulations have had an immense impact on land use.

Here is a closer look at just one example, as described in Bruce Babbitt’s book *Cities in the Wilderness* (2005): the death grip that a small bird, the California gnatcatcher, had for a time on the development of approximately 800 square miles (207,000 hectares) in Southern California under the federal ESA. Listing the bird as endangered under the ESA was proposed in 1993 and would have imposed a freeze on much of the potentially developable land between Los Angeles and San Diego. Babbitt explains that a 1982 amendment to the ESA authorized the U.S. Fish and Wildlife Service to negotiate habitat conservation plans that “would give landowners permission to develop land, even though it would mean some incidental destruction of species, provided that enough space were set aside to give the affected species a fair chance of survival” (Babbitt 2005, 62). Babbitt (then U.S. secretary of the interior and the boss of the Fish and Wildlife Service) worked with the state natural resources secretary and a large private landowner to secure habitat protection areas for more than 30,000 acres on one unusually large private landholding, the Irvine Ranch. This was followed by the designation of 200,000 acres of protected habitat in bordering San Diego County, all motivated by a regulatory stick issuing from a piece of federal legislation charged with preventing the extinction of a little gray bird. In spite of this success, Babbitt laments, “The San Diego plan was hardly perfect, either in coping with evolving patterns of urban development or for preserving the endangered species and biological diversity of the coastal plain ecosystem. The landscape planning, driven by the Endangered Species Act, came mostly after the highways and subdivision tracts had already fragmented much of the landscape” (Babbitt 2005, 74).

As Patricia Salkin notes, although the federal government has taken an increasing role in usurping local land use control over the past 40 years, this has not been based on an articulated national land use policy. What a missed opportunity! Since 1990, in the absence of a national policy or plan, some of the most powerful effects on local decision making have come from the Americans with Disabilities Act, the Telecommunications Act, the Religious Land Use and Institutionalized Persons Act, and the Energy Policy Act. Are these in effect stealth policies and plans? Would they not benefit from explicit policy debate and coordination? The chapter goes on to describe recent efforts of federal agencies, individually or collaboratively, to have a programmatic influence on land use control. These agencies include the Department of Defense (DoD), the Environmental Protection Agency (EPA), the Department of Housing and Urban Development (HUD), and the Department of Transportation (DOT).

One failure of the quiet revolution can be seen in the inability to pass the National Land Use Policy Act of 1970, which was based on principles of consistency across federal agencies, between federal and state plans, and between local and state plans; a national data system; and federal funding to the states. As Salkin points out, this would not have amounted to giving more authority to the federal government to plan or regulate land use and development. It was more about coordination and integration. A notable recent development in this vein can be found in the collaborative working relationship forged by the self-named “three amigos” heading HUD, the EPA, and the DOT in the first Obama administration. The subsequent Sustainable Communities Regional Planning Grants program, which encouraged joint proposals by multiple planning jurisdictions, was administered by HUD, but there was significant involvement by the other two agencies. The funding for this program (\$250 million), while not large in relation to infrastructure expenditure or indeed almost any federal program, nonetheless was sufficient to ignite the interest of planning entities around the country, who came together in multijurisdictional consortia proposing many times the amount of funding available. This suggests an appetite for planning throughout the United States that has yet to be sated.

In the end, Salkin cites the challenge of sustainability in the areas of energy, the environment, and social justice as calling for “a renewed commitment to meaningful interjurisdictional cooperation.” Her prescription is for a federalist approach: the national government should set broad policy and provide incentives; state and local governments should do the specific planning; and all plans should be coordinated horizontally and vertically. Even with a limited federal role and explicit accommodation of

localism, this approach would likely face strong opposition, with echoes of the failed National Land Use Planning Act of 1970. Nevertheless, serious planning challenges of the 21st century, perhaps foremost the need to deal with climate change, may yet give us the resolve to overcome such resistance.

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## Land Use Planning in Oregon

### *The Quilt and the Struggle for Scale*

ETHAN SELTZER

Plans rarely stand alone. Whether in time or space, plans are shaped by and in the context—the physical, institutional, political, policy, economic, cultural, historical, and social contexts—within which they are created. However, that larger context often exists in uneasy tension with the local focus and authority for most American planning processes, if it is acknowledged at all. Being accountable to larger frames is a long-standing tension in U.S. city planning (Hise 2009).

Yet, many, if not all, of the key issues of our time—climate change and instability, growing inequality, globalization, environmental protection, urbanization, and the adequacy of water and energy supplies—are characterized by the absolute requirement for plans at different scales not merely to be coordinated, but to seek collectively some higher level of outcome (Seltzer and Carbonell 2011). Stated another way: the scale of our impacts on natural processes, economies, and culture in the United States ranges far beyond the boundaries of any single planning process or implementing jurisdiction.

On one hand, planning in the America tradition involves the delegation of powers from senior levels of government—the nation and the states—directly to local communities. On the other hand, regions, states, and

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occasionally the nation have regularly sought ways to affect local planning goals, planning processes, and implementing actions. A large part of the struggle for effective planning arrangements is a product of these mismatches between the scale of the issues and the institutions given the authority to address them (McKinney and Johnson 2009).

One might argue that in an earlier time, the impacts of growth and change across boundaries did not seem so pressing. As McLaughlin (2012) points out, land use regulation has been part of the U.S. story since colonial times, although, before the 20th century, it was directed at promoting or creating growth rather than restricting or shaping it. In earlier decades, cities were smaller and suburbs more discontinuous.

However, even early in the emergence of U.S. city planning, regional impacts were known and discussed (Hise 2009; McKenzie 1933 [1967]; Mumford and MacKaye 1931). The issues and the challenges emanating from the complex institutional environment in city regions are not new. Over time, our plans have grown smaller in the United States while the scale and scope of the impacts and issues have grown larger.

One response to the need for bigger plans has been the emergence of statewide growth management planning in the United States. John DeGrove describes three distinct waves of statewide, state-scaled growth management activity, going back to the early 1970s (2005). Those earlier developments were an outgrowth of their times, responding to the challenges of environmental protection, urban sprawl, and the incorporation of smart growth principles into local and regional plans. Today, new issues are being discussed and described at the regional and statewide scales. For example, Ingram et al. have proposed that we may be on the cusp of a “fourth wave” of statewide planning, one motivated by the need to seek meaningful ways to respond to climate change and to limit carbon emissions at the local and metropolitan scales (2009, 9).

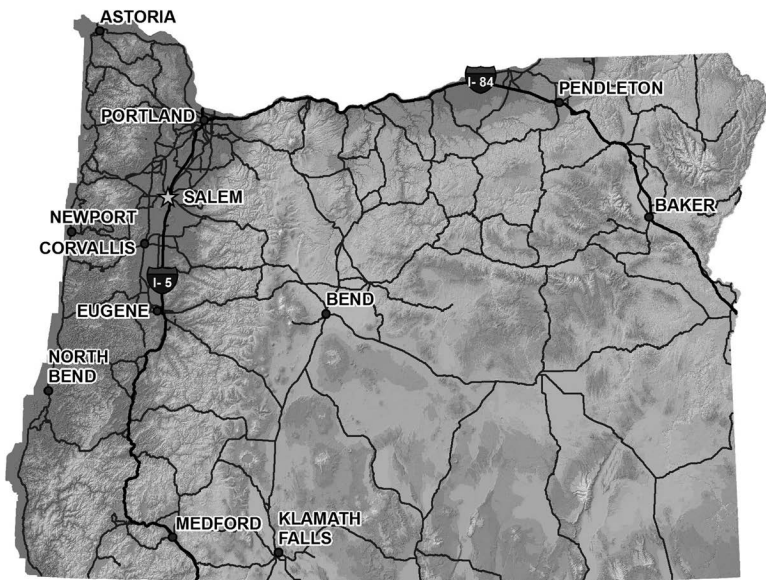
Similarly, contemporary scholars have stated that the turn to equity as a central community and planning goal requires, at minimum, a metropolitan response (Pastor and Benner 2011; Pastor, Benner, and Matsuoka 2009). The effort to reclaim scale in U.S. planning, to delegate planning to institutions whose geographic scope of authority and operations better approximates actual geographic scope of the issues at hand, has taken on new urgency as attention has shifted to metropolitan areas as the right scale for economic development, equity, sustainability, and regional growth management (Seltzer and Carbonell 2011).

This chapter outlines one example of the struggle to match the scale of the planning with the scale of the issues—the experience of the state of Oregon. The history of planning at the state level in Oregon is one of the oldest in the United States at that level, and planning there has survived

relatively intact for over four decades. Although Oregon is one of DeGrove’s “first wave” states, it has retained and continued to develop its planning program in the context of both evolving local needs and national trends associated with growth management, smart growth, and climate change.

## Oregon

The western states, including Oregon, are large in area and diverse in settlement and landscape (figure 2.1). Oregon ranks 10th among the 50 states in area, covering a total of 98,380 square miles (Hibbard et al. 2011; Oregon State Archives 2012). Interstate 5, from the northern boundary with Washington to the southern boundary with California, spans a distance of 308 miles. The Cascade Mountains run from north to south in the state and divide the land area into about one-third on the western, coastal side and two-thirds to the east. Much of the land west of the Cascades is part of the northern temperate rain forest, which has some of the highest rates of forest productivity in the world. East of the Cascades, Oregon consists of desert, high desert, rangeland, and arid forests, along with other mountain ranges and the microclimates that go with them. Elevations in the state range from 11,250 feet at the top of Mount Hood to sea level.



**Figure 2.1** Map of Oregon

*Source: National Center for Smart Growth Research and Education (2014).*

Oregon has been an abundant place for people to live for over 12,000 years (Robbins 2005). The oldest artifacts associated with human presence in the region date to over 14,000 years ago. The highest population densities continue to be in the western third of the state. Today, approximately 70 percent of Oregon's population and employment is concentrated in the Willamette River valley. About 42 percent of the population of Oregon lives in the Portland metropolitan area, and nearly 80 percent lives along Interstate 5 in the Willamette valley and the southern Oregon counties bordering the highway.

The Willamette valley is also the agricultural heartland of Oregon, as well as the home of most of its largest cities (the exceptions are Medford in southern Oregon and Bend in central Oregon). The combination of extraordinary soils, plentiful water, river-borne transportation, and major urban service centers made the valley the epicenter of pioneer settlement in the 19th century and of conflicts between agriculturalists and urban development in the mid- to late 20th century.

Oregon's largest industries before 1980 were agriculture and forest products. After 1980, high tech (microprocessors, printers, display technologies, and software) became the largest industry in the state, although agriculture and forest products have remained the second and third largest, and agriculture has continued to grow in economic importance to the state. High tech is also concentrated in the Willamette valley and helps reinforce its role as the epicenter of Oregon's population and economic growth. Stable or declining population and high unemployment, largely as a result of substantial declines in timber production on federal lands, characterize much of eastern Oregon and parts of central and southern Oregon.

Oregon has 36 counties and 242 cities. The federal government owns and manages about 52 percent of Oregon, including 60 percent of Oregon's forest lands. For the most part, 18 of the 36 counties are in the dry, eastern part of Oregon, and 9 are in the Willamette valley, with the rest in southern Oregon and along the Pacific coast. In addition to its cities and counties, Oregon uses special districts to provide services to areas comprising multiple jurisdictions, and school districts exist as separate, directly elected entities. In the Portland metropolitan area, Metro is the only directly elected regional government in the United States. Six other councils of governments in Oregon have regional planning responsibilities, and there are 17 directly elected community college boards for local-tax-supported community colleges.

Oregon has no sales tax. A constitutionally limited property tax pays for local-government services and schools; an income tax funds state services. Although the income tax is a notoriously unstable revenue source,

the absence of a built-in incentive for local governments to compete for sales-tax-generating enterprises like car lots and big box stores has somewhat dampened commercial sprawl in the state. Simply put, local governments have little incentive to actively outcompete one another for auto-dominated suburban commercial sprawl.

In sum, Oregon is composed of very different landscapes with different histories and prospects. Its population is concentrated in the same places that have best served people for millennia. And, like all U.S. states, it is institutionally complex. Its economy is highly dependent both on the productivity of its farms and forests and on its links to the knowledge economy. Over time, declining economic interdependence between urban and rural Oregon has led to weaker economic and political ties among Oregon's diverse regions (Hibbard et al. 2011). Nonetheless, all Oregonians across the state revere the natural beauty of Oregon: its snow-capped peaks, the Columbia River gorge, its ocean shores, the big skies of the high desert, and the great basin. Every Oregonian feels in some sense defined by the stunning landscapes for which the state is known (Oregon Values 2002).

### **Land Use Planning in Oregon**

Comprehensive city planning in Oregon emerged with the growth of Portland into one of the largest cities on the West Coast in the late 19th and early 20th centuries. Notably, the Olmsted brothers prepared a plan for parks and boulevards in Portland in 1904. In 1912, Edward Bennett, a protégé of Daniel Burnham, prepared the Greater Portland Plan, a City Beautiful-inspired grand vision for Portland in the coming age of the automobile (Abbott 1983). In 1923, the Oregon legislature took the final step to empower cities in the state to plan and zone (Knaap and Nelson 1992). The construction of the Bonneville Dam inspired a new round of inquiry into how the city and state should grow, with Lewis Mumford making his one and only visit to Oregon in 1938 to consult on the best way of hosting the new growth to come as a result of the abundant electricity to be provided by the Columbia River (Mumford 1939).

#### **Planning After World War II**

Portland boomed as a major shipbuilding and industrial center on the West Coast during World War II. In 1947, in response to chaotic urban fringe growth in unincorporated parts of counties, the Oregon legislature empowered counties to zone. However, in what was to become a pattern leading up to the contemporary institution of statewide land use planning, few counties chose to use the new tools provided by the state.



The modern era of state interest in planning in Oregon began to take shape in the 1960s, when growing concern about rapid and uncoordinated suburban growth became more pressing in the Willamette valley, on the Pacific coast, and in central Oregon. The population of Oregon grew by 18 percent during the 1960s; 86 percent of that growth took place in the Willamette valley, and 54 percent in the Portland metropolitan area (Adler 2012). Farmland was being lost at an alarming rate in the Willamette valley, the most important agricultural district in a state whose economy depended on agriculture and forest products. Industrial development and urbanization had severely degraded water quality in the Willamette valley. Governor Mark Hatfield remarked in 1964 that the so-called 20 Miracle Miles of the Oregon coast around Lincoln City should be renamed the “20 Miserable Miles” because of its “junky” appearance (Terry 2011).

In response, the Oregon legislature developed a number of innovative programs to address growing concerns about the quality of the environment. In 1961, the state enacted legislation to allow reduced property taxes for farmland zoned for exclusive farm use (Sullivan and Eber 2009). If counties exercised their authority to plan and zone and identified exclusive farm use zones, farms within those zones could apply to have their property taxes limited. This could be a huge break for farmers, or perhaps farm landowners, but at local expense. At the time, property taxes were the most significant source of revenue to support local-government services and schools. However, few counties in the state were interested in creating the plans needed to develop the zoning.

In 1965, Oregon instituted one of the first clean water acts in the nation that required permits for point-source discharges into state waterways. A bottle bill imposed a refundable deposit on all beverage containers, a direct response to the rising tide of roadside litter. The Oregon Beach Bill guaranteed public access to the dry sand beaches along the entire Oregon coast and prevented the encroachment of private development on what is arguably one of the nation’s most spectacular landscapes. The legislature also dedicated 1 percent of the state highway fund to the creation of bike paths, and the state instituted programs to restore water quality in the Willamette valley and to secure parks for public access to the river. All these measures helped establish Oregon’s reputation as an environmental leader in advance of the landmark federal environmental legislation to come.

#### Senate Bill 10 (1969)

In response to growing concern about what later became known as “urban sprawl” and in light of the failure by local governments to exercise the

planning and zoning authority already granted to them, the legislature passed Senate Bill 10 (SB 10) in 1969, which required all cities and counties to adopt comprehensive plans and zoning by the end of 1971 (Adler 2012). Local planning and zoning were controversial, and many cities and counties viewed them as detrimental to efforts to compete with other jurisdictions to attract the growth needed to increase local tax bases. Nonetheless, SB 10 focused on getting cities and counties to create and implement comprehensive plans, not on the creation of plans by the state. In fact, Governor Tom McCall and his staff viewed planning carried out by the state as neither possible nor desirable, and the focus in SB 10, as in the legislation to follow, was solely on the development of plans and implementing actions by local governments, not by the state (Sy Adler, personal communication).

SB 10 made Oregon the second state in the nation, after California, to require local governments to create comprehensive land use plans. The bill mandated the development and application of zoning to implement the plans and included 10 goals that the state could use to determine whether the local plans met the objectives of the law, should the state so desire. The goals required the state to identify prime farmland for the production of crops and to create exclusive farm use zoning to protect it. Many local officials opposed the mandatory requirement for planning and zoning, but voters rejected a ballot measure to repeal SB 10 in 1970.

However, despite the provision in SB 10 that allowed the governor to provide plans for communities that did not meet their responsibilities to plan, the response at the local level was a combination of inaction and of little consequence. SB 10 incorporated no clear role for supervision by the state, no funding or technical assistance for local governments (most of which had no planners on staff), and no mechanism for coordinating plans or for resolving conflicts. Most plans adopted under SB 10 requirements simply reiterated existing land use trends and agreements.

Throughout this 50-year progression of state action—from empowering city zoning in 1919 to enabling county planning and zoning in 1947, linking farm tax deferral to planning and zoning in the early 1960s, and finally enacting SB 10 in 1969—Oregon gradually stepped up its engagement with local land use planning, zoning, and resource management. However, although a handful of cities undertook substantial planning efforts directed at local land use issues, local governments largely failed to address exurban sprawl and the loss of agricultural land (Adler 2012). The state's interest in local comprehensive planning and zoning to counter the impacts of urbanization and the conflicts between farming practices and new residents still had not been served, particularly as the pace of change accelerated during the 1960s.

### Senate Bill 100 (1973)

With little to show from SB 10, by 1971 Governor Tom McCall launched several projects to bring new attention and a sense of urgency to the need for comprehensive land use planning. Population growth forecasts suggested that by the year 2000, the population of Oregon would increase by a million, a shocking number in a state with barely two million residents in 1970. One of the most significant products of those efforts was the work directed by Lawrence Halprin that resulted in *The Willamette Valley: Choices for the Future*, a set of future growth scenarios for the valley and an invitation to all Oregonians to participate in planning for its future (Halprin and Associates 1972).

In 1970, McCall was elected to a second term as governor on a platform that included the need to correct the flaws of SB 10 and to develop effective comprehensive planning and zoning initiatives at the local level, where the land use decisions were being made. Despite the acknowledged ineffectiveness of SB 10, opposition to planning by the state remained strong. Attention focused less on the role of the state as a planner and more on the role of the state to create accountability, extend funding to local governments for planning, and coordinate the plans of neighboring jurisdictions.

Much has been written about the development of new legislation for the 1973 session of the Oregon legislature, and in particular, the creation of Senate Bill 100 (SB 100) and accompanying bills to remedy the defects of SB 10 (Abbott, Adler, and Howe 1994; Adler 2012; Knaap and Nelson 1992; Leonard 1983; Liberty 1992). A coalition of urban environmentalists and rural agricultural interests shepherded SB 100 through the legislature. Rural Republicans and urban Democrats, along with Republican governor Tom McCall, provided legislative leadership for the bill. SB 100 continued the requirements of SB 10 for cities and counties to write mandatory comprehensive land use plans and to adopt zoning based on the plans, but it added several elements that would prove key to its long-term success (Oregon Legislature 2013).

The first element directed the state executive branch to develop and adopt statewide planning goals. SB 100 specified several policy subjects that the state planning goals must address, but it also created the Department of Land Conservation and Development (DLCD) and a policy-making body, the Land Conservation and Development Commission (LCDC), with the authority to adopt additional goals. The degree of policy-making authority the legislature granted to LCDC was unusually broad, but that authority has been used sparingly.

Another key element of the legislation was that it set a deadline for local adoption of comprehensive plans and specified that if local governments failed to meet the deadlines, the state goals would directly control land

use decisions. SB 100 also included additional fiscal penalties for non-compliance. Although most local governments failed to meet the initial deadlines, all had complied by the mid-1980s.

Like SB 10, SB 100 was constructed on the assumption that planning, zoning, and land use decision making would continue to be local-government activities. In Oregon, the state sets a planning framework in its statewide planning goals, but there is no formal state-level comprehensive land use plan. Instead, a quilt composed of city and county comprehensive land use plans implements the statewide goals, addresses any additional local concerns, and, collectively, the adopted and acknowledged comprehensive plans of cities and counties address land use on 100 percent of the state's land area.

Provisions in SB 100 as it was originally proposed in 1973 called for the identification of areas of critical statewide concern and of activities of statewide significance and for regional planning and plan coordination. Although these provisions were eliminated in the legislative process because of the perception that they enabled the state to engage in planning that would conflict with or supersede local concerns, a special provision was included to allow the Columbia Region Association of Governments (CRAG) in the Portland metropolitan region to develop a regional comprehensive plan. That provision was eliminated upon the creation of the Metropolitan Service District in 1979. Subsequent legislation has enabled regional agencies in Oregon to develop plans for issues of regional concern and, in some cases, critical statewide concern. However, by law, only cities and counties in Oregon can create a legally recognized comprehensive land use plan.

SB 100 also created the LCDC to adopt the statewide land use planning goals; create and adopt administrative rules to implement the program; review the plans created by cities, counties, state agencies, and special districts; and create policy to guide the work of the DLCD (Oregon undated). Consistency between local plans and the state goals was implemented through an acknowledgment process in which the LCDC reviewed and approved local plans or sent them back for revisions. Nineteen statewide planning goals were written between 1974 and 1976 with the involvement of thousands of Oregonians from across the state (Adler 2012).

### Goals, Process, Rules, and Appeals

At the heart of the Oregon statewide planning program is the Oregon Statewide Planning Goals. The state expressed its interest in the contents of local comprehensive plans in the form of the 19 goals (table 2.1). Cities and counties can address any issues they want in their comprehen-

**TABLE 2.1**

*Oregon State Planning Goals*

**1. Process goals:**

Goal 1. Citizen Involvement. Requires meaningful citizen involvement in all phases of plan preparation and implementation, a hallmark of the Oregon system.

Goal 2. Land Use Planning. Explains how comprehensive land use planning is to be done, calls for planning and implementing decision making to be based on facts, and provides guidance for taking an exception to the requirements of a goal when local conditions dictate otherwise.

**2. Conservation goals:**

Goal 3. Agricultural Lands.

Goal 4. Forest Lands. The heart of the Oregon program. Require jurisdictions with rural resources lands, in this case the counties, to show both where those land resources are and how they are to be protected.

Goal 5. Natural Resources, Scenic and Historic Areas, and Open Spaces. Asks all communities to inventory and identify protective actions for natural resources, scenic and historic resources, and open space.

Goal 6. Air, Water, and Land Resources Quality. Speaks to the protection of the quality of air, water, and land resources.

Goal 7. Areas Subject to Natural Hazards. Directs that lands subject to natural hazards be addressed in plans.

Goal 13. Energy Conservation. Identifies energy conservation as a particular aim for the state.

Goal 15. Willamette River Greenway. Calls for the identification and protection of the Willamette River Greenway in the plans of jurisdictions bordering the Willamette River.

**3. Development goals:**

Goal 8. Recreational Needs. Is principally directed at counties and is primarily concerned with the siting of destination resorts.

Goal 9. Economic Development. Goal 10. Housing. Goal 11. Public Facilities and Services. Goal 12. Transportation. Specifically address meeting the requirements for urbanization and the development of infrastructure in efficient and equitable ways.

Goal 14. Urbanization. Calls for the creation of an urban growth boundary (UGB) surrounding land to be set aside to meet urban, nonresource purposes over the time horizon of the plan, by convention and, for residentially zoned urban land, by law, 20 years. Goal 14 is probably the best known of the Oregon statewide planning goals because of its requirement for UGBs, but it is at root a requirement for urban growth management by making the conversion of rural land into urban land uses a decision that is both conscious and based on the factual demonstration that the land is needed for urban purposes, that the proposed uses cannot be accommodated elsewhere, that the impacts on nearby farmland will be minimized, and that the overall efficiency of existing urban lands and service systems will be maintained, if not enhanced.

TABLE 2.1 (continued)

**4. Coastal goals:**

Goal 16. Estuarine Resources.

Goal 17. Coastal Shorelands.

Goal 18. Beaches and Dunes.

Goal 19. Ocean Resources.

In 1976, four goals (16–19) applying to Oregon’s coast, estuaries, beaches and dunes, and territorial sea (the first three miles offshore) were adopted by the Land Conservation and Development Commission. In 1991, the Oregon legislature approved Oregon’s Ocean Resources Management Act (ORS 196.405–415), and three years later LCDC adopted Oregon’s Territorial Sea Plan, which implements elements of Goal 19.

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sive plans as long as they address all applicable statewide planning goals and demonstrate with findings of fact that their plans will further the state’s interests.

During the planning process, the county government (or Metro in the case of jurisdictions inside Metro’s boundary) reviews proposed plans for conflicts with adjacent comprehensive plans, and to the extent possible, tries to reconcile differences. In Metro’s case, particularly, city and county comprehensive plans sharing the Metro urban growth boundary were reviewed to see that they supported the assumptions and objectives associated with that boundary.

Two Oregon land use planning statutes—Chapter 197: Comprehensive Land Use Planning Coordination and Chapter 195: Local Government Planning Coordination—address the state’s interest in coordination as the focal point of the planning program. ORS Chapter 197.015 provides definitions for both ORS 197 and ORS 195 and defines a plan as “‘coordinated’ when the needs of all levels of governments, semipublic and private agencies, and the citizens of Oregon have been considered and accommodated as much as possible” (Oregon Legislature 197.015[5]). For example, ORS 195 specifically addresses the development of coordinated population forecasts and urban service agreements, both of which are critical elements of planning and implementation.

Once a community adopts a comprehensive plan, including implementation tools and ordinances, it submits the entire package to the DLCD for an initial review and then to the LCDC for final state approval. In the acknowledgment process, the LCDC determines whether the plan (on the whole) is consistent with the requirements of the goals. Once the state acknowledges that the plan is consistent with the goals, most local land use

decision making applies the local plan and code rather than the statewide goals. This removes the state from management of day-to-day decisions.

Subsequent amendments to local plans or implementation tools must be submitted to the LCDC for a postacknowledgment review for consistency with the statewide planning goals. Although the state identifies coordination as a priority during the initial phases of planning, this is largely accomplished by the DLCD and the LCDC in their postacknowledgment reviews of plan amendments, through specific applications added to the law in recent years to address urban and rural reserves outside urban growth boundaries (ORS 195.137–145), or through regional problem solving as a means for fine-tuning responses to the goals in particular parts of the state (ORS 197.652–659).

Communities that make decisions in conflict with adopted and acknowledged plans are subject to state sanctions, including the requirement to apply the state planning goals directly until their local plan is acknowledged. Other state sanctions can include suspending the jurisdiction's authority to grant building or subdivision permits, requiring permits to be issued when a community is engaging in a de facto development moratorium, or even withholding state transfers of tax revenues distributed to localities on a formula basis.

Oregon provides direct grants to localities to support the creation and periodic update of plans, codes, and procedures. In the early years of the Oregon planning program, the majority of the funding allocated to the planning program was used for this purpose. In more recent years, state grants have been reduced, and most jurisdictions now depend on a combination of local tax revenues and permit fees to support planning. Once local plans are adopted and acknowledged, larger cities must update their plans through periodic review. In 2003, the legislature directed that periodic reviews focus on whether larger cities are meeting development objectives rather than on conservation issues. Periodic reviews now occur on a schedule set by the LCDC. The documents are submitted to the DLCD and the LCDC for review, and any plan or code changes coming out of the periodic review process are acknowledged in that review process.

The Oregon planning program is rule based. That is, the heart of the statewide planning program is the goals, and the state writes the rules used to determine whether the goals are being adequately served. Goal 1, Citizen Involvement, leads the program, and participation is intended to be broad-based, as is the classification of who may appeal any local decision. In the landmark *Fasano v. Board of County Commissioners of Washington County* (1973) decision, the Oregon Supreme Court established that quasi-judicial land use decisions, like legislative decisions, must also include procedural protections designed to ensure fair and open decision making.

Among other protections, the court ruled that decisions must include written and adequate findings and prior notice of applicable standards and procedures so that all affected persons can participate effectively (Sullivan and Eber 2009). The *Fasano* decision also clearly established the principle that zoning was subservient to and intended to implement the county's comprehensive plan. In a later decision, *Baker v. City of Milwaukie* (1975), the court extended this link between zoning and plans to city comprehensive plans.

In addition, the principle has been defended and established through the courts that the development allowed by right in plans should not be impeded by any actions that contravene plans. Oregon planning has provided owners, neighbors, and communities with certainty and has made plan implementation the product of predictable institutional processes rather than protracted and contentious negotiations or cozy backroom deals developed out of public sight. In Oregon, plans are not trivialized; they must be directly and publicly addressed in land use decision making, and carry with them specific expectations and responsibilities.

In 1979, the legislature created the Land Use Board of Appeals (LUBA), a three-judge panel composed of attorneys appointed by the governor and confirmed by the state senate. LUBA is a special land use appeals court that bypasses the county-level state circuit courts, which can thus focus on other issues. Further, LUBA is staffed by experienced land use attorneys who provide the expertise needed to understand and rule on complicated issues of making plans and implementing procedures.

### Advocates, Elections, and Challenges

Advocates have played an essential role in the evolution and operation of the planning program since its inception (Adler 2012). SB 100 was passed because of the efforts of a coalition of agricultural and environmental interest groups, as well as others. Industry groups—for example, the Associated General Contractors, the Oregon Home Builders Association, the Home Builders Association of Metropolitan Portland, and the Oregon Farm Bureau—and advocacy organizations such as 1000 Friends of Oregon and Oregonians in Action have engaged with one another and the program through planning, rulemaking, legislation, and campaigns associated with initiatives brought forth by advocates to change and in some case repeal the planning program. By most accounts, 1000 Friends, created explicitly by Governor Tom McCall and Henry Richmond to watch over and safeguard the program enacted by SB 100, has played an essential role in ensuring that the fundamental objectives of the program are met locally and statewide.



Like SB 10, SB 100 has been challenged directly at the polls. An early referral effort in 1973, the year the bill was signed, failed because of a lack of signatures. Counting efforts following the passage of SB 10, repeal campaigns went to the voters in 1970, 1976, 1978, and 1982, but failed each time. In 1998, Oregon Ballot Measure 65 to repeal the statewide planning goals went to the voters, but it also failed. However, in recent years, measures to assert rights to private property, as well as a direct challenge to the ability of local jurisdictions to use regulation as a mechanism for plan implementation, have passed. These will be discussed later in this chapter.

Although 1000 Friends and the builder groups started out as antagonists, they were able to find common ground when it became clear that the value of mandating planning and consistency among implementation tools and decisions with plans was the provision of certainty for landowners and developers. Rather than negotiating conditions with every proposal, those negotiations were intended to take place in the planning, not the permitting, process.

Unlike neighboring California and Washington, which followed the national lead and adopted state-level requirements for environmental impact analysis, Oregon expected that environmental impacts would be identified and addressed early in the planning process. This meant that in Oregon, types of land uses often subject to lengthy and complicated permitting processes in other states—multifamily development, commercial development, and other types associated with urban development in rapidly growing communities—were allowed by right. This provided a level of certainty heretofore unknown.

Consequently, although the home-builder groups supported repeal efforts in 1976 and 1978, they opposed repeal in 1982 because the value of the program for saving them time and for enabling development to occur by right had become apparent. To codify this relationship between planning and certainty as a program benefit, the Oregon legislature enacted a statute in 1983 requiring a local decision on a permit request within 120 days of application for all submitted permits that were consistent with adopted and acknowledged local plans, codes, and rules.

It took much longer than expected to acknowledge the plans submitted by the cities and counties. Although most plans were adopted and acknowledged by the early 1980s, the last appeal of the initial set of plan acknowledgments took place in 1986. More recently, two new cities have been incorporated and are proceeding through the acknowledgment process. All of Oregon's 36 counties and 242 cities have adopted and acknowledged comprehensive land use plans, which provide guidance for all land use decision making at the local level. Together, the plans of all Oregon-incorporated cities and counties create a quilt that serves as the statewide outcome of Oregon's land use planning program.

Most state agencies and special districts engaged in making land use decisions (as clarified through the courts and subsequent legislative and rule-making actions) also have adopted and acknowledged agreements with the DLCDC. Those agreements outline the ways in which agency and district activities will comply with the goals and are consistent with the adopted and acknowledged plans of cities and counties, although in practice they have mostly been forgotten since their initial adoption in the early 1980s. In Oregon, only cities and counties can adopt comprehensive land use plans, although Metro, the regional government in the Portland metropolitan area, can and has adopted functional and growth management plans that create a regional context for planning within its jurisdiction, consistent with the statewide goals and linked to city and county plans in the Portland area (table 2.2).

More recently, Jackson County and a consortium of cities in southern Oregon have developed and adopted a regional growth management and transportation plan, which will be implemented through city and county plan amendments that are consistent with the regional plan (and which, in turn, must be consistent with state goals). The LCDC recently acknowledged this regional plan, using legislation adopted to encourage voluntary efforts to plan at a regional scale by allowing local governments more flexibility in compliance with state planning requirements (Rogue Valley Council of Governments 2012).

### Scale Reclaimed: The Reassertion of State Interests

In the 1940s, urbanization in and around fast-growing Willamette valley communities threatened farming, which was one of the foundations of Oregon's resource-based economy and the basis for creating and maintaining the working landscape that had defined a sense of place for many Oregonians. The history of reclaiming scale in Oregon planning began in 1947 when counties were allowed to plan and zone to protect farm and forest land. However, by the early 1960s, county inaction left gaping holes in the fabric for managing growth, and stronger tools were needed. The state acted to provide relief to local property tax assessments for farmland owners, enabling farmers to secure property tax assessments based on farm use rather than speculative development value if that land was zoned for exclusive farm use as a consequence of an adopted county land use plan.

County inaction persisted, and SB 10, a mandatory requirement for local planning and zoning by both cities and counties, was the state's newest attempt to corral local land use decision making, which some viewed as having run amok. Again, local governments failed to act, and with no real oversight or enforcement powers in SB 10 or clear roles assigned at the state level, little happened.

**TABLE 2.2**

*Institutions, Agencies, and Organizations Active in Land Use Planning in Oregon*

**Department of Land Conservation and Development (DLCD):** This is the administrative home of the Oregon Statewide Planning Program and staffs the Land Conservation and Development Commission. It implements statewide planning program policies and rules; monitors and assesses the land use planning activity of cities, counties, metropolitan planning organizations, councils of governments, Metro, and state agencies; and engages advocates and others interested in and affected by land use planning and plan implementation in the state.

**Land Conservation and Development Commission (LCDC):** This is the policy-making and review body for the Oregon statewide planning program. It formally acknowledges the plans and implementation tools developed by cities, counties, other agencies, and state agencies.

**Land Use Board of Appeals (LUBA):** This is a three-judge panel that specializes in land use issues and procedures. It hears all land use appeals that move beyond the internal appeal procedures developed by individual cities, counties, or others having adopted and acknowledged land use plans. Appeals are decided based on facts developed through processes at the local level. Appeals from LUBA go to the State Court of Appeals and ultimately to the Oregon Supreme Court. It is the only such court in the United States.

**Cities:** Oregon has 242 incorporated cities. They have the legal authority to develop comprehensive land use plans and, therefore, act as the primary implementers of land use objectives. Incorporated cities develop comprehensive land use plans for the area within their boundaries, submit their plans and implementing ordinances to the Land Conservation and Development Commission for acknowledgment, and coordinate their plans with those of their neighboring jurisdictions.

**Counties:** Oregon has 36 counties. Like cities, counties have the legal authority to develop comprehensive land use plans. Counties develop comprehensive land use plans for the unincorporated urban and rural areas within their boundaries, submit their plans and implementing ordinances to the Land Conservation and Development Commission for acknowledgment, and provide plan coordination for cities located within their jurisdiction (except for those cities within Metro's jurisdiction).

**Metro:** Metro is the only directly elected regional government in America. It engages in plan coordination for cities and counties within its jurisdiction and serves as the metropolitan planning organization for transportation planning in the Oregon portion of the Portland-Vancouver metropolitan region. It can adopt functional plans that address issues of metropolitan concern and can require that the comprehensive plans of cities and counties within its jurisdiction be consistent with regional functional plans.

**Councils of Government (COGs) and Metropolitan Planning Organizations (MPOs):** Oregon has six COGs and ten MPOs. The COGs provide a forum for discussing and developing strategies for acting on shared interests and issues. The MPOs serve as the transportation planning organizations for federal purposes.

**TABLE 2.2** (*continued*)

Both COGs and MPOs provide technical assistance and, occasionally, contract planning services for local and regional land use planning efforts.

**Interest groups:** Not-for-profit organizations and advocacy groups have long been important participants in creating and shaping both the Oregon statewide planning program and local comprehensive land use plans and implementation actions. One particularly important group is 1000 Friends of Oregon, a land use advocacy group. Other influential statewide groups include the following:

- Oregon Home Builders Association
- Associated General Contractors
- Oregon Farm Bureau
- Oregon Environmental Council
- Defenders of Wildlife
- League of Oregon Cities
- Association of Oregon Counties
- League of Women Voters

**Citizens and Neighborhood Associations:** Through court cases and state policy, citizens and neighborhood organizations are given broad standing in land use cases and are recipients of notices that explain, in plain English, not only what is being proposed, but what rights of participation and appeal the citizens have.

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However, what happened next occurred in an entirely new environment. The 1960s were a time of profound questioning of existing institutional and social relations. The nascent national environmental quality movement took off, and Earth Day in 1970 became a rallying point for citizens concerned about the unaccounted-for and unaddressed impacts of human activity on the environment. Federal laws governing air quality, water quality, and the preproject assessment of environmental impacts were enacted, but similar legislation for land resources failed to pass. Together, these social and political forces made the environment for SB 100 profoundly different from the circumstances for SB 10. The notion of a much stronger state role, intended to achieve state-level goals that expressed clear ambitions for core values held by state residents, was now both possible and desirable, although it did not entail rewriting constitutional expectations of rights to property or giving the state a free hand in planning and land use decision making.

The move in four short years from SB 10, with its weak overtures to local jurisdictions in control of planning and land use decision making, to SB 100, with its relatively strong role for the state in concerns that had heretofore been local, is amazing. Through SB 100, Oregon found a way both to preserve the central role of cities and counties as the loci for comprehensive land use planning and decision making and, at the same time,

to reassert a broader state interest in local activity and a common vision for the state, its landscape, and its future. However, both the unfinished business of growth management and new challenges like climate change make it likely that the state will continue to seek ways to see its interests reflected in what are still regarded as largely local concerns and responsibilities.

Nonetheless, in Oregon, during this era of postacknowledgment planning and land use decision making, the DLCDC and the LCDC do not plan, do not zone, and do not issue permits. The state provides oversight, the goals, and a consistent set of rules that apply to everyone. Achieving the outcomes envisioned in the statewide planning goals is left to literally thousands of decisions made by local governments and state agencies pursuant to their adopted and acknowledged plans and agreements, without the direct engagement of the DLCDC or the LCDC. Whether this all adds up to a coherent vision of the future as envisioned in the goals is the topic of the remainder of this chapter (table 2.3).

## Results

In a comparison between smart growth states and states that have not adopted a statewide approach to achieving smart growth outcomes, Ingram et al. found that “smart growth states tend to perform well in an area that is a high priority for that state” (2009, 146). That is, statewide growth management programs, like that of Oregon, can accomplish the goals for which they are created, but they will not accomplish all the goals associated with smart growth without a specific commitment and focus.

The Oregon Statewide Planning Program was clearly directed at stopping urban sprawl, preserving farm and forest land, and ensuring that plans and planning influenced land use outcomes. Though other concerns—housing, housing affordability, habitat preservation, and other issues addressed by the 19 statewide planning goals—had to be addressed through local comprehensive planning, it is these three central issues that Oregon is perhaps best known for, and for which it has the greatest accomplishments to show.

Oregon demonstrates its concern with plans and planning in several ways. First, every city and county has a comprehensive land use plan, collectively addressing land use management on all nonfederal lands in the state. The county plans, in particular, have accomplished what earlier efforts could not: exclusive farm use and forest land zoning, which are needed in one form or another for counties to meet the requirements of Goal 3, Agricultural Lands, and Goal 4, Forest Lands. Farmers and forestland

**TABLE 2.3***Milestones in Oregon Land Use Planning*

1859	Oregon becomes the 33rd State.
1918	City of Portland establishes Oregon's first land use ordinances.
1919	Oregon legislature allows cities to enact zoning.
1925	Oregon Supreme Court upholds City of Portland zoning ordinance.
1947	Oregon legislature allows counties to enact zoning.
1955	Oregon legislature creates subdivision and land partition statute.
1961	Oregon legislature allows farm tax deferral for land that is actively being farmed and is located in an exclusive farm use zone.
1969	Oregon legislature adopts Senate Bill 10, which requires every city and county in the state to adopt a comprehensive land use plan that meets state standards and furthers state land use goals.
1973	Oregon legislature adopts Senate Bill 100, which creates the Land Conservation and Development Commission (LCDC) and the Department of Land Conservation and Development (DLCD).
1974	The Land Conservation and Development Commission adopts the first 14 statewide planning goals.
1975	Oregon Supreme Court rules in <i>Baker v. City of Milwaukie</i> that a local comprehensive plan is the controlling land use document.
1976	Medford and Central Point become the first cities to have their comprehensive plans acknowledged by the LCDC. Voters defeat measure to repeal Senate Bill 100 by 57% to 43%.
1977	Gilliam County becomes the first county to have its comprehensive plan acknowledged.
1978	Voters defeat measure to eliminate state oversight of land use planning by 61% to 39%.
1979	Metro, the nation's first and only directly elected regional government, is created by a vote of the people in the Portland metropolitan region.
1982	Voters defeat measure to repeal Senate Bill 100 by 55% to 45%.
1986	LCDC acknowledges the last comprehensive plans.
2000	Voters, by 54% to 46%, pass Ballot Measure 7, a property rights measure that amends the Oregon Constitution to provide landowner compensation when government land use regulation decreases the value of property.
2002	Oregon Supreme Court rules Measure 7 unconstitutional because it addresses more than one issue.
2004	Voters pass Ballot Measure 37, a statute to replace Ballot Measure 7, by 61% to 39%.
2007	Voters, by 62% to 38%, pass Ballot Measure 49, which curtails Ballot Measure 37 and limits the claims that property owners can make.

(continued)

**TABLE 2.3** (*continued*)

2009	The LCDC adopts new rules for streamlining and updating urban growth boundary amendment procedures.
2011	Metro adopts urban and rural reserve designations for lands outside its urban growth boundary, a 50-year plan for managing regional growth. The DLCD adopts a 5-year plan and obtains funding to overhaul data systems and improve citizen access to planning information.
2012	DLCD receives funding and authorization to begin work with groups of counties on region-specific rules for farmland and forestland protection.
2013	House Bill 2254 provides a new and streamlined option for facilitating urban growth boundary amendments for smaller cities.

owners throughout Oregon now have access to farm and forest tax deferral programs that help make their resource-based uses of the land economically sustainable.

### Urban Growth Boundaries

Another signature accomplishment of the Oregon system is its impact on sprawl and on local land use plans created pursuant to SB 100. The centerpiece of this effort is the creation of urban growth boundaries (UGBs) around all incorporated cities and previously urbanized portions of counties. Originally proposed before the development of statewide land use planning in 1973 with the goal of addressing sprawl through better coordination, UGBs under SB 100 emerged as a means to make the conversion of land from rural to urban use a conscious and planned decision (Seltzer 2009). They were intended to contain urban development and manage the relationship between such development and adjacent resource lands just across the urban boundary.

Several aspects of this approach are notable. First, unlike other approaches to preservation of resource lands that identify valuable resource lands and protect them by a boundary, here, urban land has to make a case for its existence; all other lands outside UGBs are planned and managed to further farm, forest, and range use. In essence, Oregon's Goal 14, Urbanization, recognizes that once resource lands are converted to urban uses, they are lost forever.

Second, as has been established in the courts, a demonstration of need must be based on facts pertaining to population growth or to specific land needs associated with a particular use (for example, land for ports can be found only adjacent to rivers and bays). It may be nice or even easy to develop land adjacent to highway interchanges or large flat tracts currently

used for farming, but the proposed urbanization must be necessary, and it must demonstrate that any adverse effects on resource uses and other key interests are minimized.

Third, Oregon's supply of land for urban development grows in an intentional, coordinated fashion. UGBs were never intended to be fixed limits imposed forever. Although they use regulation similarly to the ways in which greenbelts use time and distance to separate urban from rural areas, UGBs are intended to change as new land needs are demonstrated. Since 1970, Oregon's population has practically doubled, and the UGBs within which most of that growth has occurred have expanded to varying degrees to accommodate that population growth. However, each of those changes represents a conscious decision, made in concert with existing plans and according to the statewide planning goals.

This approach has been controversial from the start. It affects the ability of individual rural landowners to enter speculative land markets. In the opinion of opponents of the UGB concept, it creates an artificial scarcity of urban land that drives up housing prices. For others, it represents an erosion of local control over land use because the expansions are subject to state review and approval. Local communities cannot simply expand outward in the name of local economic development.

In 1981, faced with a deep and prolonged recession and cutbacks in state budgets that threatened the ability of the state to fund local planning efforts and expeditiously complete the acknowledgment process, Republican governor Victor Atiyeh created the Governor's Task Force on Land Use in Oregon to "conduct an impartial evaluation of both the positive and negative impacts of Oregon's land use planning program" (Governor's Task Force on Land Use, 1982, 4). The task force held hearings throughout the state to listen to a wide range of citizens, developers, lawyers, advocates, and elected officials. As the task force noted, comments ranged from the claim that land use planning was a communist plot to the notion that the system was perfect and should not be touched. In the end, the task force could find no evidence that land use planning had either dissuaded a single firm from locating in Oregon or enticed a single firm to locate within the state. In response to its findings, the task force issued recommendations covering a range of topics, including actions to streamline state review of local plans and decisions, to speed the completion of comprehensive planning, and to enforce a final deadline for plan completion. The recommendations issued by the task force became the basis for wide-ranging revisions of the program, but in the end, the task force ratified the core elements and the value of the program, and did not find cause to lay the state's economic problems at its feet.



In the late 1990s, as prosperity and growth returned to the urban centers in the state, new concerns were raised about the extent to which UGBs were artificially preventing the development of needed housing and needlessly increasing the cost of housing. The Committee to Study Housing Affordability, a broad-based coalition of builders, advocates, cities, counties, and state agencies, was created in 1998. The committee commissioned the “Oregon Housing Cost Study” to determine why housing prices, particularly in the Portland metropolitan area, had increased so rapidly in the 1990s and to examine the trends influencing prices and the actions that could be taken to moderate price increases and make housing more affordable. The study found that “the data included in this study does not prove or disprove any particular theory about the cause of rapidly increasing housing prices in Oregon during the mid-1990s” (Committee to Study Housing Affordability 1998, 70), although many interests involved in the committee had their own theories about why prices had increased.

Rather than indicting UGBs as a simple explanation for rising home prices and increasing cost burdens, the committee found that a wide range of factors—rapid population growth, low rates of single-family home production, the declining proportion of first-time buyers among all buyers, weak income growth, the small size of Oregon home-building companies, and rising land costs—all had an impact on market prices during the study period. It also suggested that the perception of land scarcity, the fragmented nature of the home-building industry, lagging incomes, builders targeting move-up markets, the low rate of production of attached single-family infill, and system development charges were all important topics for future research. However, as in the previous study, UGBs alone could not be shown to have the impact claimed by opponents.

In 2008, at the request of the legislature and the DLCDC, the Institute of Natural Resources at Oregon State University convened an inter-university group of scholars to review the performance of a selected group of the statewide planning goals, including Goal 14, Urbanization. Ellen Bassett and George Zaninovich (2008) contributed a chapter that reviewed the literature pertaining to the use of UGBs and containment more generally. They organized their review to study the primary impacts associated with constraining or limiting the amount of available land, including the following:

- The rate of land conversion.
- Increasing compactness and population density.
- Increasing land values inside UGBs and decreasing values outside.
- Decreasing public service costs due to constraints on sprawl.

- Impacts on choice of transportation mode and on system performance.

They found that there was a sizable literature, although the mix of methods and time periods made it challenging to assess the performance and impacts of UGBs statewide. The literature generally supported the contention that UGBs had impacts on land markets, as was intended in order to change the land economics to support higher urban development densities, making land more valuable inside UGBs compared with adjacent rural land.

From very early in the Oregon experience, there has been an ongoing and robust debate about whether the increases in land prices exceeded what was intended and whether they were creating unintended and undesired distortions in land markets. However, the impacts in Oregon were very similar to those observed in Washington, which adopted a growth management act in the 1990s that is generally viewed as less restrictive than Oregon's program and has not had as much time to take effect. More important, Bassett and Zaninovich found that the academic literature did not clearly associate housing price increases with UGBs and pointed instead to economic growth and income growth as more significant causes of upward pressure on housing prices. Similarly, in a study of housing price impacts in the Portland metropolitan region, Jaeger, Pantinga, and Grout (2012) concluded that the UGB in the Portland metropolitan area could not be implicated as the cause of distorted or rising housing prices.

In a comparative study of two groups of states between 1970 and 2005, one consisting of states, including Oregon, that engaged in smart growth practices and the other consisting of states that did not, Ingram et al. (2009) found that Oregon was more successful in promoting denser development. They stated that "Oregon is the only state in the study—and Portland the only metropolitan area—where the population became more concentrated. . . . Moreover, the share of population growth in urban areas was higher than in any other case-study state, while the share of population growth in rural areas was the second lowest" (Ingram et al. 2009, 195). They also found that of the states in the study, Oregon had the highest share of population growth in areas that were already urbanized.

Richard Whitman and Tyler Evilsizer (2012) similarly compared urban growth patterns in Oregon, Idaho, Washington, and California for the period from 2000 to 2010. Using 2010 census data, they found that the proportion of Oregon urban areas with an increasing population density exceeded that of the other states, and that the proportion of population growth occurring outside urban areas over this period was substantially less than in the other states. They also found that, unlike in neighboring

states, the land area of cities in Oregon, particularly in the Willamette valley, was increasing at a rate substantially below the rate of population growth.

The Sightline Institute found similar results in a study comparing the Oregon and Washington portions of the Portland-Vancouver Metropolitan Statistical Area, a single metropolitan area with two similar but not identical planning regimes (Williams-Derry 2012). In a comparative study of suburban growth and urban gentrification in the United States, Orfield and Luce (2012) pointed to the Portland metropolitan area as one where urbanized land and population increased at about the same rate, an unusual outcome for many U.S. metropolitan regions, growing or not.

In sum, UGBs in Oregon have been shown to be effective tools for focusing population and housing growth within urban areas and for preventing sprawl onto farmland and forestland, as intended by the passage of SB 100 in 1973. The arguments by opponents that UGBs would distort markets and artificially create land shortages that would drive up housing prices substantially have not been sustained. However, by creating UGBs, Oregon has chosen to intervene in certain market transactions, and that action undoubtedly has costs that work their way through land and housing markets. Through its planning goals (particularly Goal 10, Housing), Oregon has made the exclusionary zoning found in other states illegal, thereby avoiding at least one of the most common market distortions in America.

### Preserving Agricultural Land

As is the case for the impact of UGBs on sprawl, urban form, and housing affordability, both exogenous and endogenous factors complicate conclusions regarding Oregon's progress toward preserving agricultural and forest lands and the agricultural and forest products industries. In a literature review of the research conducted on Oregon's progress toward meeting the preservation objectives in Statewide Planning Goal 3, Agricultural Lands, Gosnell et al. (2011) noted that the wide range of factors affecting agriculture—economic, physical, geographic, cultural, geopolitical, and federal—coupled with the ongoing evolution of Oregon planning law and requirements over the past 50 years, makes it difficult to draw definitive causal conclusions. Nonetheless, because of Oregon's longstanding and relatively comprehensive approach to farmland preservation, research results shed light on Oregon's progress to date. Gosnell et al. (2011) reported on three kinds of studies: those that use readily available data from sources like the U.S. Census of Agriculture, those that develop and apply indicators or metrics to assess the status and trends for both

agriculture and forestry in the state, and those that use primary data of actual changes in land use as a means for analysis and model building. Their review of the literature led them to conclude that “the Program has resulted in a measurable degree of forest and farmland protection since its inception in 1973” (191). However, they cautioned that the complexity of assessing causal factors for observed effects at the scale of the state of Oregon, coupled with notable data gaps and time lags, should encourage further research in order to understand definitively the impacts of Goals 3 and 4 in the planning program.

Sullivan and Eber (2009) reviewed the history of agricultural land preservation in Oregon from 1961 to 2009. They noted that the approach taken in the state, linking tax incentives to land use planning, has evolved throughout that period, gradually becoming more prescriptive as voluntary and incentive-based approaches have proved to be ineffective. They concluded that the objectives of Goal 3 have been met, particularly with important and substantial legislative amendments to the land use program in 1993, but that Oregon could employ a host of other approaches and tools as it attempts to preserve agricultural land and production in the face of continued population growth, particularly in the Willamette valley. They stated that historically, land use planning, which has accommodated ever-increasing urban growth and development, has been hostile to agricultural land preservation in the first place. Agricultural land preservation challenges prevailing desires to further urban growth and historical, cultural U.S. relationships to land, along with expectations for the good life. Although they identified notable successes in Oregon’s approach, they noted that “agricultural land is not unused, undeveloped open space” (2009, 64). Policy and planning in the future need to explicitly address agricultural use as an important element of Oregon’s economy in its own right, not as a surrogate for either controlling urban sprawl or forestalling nonfarm rural uses.

Similarly, in a report to the Metro Council, Jim Johnson, of the Oregon Department of Agriculture, concluded that the assumption that agricultural land preservation trumped all other proposed uses was false (Johnson 2007). In 2005, when Metro was considering how to accommodate a forecast additional one million residents in the metropolitan region over the coming 30 years, the Metro Council asked the Oregon Department of Agriculture for an assessment of ways to better engage and serve the needs of agriculture in the region. Two of Oregon’s ten most highly productive counties, as measured by farm gate receipts, are part of Metro’s jurisdiction, and the list expands to four of ten if the consolidated metropolitan statistical area is considered. Agriculture continues to be a viable, valuable part of the economy in the most urban, rapidly growing parts of Oregon.

However, like Sullivan and Eber, Johnson (2007) found that statutory and administrative requirements for sustaining the urban land supply and accommodating urban growth took precedence over desires to preserve agricultural land, despite the popular notion that Oregon's statewide land use planning program privileged agricultural land. Johnson developed a hierarchy of agricultural land types in the metropolitan region to enable Metro to maintain agricultural land resources and activities more effectively and to meet its obligations to provide sufficient land for urban development within the metropolitan UGB. Subsequent planning by Metro has resulted in the adoption of rural reserves, areas that are off limits for urban growth for the next 50 years, and urban reserves, places where Metro will look to supply additional urban land, should it be needed, and which are located and managed to minimize impacts on farming and farmland resources.

More recently, in a report to the Oregon legislature, the Oregon State Board of Agriculture documented a continued loss of farmland as population continued to grow (Oregon State Board of Agriculture 2011). Although this is due, in part, to the conversion of farmland within UGBs to urban uses, the loss of important agricultural land continues to be a cause for concern to the agricultural community. The board recommended that the state actively discourage expansion of UGBs and urban reserves into high-value farmland, and that when UGBs and urban reserves are expanded into active farming areas, protections be enacted to protect agricultural activities, right-to-farm laws be strengthened, and nonfarm uses of agricultural land be reexamined and limited, including events and other consumer-oriented activities that conflict with farming activities.

The research here is both validating and inconclusive, as is the research on the impact of UGBs and Oregon's efforts to stop sprawl. Oregon agriculture, both within the populous Willamette valley and in other parts of the state, is doing well. Oregon is losing farmland at rates substantially lower than those of its neighboring states and the national averages, and per farm and per acre income is rising, as is agriculture's share of state domestic product. The effort to protect Oregon farmland is measurably succeeding, but the overall cause-and-effect relationship between Goal 3, Agricultural Lands, and the future of agriculture awaits further research, better data, and inevitable political redefinition. Furthermore, the legacy of agricultural land preservation in Oregon is clearly linked to the use and impacts of UGBs in the state. That is, these goals do not stand alone; they both support and are in tension with each other over time. Without Goals 3 and 4, Oregon would not be able to sustain UGBs. Without UGBs, Oregon would not be able to stem the tide of sprawling growth at the edge that is characteristic of metropolitan development patterns in the United States.

### Property Rights at the Ballot Box

Land use planning has always been controversial. In addition to the four direct efforts to repeal the program at the ballot box reported earlier in this chapter, in recent years, opponents have seized on a more basic issue, namely, the degree to which land use planning conflicts with the rights of landowners to do what they want with their land.

In 1993, the Oregon legislature took steps to strengthen and expand the rules and regulations affecting the use of agricultural land. A lack of clarity in the language of the original goal, coupled with a lack of desire at the county level to insist on strict adherence to the goal, led to a pressing need to revise Oregon's rules for agricultural land. As reported by Sullivan and Eber (2009), this had the effect of mobilizing a committed core of activists who focused on the weakening, if not the outright repeal, of Oregon's land use planning efforts. However, this time, rather than directly repealing the state program, they shifted the focus to reclaiming what activists believed to be lost property rights, the longest-standing core issue for program opponents.

In 2000, Ballot Measure 7 was put before the Oregon electorate. Since the 1970s, when SB 100 was passed, leadership by moderate Republicans had long since ceased, and the center had shifted to the right. The Oregon legislature, reflecting these changes, passed a measure aimed at strengthening the rights of property owners at the expense of the land use planning program. After the governor vetoed that legislation, program opponents decided to go directly to the electorate with Ballot Measure 7, which would effectively implement the vetoed legislation.

Measure 7 did not speak to SB 100, the Oregon land use planning program, the DLCDD, the comprehensive land use planning, or any of the other central elements of the Oregon land use planning approach. Instead, it amended the Oregon Constitution to require that state and local governments pay for any loss of value that occurred as a result of the imposition of any governmental regulations. The Oregon Constitution already required that the public provide compensation when private property was taken for public purposes. Measure 7 would have gone much further by requiring compensation for any rule, law, or ordinance that restricted the use of property. It thus promised to bring many governmental programs to a halt, including land use regulation at the state and local levels.

Measure 7 passed with 53 percent of the vote, but the Oregon Supreme Court overturned it for violating the procedural one-topic requirement of the Oregon initiative and referendum system. However, its passage "[was] a powerful indicator of sentiment and confusion" about Oregon's land use planning program (Sullivan and Eber 2009, 50).

As Bassett (2009) found, the language of the ballot measures changed markedly between the first four attempts and Measure 7. The earlier efforts appealed to voters to reject the legitimacy of land use planning, something they were unwilling to do. Measure 7 and its successors took a different tack by addressing the impacts of government regulation, including land use planning, and appealing to the fundamental belief that all citizens should be treated fairly. In the first four campaigns, proplanning forces could argue the importance of planning for preserving important and valued public goods. In this new environment, proplanning forces had to defend perceived losses and the specter of governmentally imposed unfair treatment with facts and figures, a decidedly weak and unpersuasive weapon.

The demise of Measure 7 in the Supreme Court set the stage for Ballot Measure 37 in 2004, which was modeled on Measure 7, but was proposed as a statute, not a constitutional amendment. Measure 37 focused somewhat more narrowly on land use planning. It specifically required that any government implementing a land use regulation either pay owners for any loss of value or waive the requirements of the regulation. Measure 37 passed, this time with 61 percent of the vote, and the state and local governments began to receive a wave of claims for compensation. Analyses of those claims soon demonstrated that most were located in rural areas, some 51 percent in farm use zones in the Willamette valley. Measure 37 required no factual basis for the claim and explicitly did not allocate or provide any funding for paying claims. Consequently, all claims, with one exception, were met with a waiver of the relevant regulations.

The impact of these claims and the inability of governments to do anything other than waive regulations on a spot basis led to relatively clear patterns that both communities and neighbors of the claimants soon saw as harmful (Martin and Shriver 2006). Case-study research on Measure 37 claims, coupled with mapping of the locations of claims, particularly in the Willamette valley, illustrated the connection between the measure's reputed aim of fairness and its direct attack on the statewide planning goals and the long-standing, now widely held interests served by the planning program, both in substance and in process.

In particular, maps of areas with the most claims, along with information about the potential levels of development, led the Oregon legislature to put Ballot Measure 49 before voters in November 2007. Measure 49 attempted to address the perceptions of unfairness by allowing a limited number of new residential development permits, but only within a finite time period. It also required evidence of losses, particularly for larger claims, a provision not included in Measure 37. Measure 49 passed with 62 percent of the vote, leaving the state program largely intact.

Walker and Hurley (2011) provide a counterinterpretation of these events. In their book *Planning Paradise*, they present Oregon as a planned

place that has benefited greatly from the planning that it has undertaken, particularly as a result of SB 100. However, they view the passage of Measures 7 and 37 as shots across the bow of an entrenched, inflexible planning regime, wedded to a system based on political and economic conditions that no longer exist. In their view, Measure 49 did not save the program; rather, it conceded the fundamental point put forward by opponents of planning: that government should pay for diminished value due to planning and regulation. They suggest that tone-deaf planners and advocates have ignored dynamics that have enabled opponents to get the upper hand in a state where landowners want both to have planning and to be left alone. Oregon's planning program has always been hanging in the balance between these two poles, and in recent years, the balance has tipped. The authors offer no concrete suggestions for what comes next and state only that the system needs to better embrace nonregulatory tools and recommit to broad citizen participation.

What Walker and Hurley, Bassett, and others have identified is that the fundamental tension in U.S. society between public and private interests, particularly in the context of land use planning, has always been present in Oregon despite the existence of the statewide planning program. Claims of unfairness will always exist. After the voters approved Measure 49 in 2007 and the legislature passed Senate Bill 1049 to implement it in 2010, the leading property rights group in the state, Oregonians in Action, publicly proclaimed that its battle to repeal the planning program was over for now, and that it was focusing its efforts on improving the economic options for individual owners of small-scale rural lands. Nonetheless, the issue is far from settled. If anything, as Bassett (2009) has noted, the battle over land use planning has moved to a new and volatile environment where arguments are framed more by values and not by appeals to reason or institutional arrangements, a reflection of the political climate gripping Oregon and the nation.

In sum, as a consequence of the adoption of SB 100 and the creation of a statewide planning program, Oregon has witnessed careful and unprecedented land use planning by all cities and counties, the creation of more compact development forms at the city and metropolitan scales resulting from the use of UGBs, the preservation of important farmland, and the maintenance of Oregon's working landscape. That said, not all UGBs in the state are as successful as those in the Willamette valley (Bassett and Zaninovich 2008).

In addition, although greater emphasis on accessibility at the expense of mobility has resulted in declining vehicle miles traveled per capita in the Portland region since 1996, the state remains profoundly automobile dependent. Degraded habitats, the result of generations of resource use and abuse, continue to threaten important Oregon fish and wildlife



populations. Again, Oregon's program was predicated on comprehensive planning for reasons that were anything but comprehensive. The 19 statewide planning goals have not yielded equally impressive outcomes across all Oregon communities.

### Lessons Learned

The Oregon planning experience is often cited as a model for the nation because Oregon has accomplished many things that other states have tried and failed to do. However, Oregon engaged in land use planning not to create a model, but to solve a set of interrelated problems that were unique to its economic and political geography and, therefore, were limited in scope. The planning program addresses some issues well and many others not at all. Today, elements of the system put in place by SB 100 in 1973 have become not just central parts of the civic discourse of the state, but part of the cultural life of the communities of Oregon (Abbott and Margheim 2008). Several clear lessons can be learned from this experience:

1. *Planning Matters.* Land use patterns in Oregon have changed, and urban form in Oregon differs from that in neighboring states. Citizens have a role in the process, and the purpose of the process is to enable development to occur, guided by plans based on facts, in a transparent and fair manner. Facts and the meaning of words matter in the land use planning program, and aspirations have been and continue to be translated into implementable actions.
2. *Change Takes Time.* The modern era of planning in Oregon has its roots in almost 100 years of state and regional activity. Oregon engaged in a program of statewide land use planning in the 1970s as a consequence of its struggle with issues extending back to the beginning of the 20th century. Further, Oregon's efforts to shape its future through planning and public policy are far from finished. The Oregon Statewide Planning Program enacted by SB 100 in 1973 is best viewed as a key moment in an ongoing and robust continuum of effort.
3. *Controversy Never Ends.* Land use planning has been and continues to be contentious, and it will always be so. Fundamentally, the United States is a nation endowed with abundant land resources and created, in part, to extend the rights of ownership broadly. Government intervention, at any level, in the use of private property has never come easy. This heritage is further complicated in a state like Oregon, where the urban-rural divide adds additional tension to any attempt to engage the state in the management of land and natural resources. As rural sociologists have pointed out, rural communities depend on relationships, while urban communities depend on rules. Rules-

based institutions intervening in largely rural land use issues invoke a vast collision of cultures and expectations before even beginning to deal with the more technical issues of land use and planning.

4. *Progress Requires Collaboration and Compromise.* Everything that Oregon has accomplished has occurred through the creation of coalitions. Urban environmentalists and rural farmers pressed for something better than SB 10. Land use advocates joined numerous times with development interests to insist that communities live by their plans or engage in a public process to change them. These coalitions, made up of interest groups that sometimes collaborate and sometimes conflict, require that the outcomes of the politics of land use result from processes within which compromises can be struck. The only way to ensure that this occurs is for all concerned to take the long view.
5. *The Landscape Keeps Us Honest.* At the end of the day, it is the landscape of Oregon that creates Oregonians' common frame of reference (Hibbard et al. 2011). Once the ramifications of Measure 37 became apparent, for example, and its potential impact on the working landscape of the rural Willamette valley became clear, Measure 49 emerged as a solution and passed with a slightly larger margin than did the measure that instigated it and that it replaced. Oregonians enjoy an unusual and diverse set of landscapes and experiences, and in a state that grows primarily through in-migration, those landscapes and experiences are critical reasons that in-migrants move to the state in the first place. Oregonians are proud of what they have found and of how they have responded to it, not solely or predominantly about what they have created. Notable Oregon innovations—for example, SB 100, the bottle bill, and the beach bill—tend to be innovations of preservation rather than innovations of creation.
6. *Many Issues Remain.* This story is far from over.
  - a. As Sullivan and Eber (2009) document, even the definition of agricultural land remains in flux, and many key terms and relationships need clearer definition.
  - b. Regulation is only one tool for accomplishing the goals set forth in Oregon's planning program. Investment, tax, and other policy actions at the local, regional, and statewide levels are necessary. Oregon has made great strides in land use policy, but it has yet to match its land use policy with integrated, coordinated sectoral policies (e.g. on the preservation of the agricultural economy and the practice of agriculture) and objectives that connect actions on the local, regional, and statewide scales.
  - c. Key questions regarding the impact of planning on the economy and the use of planning to promote economic development

continue to be debated. Every time the economy slows down, calls for loosening land use requirements get louder.

- d. Big infrastructure projects continue to raise questions about sprawl and to generate discussions about presumed trade-offs between jobs and the economy. Of great concern today is the fact that infrastructure is no longer paid for by the state or the federal government. Local sources are required and difficult to find. Plan implementation requires more than regulation. Without investment, the very premises of plans are called into question.
- e. Oregon planning is known for agricultural land preservation and the use of UGBs; it is not known for creating greater conditions of equity and justice in society and for making social justice as important a statewide planning goal as the efficient establishment of urban transportation systems. Goal 10, Housing, requires all Oregon communities to make a range of housing types available, but the link between land use planning and equal access of all citizens to the opportunities of the state is only now receiving systematic attention in the context of comprehensive land use planning at the local level (City of Portland 2012).
- f. The property rights battle continues, but it is using new language and tactics. “Fairness” is the new battleground in Oregon: how much and how far should land use planning, particularly its implementing regulations articulated in zoning, affect private and local decisions? Often opposition is expressed in relation to the plan, not to zoning. Without the zoning, however, the plans lack meaning and a clear role in local decision-making processes. Efforts to make zoning less onerous have consequent effects on the plans. Driving zoning through planning, and not the other way around, remains a complicated political and conceptual struggle.
- g. Regionalism and regional planning, rejected in the adoption of SB 100, are issues in Oregon that never go away. The regions of the state regard themselves as being profoundly different and, therefore, beyond the easy application of a set of rules created by the state. The tension between conforming to the statewide program and goals and tailoring them to the regions of Oregon is reflected in a memo from the Oregon Department of Land Conservation and Development that articulates the flexibility for regions that is already built into the existing program (Oregon Department of Land Conservation and Development 2008). The fact that the department felt compelled to draft the memo is emblematic of the tension between urban and rural regions in Oregon. The Oregon Chapter of the American Planning Association (2010) called for a new generation of regional approaches as a

means for enabling the program to better address long-standing and emerging planning issues in the state, issues perceived to be shaped and defined by their location. The quest for regional (if not a reversion to local) approaches set within the desire for a statewide system continues, and will probably always be shaping the planning dialogue in Oregon.

- h. The goals are almost 40 years old, and most comprehensive plans are now between 25 and 30 years old. Although the state system calls for periodic review of all acknowledged plans, the challenge remains to keep plans alive and functioning as vital elements of local thought and action when communities and conditions change, which may require new responses.
- i. As fiscal pressures on state and local governments increase, there is a growing desire to simplify and streamline planning, both to reduce costs and to focus citizen engagement on key policy issues rather than on battles over numbers and models.
- j. Many issues that are being included in planning systems in other states, such as climate change, species recovery, and globalizing economies, are not being addressed directly through land use planning in Oregon. Instead, these issues are being addressed through other means and processes that intersect with land use planning when SB 100's goals of preventing sprawl and preserving resource land are affected. How and when to refocus land use planning in Oregon on emerging issues remains a topic of ongoing conversation and occasional initiatives, but little agreement. Whether continuing to do what it does well is enough, or not changing to accommodate and incorporate new issues represents failure is far from settled.

Although much has been accomplished, much remains to be done. To regard Oregon's land use planning as settled and done, rather than as an engaging set of questions that continues to evolve, is risky at best.

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Oregon's land use planning program is statewide in scope, but it is not a state planning program. Instead, most planning is done by cities and counties, just as it has been done since city planning began in the United States in the early years of the 20th century. Oregon has a quilt composed of comprehensive plans developed by cities and counties, plans of operating state agencies, and the planning efforts of Metro and other regional bodies. These plans are stitched together by the requirement that they be consistent with the common framework provided by the statewide planning goals.

Whether this is a more effective route than an actual state plan, as is the case in New Jersey or Maryland, remains to be seen. This approach is rightfully regarded more as a coordinated program of local planning than as an exercise of state-level planning, but its persistence and results, shaped by statewide, state-level concerns, are clear.

One way to view the statewide planning program in Oregon is to regard it as a work-in-progress aimed at addressing problems that cannot be resolved within the geographic boundaries of single jurisdictions. The program is not about creating new scales for planning, but about inserting, in a meaningful way, an extrajurisdictional scale of interest in how plans are made and acted on. At every turn, Oregon did not fundamentally change the roles of different scales—city, county, region, and state. Instead, it changed the context.

As Hise (2009) has pointed out, it is inaccurate to regard the history of city planning in America as having no room for regional or other larger scales of planning. To the contrary, he sees the history of U.S. city planning as profoundly shaped by regional concerns and regional planning. In essence, U.S. city planning has been shaped by the issues and concerns of the next-largest scale. In Oregon, the difference has been that those larger-scale concerns are transmitted through a legally binding framework, thereby ensuring that local plans are not developed and implemented in isolation.

Certainly, Oregon is not the only state to attempt to contextualize local planning in some way. However, the way in which Oregon has done this is a reflection of the links among landscape, politics, economy, and geography in the state. The important contribution that Oregon has made is not that it uses UGBs, ties zoning to plans, or even links farm tax assessments to the presence of exclusive farm use zones. Rather, Oregon's contribution is to demonstrate the necessity of real and accountable relationships among local, regional, and state scales of interest and concern, and to show that even in those links among scales, local concerns can be featured and promoted. Multiple scales can coexist successfully and even, on occasion, work together.

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## *Commentary*

RICHARD WHITMAN

**E**than Seltzer characterizes Oregon’s land use system as a “quilt” of local plans, knit together by a statewide land use program. Although he recognizes that the state’s system has effectively achieved its original objectives of farmland and forestland conservation and has improved efficiency of urbanization, he suggests that Oregon’s system may be too decentralized and dependent on local (as opposed to state-level) planning to address emerging larger-scale issues, such as climate change, inequality, and environmental quality. I am more optimistic.

Seltzer raises three important issues in his chapter: (1) the level of state control over local land use planning and the role that the tension between centralized state control and local self-determination has in determining the long-term success of land use programs; (2) the need for effective planning programs to incorporate horizontal (sectoral) integration, as well as vertical (among political and geographic scales) integration; and (3) whether a more nuanced state-level planning program, such as the one in Oregon, can effectively address future larger-scale challenges, including climate change and species conservation.

### **Vertical Coordination Versus a Unified State-Level Plan**

Seltzer describes Oregon’s land use planning program as “more [of] a coordinated program of local planning than . . . an exercise of state-level

planning.” He specifically notes that Oregon does not have a state-level plan, in contrast to New Jersey and Maryland. This characterization of Oregon’s land use system echoes periodic efforts of some planners in Oregon to advocate for a high-level state office of planning, along with a state plan.

This description of Oregon’s system overlooks the fact that the state has established and has met planned-for spatial and economic goals for how land uses should be arranged and the roles those uses play in the economy. Does the absence of a detailed spatial plan mean that Oregon is not planning? My opinion is that it does not. Further, Seltzer’s description misses an important political nuance and lesson from Oregon—that state-level and local-level planning can work in a complementary fashion if each focuses on an appropriate level of outcome and implementation.

Seltzer describes in detail how Oregon has achieved the primary state-wide outcomes that its land use laws were designed to accomplish. Comparative long-term spatial data clearly show that the growth in the spatial extent of urban and rural development over the last forty years, on both an absolute and per capita basis, has been substantially less in Oregon than in neighboring states. The corollary fact is that Oregon has been more effective than its neighbors in conserving its resource lands (Lettman 2013; Whitman and Evilsizer 2012). That success resulted from Oregon’s state planning program.

Oregon’s first set of state planning goals expressly directed new development to locate primarily in urban areas, as well as the conservation of farmland and forest-lands for agricultural and forest uses. Controls over dwellings on rural lands were tightened significantly in 1993 after reports showed that development in rural areas had slowed, but was still well above sustainable levels. This system, made up of state-level spatial goals and rules that control statewide outcomes but also leave room for individual decisions (and the opportunity for some local variation), is the key aspect of Oregon’s program. It is the foundational principle that provides long-term adaptability and political stability.

Whether such a system is a unified state land use plan or something else is beside the point. If the system establishes spatially appropriate state-level goals and desired outcomes; monitors performance toward those outcomes; adapts its tools for achieving those outcomes as needed over time; and updates those desired outcomes, it can be successful over the long term regardless of what it is called. The key in such a system is the delicate political art of vertical integration and the degree of tension and control among state, regional, and local governing entities. Too heavy a touch will cause political backlash, and the dismantling of the system, while too little control will allow local governments to avoid hard decisions

and result in the failure to achieve outcomes such as the conservation of farm and forest-lands. While Oregon has vacillated between each of these political ruins, to date it has avoided the rocks.

### **Horizontal Integration**

One of the most interesting aspects of the Dublin conference “Planning for States and Nation-States: A Transatlantic Exploration” was the reported experiences of other U.S. states and European nations in using horizontal integration of investment, transportation, and energy planning to achieve desired land use outcomes. As Seltzer notes, Oregon initially attempted to incorporate horizontal integration into its statewide planning program through its “state agency coordination program,” an element requiring state agencies and special districts to enter into agreements with the state’s Department of Land Conservation and Development, or to adopt rules specifying how their respective programs would be operated consistently with the state planning program. Although coordination rules and agreements were adopted and accompanied by initial attempts to enforce them, this aspect of Oregon’s land use system has largely atrophied, with one major exception.

In the mid-1990s, Oregon governor John Kitzhaber established the state’s Transportation and Growth Management (TGM) program to align transportation and land use investments and planning. The TGM program has had a number of successes, and the state’s Transportation Planning Rule remains one of the land use system’s most important accomplishments in terms of urban planning in the state.

Over the past 15 years, however, the degree of integration has diminished as local development interests, along with more powerful commercial and transportation lobbies, have dominated policy making. As a result, with two notable exceptions, there is relatively little consideration of using state investments in transportation, wastewater, water, and other community and state infrastructure to achieve state, regional, or local land use goals. The two exceptions are in the Portland metro area and in the Medford region in southern Oregon. In each of these areas, and particularly within the Portland metro area, transportation (and to a lesser extent water and wastewater) investments are being used very deliberately to drive long-term regional plans.

### **Can a State Planning Program Effectively Address Future Large-Scale Societal Challenges Using Local Institutions?**

Seltzer suggests that local institutions, policies, and programs cannot effectively meet larger-scale challenges, such as climate change, equity in

housing and employment, and continued population growth. I agree that local institutions and plans are not a sufficient basis for these larger-scale issues, but they are necessary. In other words, both state (and, in some cases, national) and local institutions and plans are essential in achieving outcomes at these scales. Two large-scale challenges illustrate my point.

Oregon was an early adopter of state policies to reduce greenhouse gas (GHG) emissions. It adopted a GHG mitigation requirement for new thermal power plants in 1997 and a renewable portfolio standard for its electric utilities in 2007. Oregon also worked early on to reduce GHG emissions from vehicles. Its Transportation Planning Rule (adopted in 1991 and discussed above) included as a central element a goal to reduce vehicle miles traveled (VMT) by 20 percent over a 30-year period (Bianco and Adler 1998). That goal was then implemented through more specific rules that pushed communities to plan for mixed land uses in core areas, provide alternative modes of travel, and increase residential and employment densities along transit routes.

This effort in Oregon has been relatively successful. In the Portland metro area, VMT per capita peaked in 1996 and then declined from 21.5 miles per day to 19.0 miles per day in 2009. In 1996, Portland was at the national average for VMT per capita. By 2009, Portland was nearly 20 percent below the national average (Horowitz 2010). Statewide, VMT per capita in Oregon declined from 5,800 annual miles to 5,000 from 1996 to 2011, a decrease of 14 percent (Central Lane Metropolitan Planning Organization 2012). Whether there is a causal connection between Oregon's Transportation Planning Rule, along with other elements of the state's land use program, and reduced VMT awaits future analysis. But the statewide and urban-area data suggest that something is going on in Oregon that is not occurring in most other states in the United States.

Another large-scale societal challenge that Oregon faces today is species conservation. Particularly in rural parts of the state, federal regulation of land and water uses in order to protect federally listed threatened or endangered species has significantly restricted traditional extractive industries, particularly timber harvest on federal lands. More recently, the federal government has proposed to list the Greater sage grouse as a threatened species in southern and eastern Oregon. Such a listing could severely restrict traditional ranching and livestock industries in this part of the state.

Unlike other states in the range of the sage grouse, however, Oregon has the advantage of being able to document that its land use program has effectively controlled one of the major threats to sage grouse habitat: habitat fragmentation through development. Development threatens sage grouse habitat not only through the direct impacts of land clearing and

construction, but also through the proliferation of roads and utility lines that accompany rural development (bringing with them predators and invasive plants). Oregon is able to show that its land use program has effectively controlled these threats by severely limiting dispersed development. In addition, by working both at the county and range-wide scales, the state and local governments are identifying additional tools to address the threats to this species. This effort may well allow Oregon, or parts of Oregon, to work cooperatively with the federal government to avoid the listing of sage grouse or to make a federal listing in Oregon include provisions that allow traditional economic activities to continue in a sustainable fashion.

These two examples, GHG reduction and species conservation, illustrate that Oregon's system continues to combine vertical integration of federal, state, and local programs with horizontal integration across multiple sectors to achieve desired societal outcomes. Oregon's ability to work closely with local and community partners is key to successful implementation of programs that are designed in broad strokes at the state level (with local input) and then carried out locally. Oregon's experience suggests that its institutional framework is matched to both larger-scale planning issues and smaller-scale problems of particular communities.

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Seltzer is correct that Oregon's land use program is not comprehensive. Oregon's program is shaped by the economic, political, and geographic context in which it operates. A large part of its success may lie in not trying to plan everything. Its lessons for other states lie in its more limited aspiration to focus on key state-level outcomes and its ability to create a framework where local institutions are given space to develop the specifics of their own solutions while the overall system is still held responsible for achieving those outcomes. In the end, Oregon's land use program shows that a state-scale effort can succeed if it focuses on a limited set of key outcomes that are central to how the state defines and distinguishes itself, and if it leaves the details of comprehensive planning to local values, so long as they are consistent with the state's framework. Oregon's land use program has shown that the unique balance of state and local aspirations can work.

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## Will Climate Change Save Growth Management in California?

WILLIAM FULTON

The idea of regional planning is not new in California, but the passage of the state's pathbreaking climate change laws—Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006, and Senate Bill (SB) 375, the regional planning law passed in 2008—has brought new urgency to the topic. Climate change holds the potential to inflict great damage on human settlements unless quick action is taken. The new laws, especially SB 375, have lit a fire under a system of regional planning that has long struggled to succeed in a huge American state with a long history of strong local land use planning, a frustrating lack of implementation of state laws and policies associated with growth, and an inability to find a successful formula for regional or statewide growth management. Since the passage of SB 375, the state's regional planning agencies have mostly adopted the regional sustainable communities strategies required by the law. The challenge now is to implement this ambitious set of regional plans while respecting the state's tradition of local control, and to do so at a time when it is difficult for the state to coordinate (much less fund) its own agencies' growth management actions.

### **California: The Great Exception**

California's history is unique among U.S. states. It was the first territory in the American West to become a state after the gold rush in 1850.



California covers most of the West Coast of the United States and is located almost 2,000 miles west of the Mississippi. At 163,000 square miles—larger than Italy or Germany—it is the second-largest state in the continental U.S. after Texas. And with a population of more than 38 million, it is by far the most populous of all U.S. states.

In *California: The Great Exception*, a book published for the centennial of statehood in 1950, the legendary California writer Carey McWilliams explained that because the gold rush created huge amounts of wealth instantaneously, the state skipped the traditional agrarian phase of development. Instead of beginning with farms and moving on to urban development, California developed the other way around: cities such as San Francisco and Sacramento emerged before farming, and the mercantile wealth of the cities built agricultural empires in the state's many rural valleys (McWilliams 1949).

In Southern California, now the most populous part of the state, the first wave of growth and development was not based on any underlying industry or economic driver. Instead, beginning in the 1880s, a complex web of land developers, transportation infrastructure builders, and hucksters and promoters sold the benign climate of the region as a commodity and lured hundreds of thousands of people to the Los Angeles and San Diego areas (see, e.g., Fulton 1984).

From the beginning, therefore, California had a fast-growing and mostly urban population. In the 20th century, in contrast to most other populous urban states in the United States, this rapid rate of population growth accelerated and was sustained over a very long period. California's modern growth period began during World War II, when the state emerged as the supply and manufacturing center for the war in the Pacific, and continued during the postwar suburban prosperity boom and into the late 20th century. From 1940 to 2010, California grew from 7 million to 37 million people, an increase, on average, of 440,000 persons per year, or approximately the same population as American cities such as Atlanta and Cleveland and cities in the British Isles such as Dublin and Liverpool.

The nature of this population growth has changed over time. During the postwar era, most population growth came from in-migration from other U.S. states. For at least the past 20 years, virtually all population growth has come from foreign immigration and natural increase, mostly in immigrant families; there has been a net out-migration to other U.S. states, especially other states in the West. Population growth slowed during the economic bust of 2008 partly because of lower fertility rates among new Californians and partly because many immigrants moved either to

other U.S. states or back to their home countries. Although many critics of California assert that this proves that the state has lost its luster and its competitiveness, the population slowdown is not unprecedented; similar slumps occurred in the late 1970s and early 1990s. California has seen an overall decline in median income, but the state remains a leader in the nation and the world in certain fast-growing industries, including software, high tech, and entertainment. It is difficult to predict how quickly the state's population will grow in the future, but it is unlikely that it will stagnate or decline.

The pattern of urban development that emerged in California during this 70-year period was both distinctive and cutting-edge. The modern metropolitan suburb and production home-building were invented in the Northeast, but they were certainly perfected in California. The common characteristics of postwar California development were

- large-scale subdivision of land and widespread use of superblocks;
- master-planned communities of single-family homes with small single-family lot size by national standards; and
- auto orientation, tethered closely to the freeway system, which was developed mostly in the 1950s and 1960s.

Around 1980, this suburban pattern began to change somewhat. Because of current market conditions and increasing land cost, houses began to get bigger, while lots began to get smaller. Most older suburbs immediately adjacent to central cities were built out, so new subdivisions were developed farther away, in areas that might best be described as suburbs to suburbs. Finally, the amount of growth began to exceed the capacity of the postwar infrastructure, especially the freeway system. It is not too much of a stretch to say that postwar California planned for a population of approximately 25 million people, a figure that was reached in the early 1980s, and, at least with regard to constructing infrastructure, did not plan effectively for the next generation of population growth.

### **Planning and Growth Management in California**

California has a long planning history and has been a leader among American states (table 3.1). Subdivision laws date back to 1893. The state invented the modern American “general plan”—a municipal-level comprehensive plan—in state legislation in 1927 (Fulton and Shigley 2012).

Modern concerns about growth in California date back to the late 1950s, when neighborhood opponents stopped the completion of the

**TABLE 3.1**  
*Milestones in California Land Use Planning*

1850	California becomes the 31st state.
1893	California's first subdivision law is adopted.
1927	California's general plan law is adopted.
1965–1968	Councils of governments are created in California, partly in response to state plan to create regional planning agencies. Many are later designated as metropolitan planning organizations.
1970	California Environmental Quality Act is adopted.
1971	Major overhaul of the general plan law requires seven elements (sections) and consistency with zoning.
1988	Major effort to enact a statewide growth management law fails.
2002	AB 857, which requires coordinated state action on land use, is adopted.
2003	Governor Gray Davis is recalled. Arnold Schwarzenegger is elected governor, but does little to implement AB 857.
2004	Sacramento Area Council of Governments adopts the Sacramento Blueprint plan promoting compact, mixed-use development and more transit choices as an alternative to low-density development.
2005	Governor Schwarzenegger issues Executive Order S-03-05, calling for sharp reductions in greenhouse gas emissions statewide.
2006	AB 32, the Global Warming Solutions Act of 2006, is adopted.
2008	SB 375, the regional planning law designed to implement AB 32, is adopted.
2010	California Air Resources Board adopts per capita greenhouse gas emissions-reduction targets for each MPO region under SB 375.
2011	Governor Jerry Brown abolishes all state redevelopment agencies.
2011–2012	Most metropolitan planning organizations in California adopt sustainable communities strategies.

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Embarcadero Freeway in San Francisco. At about the same time, a newspaper publisher from the Sierra Nevada foothills created an organization called California Tomorrow, which published a magazine called *Cry California* that called attention to problems associated with urban growth (see, e.g., Heller 1972). Following in quick succession were laws providing for state regulation of annexation (the creation of local agency formation commissions in 1963), environmental review (the California Environmental Quality Act [CEQA] in 1970), and a mandate to make general plans and zoning consistent (1971). (In California, the only general local governments with land use regulatory power are cities and counties; there are

no towns, townships, villages, hamlets, or other units of local government.) In particular, CEQA and the general plan law were procedurally oriented and provided citizens with unusually broad opportunities not only to participate in planning processes, but also to file lawsuits on procedural grounds (Fulton and Shigley 2012).

At the same time, in the late 1960s, local citizens in some municipalities began taking advantage of the state's initiative and referendum system, which had been adopted in the Progressive political era in 1911, to place land use issues on the ballot. Beginning in the late 1970s, the California Supreme Court issued a series of favorable rulings on ballot-box zoning, thus allowing local residents to bring development projects and planning policies to the ballot. Easy access to the courts and to the ballot has made it possible for local citizens to reject the outcome of the process of political compromise and, instead, to hold out for an outcome more to their liking.

By and large, these planning and environmental review processes are highly localized. General plans do not require local governments to take regional issues into consideration, although the CEQA review does allow neighboring localities the opportunity to comment on, and sometimes sue over, development impacts that cross jurisdictional boundaries. The state's extensive planning law is mostly procedural; only in the case of affordable housing does state law attempt to require local governments to produce an actual planning outcome rather than engage in a process or consider topics (California Government Code Section 65580, the so-called housing element law). Partly for this reason, California does not have a strong history of regional planning.

The so-called quiet revolution of the early 1970s left a legacy in California through the creation of three land use regulatory agencies that operate at the regional level to protect natural resources: the San Francisco Bay Conservation and Development Commission, the California Coastal Commission, and the Tahoe Regional Planning Agency, which holds land use authority within the Tahoe Basin in both California and Nevada (table 3.2). But quiet-revolution efforts virtually ceased after voters created the Coastal Commission via initiative in 1972. In 1992, the state created the San Joaquin–Sacramento Delta Protection Commission. This commission has some power to override local decisions, but its power is weaker than those of the three other agencies, and the commission's planning apparatus assumes that the five counties located in the Delta region will do most of the regulatory heavy lifting (Fulton and Shigley 2012).

The state's 18 councils of governments (COGs), which range in size from the 180-member Southern California Association of Governments

**TABLE 3.2**

*Institutions, Agencies, and Organizations Active in Land Use Planning in California*

**Cities:** California has 482 municipalities. California state law requires cities and counties to develop comprehensive plans or blueprints for physical development. The comprehensive plan is the guiding policy for zoning in each city or county. The city council or the county board of supervisors is responsible for adopting the plan and implementing the policies within the comprehensive plan. Each city writes and adopts its own plan, regardless of the surrounding cities' plans.

**Counties:** California has 58 counties, each of which is required to prepare a comprehensive land use plan.

**Councils of Government (COGs):** California has 37 councils of government composed of elected officials from their member cities and counties. COGs engage in transportation and housing planning, but are not responsible for land use planning.

**Metropolitan Planning Organizations (MPOs):** Eighteen COGs are also officially designated metropolitan planning organizations. Each MPO must create a sustainable communities strategy as part of its regional transportation plan that guides policies and investments for transportation within the region.

**California Strategic Growth Council (SGC):** The California Strategic Growth Council is a cabinet-level committee that coordinates state agency activities to ensure the improvement of air and water quality, natural resource protection, availability of affordable housing, public health, transportation, and the revitalization of community centers.

**San Francisco Bay Conservation and Development Commission:** The San Francisco Bay Conservation and Development Commission conducts research and policy development that implement the San Francisco Bay Plan.

**California Coastal Commission:** The California Coastal Commission, established by the California Coastal Act of 1976, plans and regulates land and water use within the coastal zone.

**Tahoe Regional Planning Agency:** The Tahoe Regional Planning Agency works to improve and enhance the quality of the natural environment and communities that surround Lake Tahoe.

**California Air Resources Board (CARB):** The California Air Resources Board ensures compliance with air pollution regulations to maintain clean and healthy air.

**Regional Target Advisory Committee (RTAC):** The Regional Targets Advisory Committee provides recommendations for the reduction of greenhouse gas emissions from vehicles. The California Air Resources Board appoints members of this committee.

**Local Agency Formation Commissions:** Local agency formation commissions are composed of elected officials from counties, cities, and special districts to regulate and approve requests for city annexations and incorporations.

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in Los Angeles to small COGs in rural counties, were created in the 1960s, when the state threatened to establish stronger regional planning agencies. Like their equivalents elsewhere in the United States, these COGs have important federally funded transportation planning functions if they are designated as metropolitan planning organizations (MPOs) under federal transportation law, as most are. The major exception is the San Francisco Bay Area, where the Association of Bay Area Governments is the COG and the Metropolitan Transportation Commission (MTC) is the MPO, but these agencies are housed in the same building and share resources.

The COGs are also responsible for implementing the controversial housing element law. This law creates a complicated process by which local governments are allocated a certain amount of housing, including low- and moderate-income housing, for which they must plan in the future. Working with demographers in the state Department of Finance, the state Department of Housing and Community Development (HCD) is responsible for calculating a statewide forecast of needed housing units every five years and allocating that need to each COG. This estimated need is typically in the hundreds of thousands of units. The COGs, in turn, must allocate the forecast housing need (including the need for low- and moderate-income housing) to each city and county located within their regions. This process, known as the Regional Housing Needs Assessment (RHNA) process, is often controversial, putting a COG at odds with its member cities and counties. Local governments often file formal appeals with the COG in hopes of lowering their housing allocation and occasionally sue the COG as well.

Once these allocations have been made, each city and county must update the housing element of its general plan in a manner that articulates a clear plan to accommodate the forecast housing need. Housing elements are then submitted to the HCD for review and certification; if they are not certified, cities and counties may be ineligible for certain state housing funds and, in theory, can be stripped of their power to issue land use permits by a court. (Such court action has occurred very rarely.) Local governments usually base their housing plan on the identification of specific parcels that could accommodate high-density housing, although the housing element law also articulates how state and federal housing funds will be used. Obviously, the larger the allocation a local government receives from the COG, the more politically difficult it is for that government to identify enough high-density sites to satisfy the HCD (Fulton and Shigley 2012). Although state law contains no provision specifying how often a local government must update its general plan, traditionally the law said that housing elements must be updated every five years, consistent with the state-mandated RHNA cycle.

But the COGs are also voluntary membership organizations whose boards consist of local elected officials. These officials do not always buy into the idea of regional planning. Traditionally, COGs have walked a delicate tightrope between implementing state and federal housing, transportation, and air quality laws, on one hand, and keeping their member local governments happy, on the other hand (Fulton 2001).

For most of the past 40 years, this has meant that California has missed the opportunity to move past other U.S. states to regain its once-vaunted position as the nation's policy leader in growth management. During the 1980s and 1990s, the state proved unable to enact major land use policy reform even when political conditions seemed favorable. For example, in 1988, a major development boom had set the stage for reform. Local ballot initiatives around the state were slamming the brakes on growth (Glickfeld and Levine 1992). There was a revival of state-level land use reform in other states, including New Jersey and Florida. But in the end, the state's political leaders could not cash in on the opportunity. In subsequent years, the regional imbalances that resulted from locally driven growth management efforts only worsened.

Furthermore, as John Landis has noted, the trend toward local growth management, along with the project-level orientation of the state's environmental review law, has made California a permit-driven state, as opposed to a plan-driven state such as Oregon. Instead of proactively planning for the future, communities in California, despite the extensive general plan requirements, tend to be reactive, in part because they are hamstrung by requirements of the California Environmental Quality Act (CEQA). As Landis stated to California's Little Hoover Commission some years ago:

CEQA has given us high-quality development projects, lower residential densities, and site-based environmental impact mitigation, but it has done little to enhance the overall environment. Quite the contrary, our use of CEQA, with its project-specific focus, has done little to enhance the overall environment and has distracted us from the need for large scale, long-term ecosystem and habitat planning, statewide long-term water planning and regional land conservation. While we have myopically focused on the environment in our respective backyards, the quality of the natural environment has continued to decline. (Landis et al. 1995)

During the early years of the 21st century, California actually succeeded in adopting some new legislation designed to move state-level growth management forward. For example, in 2002, Governor Gray Davis signed

AB 857, which required all state agency actions to promote three goals that today would be known as smart growth goals: infill development, compact greenfield development, and protection of agricultural land and natural resources. Unfortunately, the Davis administration submitted the AB 857 implementation plan to the legislature just hours before Davis left office after an effort to recall him succeeded, and his successor, Arnold Schwarzenegger, did little to implement the law (Fulton 2003).

### **The Rise of MPOs in California Before AB 32 and SB 375**

As stated here, most of the COGs in California are also federally designated MPOs (figure 3.1). With growth management reform blocked at the state level, it is not surprising, therefore, that the first moves toward strong regional planning resulted from the changing role of MPOs under federal transportation law.

The clamor for change in federal transportation law began in the 1980s in the Bay Area, when the MTC demanded more power, control, and flexibility over how federal transportation money was spent in the region. This radical impulse first led California to give the MTC more control (at the expense of the state Department of Transportation) and then embedded this reform in federal law with the passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. Although President George H. W. Bush touted the ISTEA as a jobs bill when he signed it, in fact, it was nothing less than a revolution in the way federal transportation dollars were spent. MPOs across the country gained more power and flexibility—for example, to spend some federal transportation money on transit instead of roads—just as the MTC had done. As Thomas Horan, Hank Dittmar, and Daniel Jordan have written, the ISTEA revolution gave MPOs the ability to take a “place-based approach” to their regional transportation plans (RTPs), which they are required to produce under federal transportation law (Horan, Dittmar, and Jordan 1999).

California MPOs immediately used this new authority in order to leverage a different kind of transportation planning process, commonly known as a regional blueprint. In different ways, each of the state’s four large MPOs—those in Los Angeles, San Francisco/Oakland, San Diego, and Sacramento—all pursued blueprint strategies. The Sacramento Area Council of Governments’ (SACOG) blueprint strategy was perhaps the most illustrative. Using then-new geographic information systems technology, SACOG devised a series of future growth scenarios for the region; the growth differences were depicted on maps, and the resulting impacts (land consumption, vehicle miles traveled, infrastructure cost) for each scenario were precisely measured. Both Portland and Salt Lake City had





- |                                                      |                                                        |
|------------------------------------------------------|--------------------------------------------------------|
| BCAG: Butte County Association of Governments        | AMBAG: Association of Monterey Bay Area Governments    |
| SACOG: Sacramento Area Council of Governments        | SANDAG: San Diego Association of Governments           |
| FresnoCOG: Council of Fresno County Governments      | SJCOG: San Joaquin Council of Governments              |
| SCAG: Southern California Association of Governments | SLOCOG: San Luis Obispo Council of Governments         |
| KernCOG: Kern Council of Governments                 | SBCAG: Santa Barbara County Association of Governments |
| KingsCAG: Kings County Association of Governments    | SRTA: Shasta Regional Transportation Agency            |
| MCTC: Madera County Transportation Commission        | MTC: Metropolitan Transportation Commission            |
| MCAG: Merced County Association of Governments       | STANCOG: Stanislaus Council of Governments             |
|                                                      | TulareCOG: Tulare Council of Governments               |

**Figure 3.1** Metropolitan Planning Organizations of California

*Source: National Center for Smart Growth Research and Education (2014).*

previously used this technique in regional planning efforts (Calthorpe and Fulton 2001).

For example, SACOG's base-case scenario, which simply projected recent development trends into the future, assumed that 68 percent of all new residential development would consist of large-lot single-family homes, 25 percent would be multifamily, and only 2 percent would be small-lot single-family homes. The preferred scenario assumed that only 45 percent of new development would be large-lot single-family homes, 35 percent would be multifamily, and 17 percent would be small-lot single-family homes. (The actual mix at the time was 63 percent, 29 percent, and 3 percent.) The estimated population increase in the two scenarios was the same: approximately one million people. Two other middle-ground scenarios were examined.

SACOG's modeling estimated that the base-case scenario would result in the urbanization of an additional 660 square miles, including 166 square miles of farmland. By contrast, the preferred scenario would lead to urbanization of 304 square miles, including 102 square miles of farmland. The percentage of people living in pedestrian-friendly neighborhoods was 34 percent for the base-case scenario, but 69 percent for the preferred scenario. Traffic, infrastructure cost, and greenhouse gas emissions showed similar reductions in the preferred growth scenario.

The board adopted the preferred scenario in 2004. The following year, the SACOG adopted a Regional Transportation Plan for 2035 that conformed to the blueprint (Sacramento Area Council of Governments 2005). Although SACOG cannot implement the land use aspects of the regional blueprint, it can implement the transportation aspects. Over time, SACOG promoted both the benefits and the cachet of projects that fit into the blueprint scenario (Fulton 2008a). However, local governments did not always follow the preferred scenario in approving development in subsequent years.

### **The Passage of AB 32 and SB 375**

Although Schwarzenegger did not aggressively pursue implementation of state planning laws such as AB 857, the moderate Republican governor did push hard for pathbreaking policy on climate change and the reduction of greenhouse gas (GHG) emissions. On June 1, 2005, he issued Executive Order S-03-05, calling for a 20 percent reduction by 2020 and an 80 percent reduction by 2050—figures very much in keeping with the climate change conversation at the time.

The following year, working with Democrats in the legislature, Schwarzenegger signed AB 32, the Global Warming Solutions Act. AB

32 assigned the task of creating overall GHG emissions-reduction targets to the California Air Resources Board (CARB), the state's air pollution regulatory agency. In its so-called Scoping Plan, released in 2009, CARB assumed a business-as-usual baseline emissions forecast of 596 million metric tons per year in 2020 and set a target of 427 million metric tons—a reduction of 169 million metric tons per year, or 28 percent (California Air Resources Board). The passage of AB 32 inevitably led state policy makers and policy implementers back to the regional development and transportation patterns that had been the subject of ongoing debate in the legislature for more than 20 years.

Some 35 to 40 percent of California's GHG emissions result from the burning of transportation fuels. This means that meeting the target in AB 32 requires a reduction in pollution resulting from burning those fuels. In identifying strategies to lower GHG emissions by a significant amount, state policy makers first attacked the amount of carbon in the fuel by adopting the so-called Low Carbon Fuel Standard, which ethanol producers soon subjected to legal attack (Barringer 2011). Then the Schwarzenegger administration attacked the amount of fuel used by passing a tough new fuel efficiency standard for California cars. This led to a fight with the Bush administration over California's legal ability to do this under federal law (Young 2008).

Most experts agreed, however, that reducing the amount of carbon and increasing gas mileage would not be enough. To hit the AB 32 target, California would also have to do something once considered unthinkable: figure out how to get California drivers to drive fewer miles. Low carbon, increased gas mileage, and lower vehicle miles traveled (VMT) were considered the “three legs of the stool” of reducing GHG emissions in the transportation sector (Fulton 2008b).

Indeed, many environmentalists argued that unless VMT could be restrained, California would face the same problem with GHG emissions that had emerged after the state had adopted strict regulation of more conventional tailpipe emissions. Technological improvements in fuel and other sectors would reduce individual vehicle emissions, but this reduction would be offset by an overall increase in driving. Over a 40-year period, this had been the trend for conventional tailpipe emissions, especially precursors to smog, such as carbon monoxide. The state had absorbed an enormous increase in population, economic activity, vehicles, and driving without increasing tailpipe emissions, but the reduction in overall emissions had been small. If implementation of AB 32 followed this same pattern, the state would not meet its ambitious overall emissions-reduction goal.

This problem was the genesis of SB 375, the Sustainable Communities and Climate Protection Act of 2008, which, in essence, requires California's

MPOs to create plans that will reduce the amount of driving per capita. Adopted in 2008, SB 375, like many environmental laws, is complicated and procedural, but the basic process it lays out is clear: The state gives each MPO—that is, each region in California—a GHG emissions-reduction target. The MPO is then required to create a plan, known as the sustainable communities strategy (SCS), that will reduce per capita VMT enough to hit an emissions-reduction target provided by the state. Those SCSs must be incorporated into each MPO’s RTP so that transportation investments do not work at cross-purposes with the GHG emissions-reduction goal. In the 2009 Scoping Plan, CARB included a placeholder emissions-reduction target of 5 million metric tons through SB 375–related activities.

Under SB 375, an SCS must undertake the following eight activities:

- Identify existing land use.
- Identify areas to accommodate long-term housing needs.
- Identify areas to accommodate eight-year housing needs.
- Identify transportation needs and the planned transportation network.
- Consider resource areas and farmland.
- Consider statutory housing goals and objectives.
- Lay out a future growth and development pattern.
- Comply with federal law for developing an RTP.

Because SCSs are tied to the federally mandated RTPs, they must have objectives that can be achieved given the MPO’s real-world financial constraints on transportation investment. This means that in some cases, they may not hit the target. In those cases, the MPO is also obligated to create an alternative planning strategy—a nonbinding alternative that achieves the target even if the SCS cannot.

SB 375 also creates better coordination between the federally mandated RTPs and the state-mandated RHNA process, which previously were on different time cycles. The RTP is typically updated every four years, while traditionally the RHNA process was repeated every five years. Obviously, this disconnect made regional modeling more difficult because the regional transportation demand identified in the RTP was dependent on the regional distribution of housing identified in the RHNA. SB 375 changed the RHNA update cycle (and the local requirement to update Housing Elements) to once every eight years to calibrate it with RTP updates.

Getting to the point where the MPOs could produce SCSs took a lot of time and effort. SB 375 is fundamentally an air pollution emissions-reduction law. It focuses on carbon dioxide and other contributors to GHG, rather than carbon dioxide, particulates, and other air pollutants that have more traditionally been regulated, but the process is similar: the MPOs must identify specific steps that will reduce emissions of carbon dioxide and other GHG pollutants.

Although AB 32 created specific statewide GHG emissions-reduction goals for 2020 and 2035, SB 375 did not create specific reduction goals for the transportation and land use sectors. Rather, it created a process overseen by CARB, which regulates air pollution in the state, to determine what those emissions-reduction goals should be. Specifically, SB 375 directed CARB to create the Regional Targets Advisory Committee (RTAC) to set a goal for each region. This goal is to be met not through technological improvements, but by altering the development pattern so that emissions are further reduced beyond the level required by CARB as a result of such technological changes as greater fuel efficiency and low-carbon fuels.

Although it was not often stated publicly, the goal of SB 375 was to reduce the overall amount of driving done by Californians. GHG emissions are closely linked to VMT—the more VMT, the more GHG emissions—so the only way to reduce GHG emissions by altering development patterns would be to reduce VMT. Although a wide variety of techniques were available to pursue this goal, the SB 375 discussion focused extensively on greater use of compact development patterns and development around transit stations.

The RTAC consisted of 21 members, including representatives from MPOs, local transportation commissions, air districts, the League of California Cities, the California State Association of Counties, and several other organizations, mostly nongovernmental, involved with land use and transportation. The RTAC engaged in a lengthy and often highly technical process in deliberating on goals for MPO modeling, best management practices, and other aspects. It undertook significant outreach to the public, and because several members of the RTAC focused on environmental justice, it also debated the question of social equity at considerable length. In the end, however, the RTAC had one core purpose: to create targets for GHG emissions reduction for each of California's 18 MPO regions. The informal motto adopted by CARB and the RTAC was "ambitious but achievable"; that is, that the targets should be a stretch to reach, but not unrealistic to achieve.

It is important to note that California's MPOs are an unusually varied group. Most MPOs in the United States, even in large metropolitan areas, cover relatively small geographic areas. In the New York region, for

example, there are more than two dozen MPOs. In California, however, some 80 percent of the people in the state live in four major metropolitan regions: Los Angeles, San Diego, the San Francisco Bay Area, and Sacramento. Each one of these metropolitan areas has only one MPO.

Most significantly, metropolitan Los Angeles is home to the largest MPO in the United States, the Southern California Association of Governments (SCAG). SCAG covers six counties (Los Angeles, Orange, Ventura, Riverside, San Bernardino, and Imperial) and 180 cities in an area populated by approximately 18 million people. The SCAG region is so large that it is administratively divided into fourteen subregions, eight of which are in Los Angeles County alone. SB 375 contained special language for the SCAG region permitting the agency to delegate authority to prepare the SCS to each subregion that chose to take on the task. (Most did not, largely because of the cost of transportation modeling.)

These large MPOs are often known as the Big Four, and they exercised considerable clout in the RTAC process. All of California's 14 other MPOs are single-county entities in areas with relatively small populations. Eight of these are located in the San Joaquin Valley, a fast-growing inland region that includes some of the most fertile farmland in the world. These eight often work so collaboratively that they are collectively known as the Fifth of the Big Four. The remaining six MPOs cover regions with small populations outside California's big metropolitan regions, mostly along the central coast and in mountain areas.

Because of this great variety, it was difficult to apply a single target to all regions in the state. Therefore, the RTAC devised different targets for each region. As important as the target itself, however, was the metric that the RTAC agreed to use to measure GHG emissions reductions. The Scoping Plan contained an ambitious target of a 28 percent reduction by 2020. Given the likelihood of increased population, economic activity, and fossil-fuel consumption, this target will be very difficult to hit without extreme measures, such as a dramatic reduction in the use of fossil fuels to generate electricity.

The RTAC, however, chose not to provide an overall emissions-reduction target for each region. In its report to CARB, delivered in September 2009, the RTAC recommended the use of a percentage per capita emissions-reduction target (from the base year of 2005) for each region. In other words, instead of recommending that a region reduce its GHG emissions attributable to the land use sector by, say, 100 metric tons by 2020, the RTAC might recommend that the region reduce emissions by 10 percent per capita by 2020.

In recommending the use of a per capita approach, the RTAC reasoned: "This metric is preferred for its simplicity, since it is easily understood by

the public, can be developed with currently available data, and remains a widely used metric by MPOs today” (Regional Targets Advisory Committee 2009, 24). The RTAC also noted that a percentage per capita target helped resolve two issues of conflict: the fact that different regions are growing at different rates and the fear that regions would not be credited for emissions-reduction measures already undertaken. Regarding the growth rate, the RTAC said: “The relative characteristic of the metric ensures that both fast and slow growth regions take reasonable advantage of any established transit systems and infill opportunity sites to reduce their average regional greenhouse gas emissions.” Regarding the “early actions,” the RTAC reasoned that “the percent reduction characteristic of the metric gives regions that have taken early actions and, as a result have a low level of greenhouse gas emissions per person, responsibility for a lower total reduction compared to regions that start with a higher level of greenhouse gas emissions per person” (RTAC 2009, 24).

What the RTAC report did not say, of course, was that a per capita target would be easier to hit; thus, it would take pressure off the entire SB 375 process. A numerical target—most likely expressed, as noted here, as a decrease in the number of metric tons of emissions attributable to development patterns—would have required a reduction in emissions even if population and economic activity increased. This approach would most likely have required very severe measures in order to meet the target. By using a per capita approach, the RTAC implicitly acknowledged that, at least in fast-growing regions, overall emissions might increase even if the MPO hit its per capita target. It is true that this approach puts more pressure on technological improvements and other methods than altering the development pattern in order to hit the AB 32 target. But it also puts a ceiling on emissions from driving, which should help avoid the problem of having technological improvements offset by an increase in driving.

Once CARB approved the idea of a per capita target, the RTAC went back to work and created recommendations for percentage per capita emissions-reduction targets for 2020 and 2035 for each MPO. Adopted by CARB toward the end of 2010, these targets varied widely, depending in large part on population density and the size and scope of the public transit system.

The three major coastal MPOs—the MTC in the Bay Area<sup>1</sup>, SCAG in Los Angeles, and the San Diego Association of Governments (SANDAG) in San Diego—all received ambitious double-digit targets, reflect-

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<sup>1</sup> The MTC is the Bay Area’s MPO, but unlike the other three big MPOs, it is not the Bay Area’s Council of Governments. That responsibility lies with the Association of Bay Area Governments (ABAG), which shares an office and often works collaboratively with MTC.

**TABLE 3.3**  
*Approved Regional Greenhouse Gas  
 Emissions-Reduction Targets*

MPO Region	2020	2035
SCAG	-8	-13
MTC	-7	-15
SANDAG	-7	-13
SACOG	-7	-16
8 San Joaquin Valley MPOs	-5	-10
Tahoe	-7	-5
Shasta	0	0
Butte	+1	+1
San Luis Obispo	-8	-8
Santa Barbara	0	0
Monterey Bay	0	-5

SOURCE: California Air Resources Board Resolution (2010).

ing high densities and robust transit systems (by California standards) (table 3.3). Smaller MPOs, especially the eight in the San Joaquin Valley, received modest targets, reflecting the fact that these metropolitan areas, generally speaking, are sprawling and auto oriented (California Air Resources Board 2011). This variation had the effect of concentrating needed reductions in the coastal area, where the combination of higher targets and the per capita metric meant that a much more aggressive approach was required in those regions than in the Central Valley.

### **Crafting and Defending the Sustainable Communities Strategies**

Once the RTAC recommended the targets, and CARB adopted them, California's MPOs spent 2011 and 2012 crafting their SCSs. The approaches varied across the state. SACOG built on its 2004 blueprint, while the MTC similarly built on previous scenario exercises. SANDAG decided to coordinate its SCS with its RTP. Perhaps the most aggressive approach was that of the MTC in the San Francisco Bay Area, which had been out in front on transit and land use planning since the 1980s, as noted in this chapter. Dubbing the regional effort "Plan Bay Area," the MTC and ABAG took advantage of the combined RTP/RHNA process to aggressively rearrange housing targets to conform with transit investments, although the agencies backed off on some of these proposals after public view (Metropolitan Transportation Commission and Association of Bay Area Governments 2012).



SCAG faced a series of unique challenges in crafting its SCS. The biggest issue was how to deal with subregional differences across a vast and diverse region. SCAG includes virtually every possible development context, from the Manhattan-like densities of central Los Angeles to small farming communities in the Imperial Valley and classic Southern California suburban subdivisions in Riverside and San Bernardino Counties. Under SB 375, all fourteen SCAG subregions had to decide whether to take delegation and do their own SCS. Only two chose to do so: Orange County and the Gateway Cities, along the I-710 and I-5 corridors between downtown Los Angeles and Long Beach.<sup>2</sup> These two subregions approached their efforts differently, and as a result, SCAG faced several major challenges in calibrating SB 375 implementation in such a large region.

The Gateway Cities subregion engaged in a rigorous quantitative analysis that considered a wide range of strategies, not just land use. The Gateway Cities SCS included an analysis of how regional transportation infrastructure projects—both road projects and transit projects—would affect GHG emissions in the subregion. On the land use side, many of the cities in the subregion used a sustainability tool created by SCAG to analyze the effectiveness of possible land use strategies. The Gateway Cities SCS laid out a strategy to reduce per capita GHG emissions by 8.43 percent by 2020 and 14.98 percent by 2035. However, most of this reduction was due to improvements in the local and regional transportation network. Only about 3 percent of the reduction was due to changes in land use patterns (Gateway Cities Council of Governments 2011).

Orange County, by contrast, did not engage in a detailed and rigorous quantitative analysis of GHG emissions-reduction strategies. Rather, the Orange County SCS consisted mostly of identifying and reinforcing the need for the transportation projects already contained in the RTP. It was approved by both the Orange County Transportation Authority and the Orange County Council of Governments and forwarded to SCAG (Kempton 2011).

Subsequently, SCAG had to combine the Orange County and Gateway Cities input with its own modeling and calibrate the results with a series of land use scenarios for the Southern California region. SCAG chose not

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<sup>2</sup> At the time of the delegation decision, the author was an elected official in the City of Ventura and a member of the Ventura County Transportation Commission, which is affiliated with but technically a separate entity from the SCAG subregional entity, the Ventura Council of Governments (VCOG). In those capacities, he participated informally in the delegation issue. VCOG's decision not to take delegation, typical of other subregions, was based primarily on the costs of transportation modeling and public outreach. By not taking delegation, the Ventura County subregion avoided those costs, which SCAG absorbed. Of course, Ventura County sacrificed some influence over the content of the SCS as well.

to create an emissions-reduction target for each subregion, which could have caused political unrest in the fast-growing, auto-oriented inland parts of the region. Furthermore, instead of a business-as-usual scenario such as the one SACOG had undertaken in its 2004 blueprint, SCAG's baseline scenario was built out of existing general plans in the region. The remaining scenarios were all variations on a theme, altering the housing mix within communities but making few changes in the housing mix among communities. The final scenario was a mixture of existing general plans with some changes in housing density, but because the SCAG region is so large, the scale of the scenario was extremely coarse (Southern California Association of Governments 2012).

Meanwhile, SANDAG, a single-county agency that had perhaps the best record of regional cooperation of any large MPO in the state, took a very different approach. Instead of creating the SCS as a freestanding document, SANDAG simply included it as a chapter in its RTP. SANDAG also took an unusual approach in pushing the SCS out to 2050 (San Diego Association of Governments 2011). SANDAG produced an environmental impact report under CEQA showing that the SCS would reduce per capita GHG emissions by 14 percent by 2020. However, critics of the plan claim that after 2020, per capita emissions will actually increase, resulting in a net decrease in per capita emissions of 9 percent by 2050 (Cohen 2011). Whether or not that is true, it would appear that SANDAG's strategy was to use 2050 to wait out both SB 375 and AB 32. However, several environmental groups, led by the Center for Biological Diversity, a well-known and highly successful nonprofit environmental law firm, soon challenged the agency's methodology in court.

Throughout 2006–2008, Governor Schwarzenegger had kept stating that the goal of the GHG emissions-reduction effort was to reduce emissions by 80 percent as of 2050, although neither AB 32 nor SB 375 set targets for 2050. In the target-setting process, CARB set targets only for 2020 and 2035. Presumably, then, SANDAG thought that there was no required GHG reduction target for 2050. However, in *Cleveland National Forest v. SANDAG*, the environmental lawyers persuaded San Diego Superior Court Judge Timothy Taylor that Schwarzenegger's 2005 Executive Order S-03-05 still applied. That executive order prefigured AB 32 almost exactly, stating that "the following greenhouse gas emission reduction targets are hereby established for California: by 2010, reduce GHG emissions to 2000 levels; by 2020, reduce GHG emissions to 1990 levels; by 2050, reduce GHG emissions to 80 percent below 1990 levels." Because Executive Order S-03-05 has never been rescinded and no subsequent legislation has ever addressed the 2050 question, Judge Taylor upheld the

center's argument that Schwarzenegger's edict about 2050 was still in force. Thus, SANDAG's clever attempt to push the SCS out to 2050 ran into the executive order.

It is unclear at this time whether Taylor's decision will be struck down on appeal, or whether the ruling will have any impact on other SCSs, since other MPOs did not use the 2050 approach. But the SANDAG case illustrates two realities about planning in California that will undoubtedly affect future implementation of SB 375: first, litigation is easy to bring and often successful; and second, CEQA is such a muscular law that it can affect planning in all kinds of ways. CEQA has the potential either to hold up implementation of SB 375 or force that implementation to be more stringent. It also often slows down infill development because neighborhood organizations use it to try to block projects, although some recent legal changes, such as SB 226, passed in 2011, attempt to make it easier for infill projects to move through the CEQA process.

### **The Challenge of Implementing SB 375 and the Sustainable Communities Strategies**

In theory, California now has the policy apparatus required to implement the SCSs and, in the process, reduce per capita VMT over the next 20 years. All regional transportation investments must conform to SCSs. Most MPOs are providing planning grants to local governments to create new plans that conform to the SCSs. In 2008, the state also created the Strategic Growth Council (SGC), an interagency cabinet-level body charged with ensuring that California creates sustainable communities. The creation of the SGC increases the likelihood that AB 857 will be implemented; the council provides a central vehicle for coordinating a wide variety of state and regional actions; and it is charged with doling out \$90 million in planning funds to MPOs and local governments under Proposition 84, a 2006 bond issue approved by the voters.

The SGC holds great potential to coordinate state action on managing growth and implementing SB 375. Whereas CARB is an agency that regulates air pollution, the SGC is a cross-agency coordinating entity made up of four of the governor's cabinet secretaries (business, transportation, and housing; environmental protection, the parent agency of CARB; natural resources; and health and human services), as well as the director of the Governor's Office of Planning and Research and a public member appointed by the governor. By and large, the SGC has administered the Prop. 84 money in ways intended to encourage the implementation of SB 375 (California Strategic Growth Council 2011). In this sense, the SGC can be seen as the implementing agency of SB 375, providing state-funded

incentives to MPOs and local governments to comply, while CARB is the regulatory agency.

Under the SGC's coordination, the state is engaging in a variety of other efforts that will assist SB 375 implementation, such as calibrating state geographic information systems data. However, like many multi-agency commissions and task forces, the SGC must compete for the attention of the agency secretaries, who have many other priorities. Furthermore, under the California state government system, agency secretaries oversee a variety of departments, and department directors often have considerable freedom to run their departments as they wish. And the SGC's future role is uncertain because the Proposition 84 bond funds that have been funding the council's staff operations will expire by the end of 2014.

In addition, California's serious budget challenges have made it more difficult for the state to support the infill development called for in SB 375. Mostly for budgetary reasons, Governor Edmund G. Brown Jr.—better known as Jerry Brown—eliminated the state's \$6 billion redevelopment (tax increment financing) program, which has funded most infill development over the past 30 years, as well as many other economic development efforts and public infrastructure projects. The state has also had to cut assistance to public transit. This makes it more difficult for local transit agencies to maintain their current level of rail and bus service.

In 2012, California voters approved a temporary tax increase that balanced the budget, so it is possible that some of these cuts will be restored, but so far, Brown has been reluctant to do so. At the end of 2012, the legislature passed a bill that would have reinstated tax increment financing on a limited basis and tied it to SB 375 implementation, but Brown vetoed it. In addition, although recent legislation, such as SB 226, has sought to streamline CEQA analysis of infill projects, the CEQA remains a complicated law that has the potential to slow down any project and make its approval much more expensive. SB 375 contains CEQA streamlining for certain types of infill projects that conform to the SCS, but a project must meet many criteria in order to qualify.

In addition to the state's budgetary woes, perhaps the biggest challenge to SB 375 and SCS implementation is the simple fact that local general plans do not have to follow the SCS (Higgins 2009). This decoupling of local plans from regional plans is not an oversight. Rather, it is the result of a deliberate lobbying effort by the League of California Cities to ensure that California's 480 cities are not bound in their land use decisions by a regional plan.

Concern over compromises to local land use authority was common among local officials in California while SB 375 was being debated. Even

after the bill was adopted, many local elected officials—especially those who were deniers of climate change—expressed great anger at the state for passing the law. In most cases, these elected officials calmed down after they learned that the law would not directly affect cities' land use decisions.

The debate over the Cordova Hills project in Sacramento County is a good example. SACOG has been rightly praised for adopting a forward-looking SCS in a region with great potential for sprawl. Cordova Hills is an 8,000-unit development project on the suburban fringe, which SACOG officials said could make it more difficult to meet the GHG emissions-reduction goals set by the state. However, in January 2013, the Sacramento County Board of Supervisors voted 4 to 1 to revise the county general plan to permit the project, claiming that it was a possible site of a new university (Brennan 2013). Although the Cordova Hills project is noteworthy because it is a large and high-profile project, its approval is not unusual. Local elected officials often choose parochial or developer interests rather than regional interests under the California system.

The decoupling of SCSs from general plans continues a trend in the United States dating back to the 1990s, in which states are unwilling to take land use regulation power away from local governments in order to accomplish regional or statewide planning goals. Following the smart growth lead of Maryland in the late 1990s, states nowadays are much more comfortable using financial incentives and disincentives to encourage local governments to do the right things (Frece 2008).

So, both the state of California and its MPOs must use carrots instead of the stick of regulation to implement SB 375 and reduce the overall amount of driving in California. But, in a state that seems to be in perpetual financial difficulty, carrots are hard to come by. This problem was apparent from the beginning of SB 375's implementation, when a Schwarzenegger administration official joked that she would have to find a carrot so big it was really a "carrot-stick."

The most powerful tool the MPOs can use is the implementation of the RTPs, which, under SB 375, must conform to the SCSs. In theory, this requirement means that regions cannot make major transportation investments unless they promote a smart growth approach and reduce per capita driving. In practice, using the RTPs for this purpose is a little tricky. RTPs often contain many unfunded projects, and they do not control local transportation investments made by cities and developers. In a place like Los Angeles, which is currently doubling the size of its rail transit system, using transportation investments to achieve SB 375's goals will probably not be hard. In a place like the San Joaquin Valley, where most

new development is of the conventional suburban type and there is little transit, the RTPs may prove to be less useful.

If the SGC is aggressive, of course, the state can adopt the Maryland approach of putting its own money and actions behind the implementation of the SCSs. After all, California may have less money than it used to, but it still spends \$85 billion a year out of the general fund and has billions more in unexpended bond revenue for infrastructure. Past experience in California suggests that adopting the Maryland approach will be easier said than done, but AB 857 and the SGC provide at least a statutory and administrative framework for such an approach. The experience in most American states, however, is that this type of effort will succeed only if a forceful and popular governor uses all his influence. Brown is certainly forceful and popular and has been out front on climate change for many years, but the state's budget constraints, along with competing demands on general fund dollars, have made it difficult for him to move the entire state budget in the direction of implementing SB 375 and the SCSs.

In addition, both the state and the MPOs are currently distributing hundreds of millions of dollars in planning money to local governments. This money is especially important at a time when cities and counties in California are strapped for cash and have little planning money of their own. This approach is also fraught with potential problems, especially if the MPOs put their own popularity with local governments ahead of their commitment to their SCSs and do not rigorously police their grantees about the outcome of the plans created with grants.

In the end, successful implementation of SB 375 in California is likely to come down more to influence and persuasion than to coercion. Yes, local governments can, in theory, do whatever they want. But if regional transportation investments, state actions, and state and regional planning money are all moving in a particular direction, it may be that local governments will be successfully nudged in the same direction in creating their plans and making their land use decisions. Decades of frustratingly slow progress toward successful regional planning in California, however, show that persuasion may be all that is possible.

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This chapter was originally written in 2012. Since then, several important changes have occurred.

Almost all of the MPOs in California adopted Sustainable Communities Plans that met or exceeded the per-capita greenhouse gas emissions reduction targets adopted by the state. The most heavily litigated SCS was "Plan Bay Area," adopted by the Metropolitan Transportation Commission,

which was subject to sometimes conflicting legal challenges from environmentalists, property rights advocates, the Tea Party, and the building industry association. MTC settled or won all the cases at the trial court level, although at the time of this writing in late 2014 one of the Tea Party cases is pending on appeal. Environmentalists also sued the Merced Council of Governments over their SCS, which did not meet the state-imposed target.

At the same time, however, SANDAG lost the *Cleveland National Forest Association* case at the appellate level, though an appeal to the California Supreme Court is still pending. The appellate court did not say that SANDAG had to follow Executive Order S-3-05's 2050 target, but it did say that SANDAG had to consider the target and explain in its environmental impact report why it is not hitting the target.

Meanwhile, the state continued to move policy and some funding toward implementation of the SCSs. The Strategic Growth Council remained alive with a robust new source of revenue. As part of the implementation of AB 32, California adopted a so-called "cap-and-trade" program, which essentially required some GHG polluters to pay fees to the state. The state set aside 20 percent of those funds—\$130 million in the first year—for sustainable communities purposes, to be administered by the SGC. The state also expanded the SGC's membership to include two representatives appointed by the legislature. Another 15 percent of the cap-and-trade money will go to transit agencies for capital improvements and operations. Meanwhile, Gov. Brown signed a bill in 2014—SB 628, the Enhanced Infrastructure Financing District bill—to bring back tax-increment financing in a much more limited way to help pay for infrastructure and private development designed to implement a sustainable communities strategy and for other purposes.

In 2013, Brown signed another bill—SB 743—which provided more infill and transit-oriented development streamlining under the California Environmental Quality Act and called for a change in CEQA implementation that would use vehicle miles traveled, rather than the traditional traffic level of service, as the basic traffic standard to be analyzed for many infill projects.

All of this activity still adds up to nudging, however. Both the cap-and-trade funds and the limited tax-increment authority give local governments some financial incentive to implement the SCSs. The CEQA streamlining and the move away from Level of Service traffic analysis are likely to push the locals further in the direction of implementing SB 375. Ultimately, California's approach is incentive-based on the land use side, and with local governments so protective of their land use power, it is still not clear how quickly the state will proceed toward a sustainable land use future.

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## *Commentary*

MIKE McKEEVER

**W**illiam Fulton does an excellent job of describing California's SB 375 and putting it in the context of prior planning initiatives in the state of California and the nation. He concludes that the new law represents a nudge in the right direction. I suggest that the first round of plans developed under the law indicates that it is a very powerful nudge indeed.

The law itself is unlike anything else in the planning landscape in the United States. It is not a classic planning regulatory law that establishes many absolute requirements regional and local plans must meet. It contains several important requirements that define how the planning process must occur, including the following:

- The process must develop multiple planning scenarios, seek broad input from the public and local governments, use clear models and visual materials to promote understanding of scenario impacts before the preferred scenario is selected.
- Certain impacts on urbanization, such as farmland and natural resource conversion rates, must be analyzed.
- The plan must meet the California Air Resources Board's (CARB) adopted greenhouse gas (GHG) emissions-reduction target for the region if it is feasible to do so.

- The state-mandated regional housing plans must be consistent with the sustainable communities strategies (SCSs).
- All transportation investments funded over the next several decades through these multibillion-dollar plans must be consistent with the SCSs.

As the author of the legislation, Senate President Pro Tem Darrell Steinberg, says, the law is mainly based on carrots, but very strong carrots.

At this juncture, several years into the implementation of the law, CARB has established what most consider the “most ambitiously achievable” GHG emissions-reduction targets for California’s 18 metropolitan planning organizations (MPOs). Three of the four largest MPOs in the state have adopted their first round of plans (which must be updated every four years). The power of the law to change behavior is undoubtedly most evident in the Southern California Association of Governments (SCAG) region. There, vocal opposition to the new law and initial attempts to persuade the Regional Targets Advisory Committee (RTAC) and CARB to set very modest GHG emissions-reduction targets metamorphosed into the adoption of a very progressive plan that embraces sustainability principles, exceeds the targets established by CARB, and has been widely praised as transformative for the region (see [www.nrdc.org/globalwarming/sb375/implementation-report/](http://www.nrdc.org/globalwarming/sb375/implementation-report/)). Of course, much remains to be done during the implementation phase, but a bold vision and a broad consensus to achieve it are prerequisites of every great plan. The largest and seemingly most unwieldy MPO in the United States has met these marks. No one doubts that SB 375 is the reason.

Six important elements of SB 375’s implementation stand out.

1. *The power of a planning versus a regulatory law to change behavior.* Oregon’s system is the country’s premier example of a regulatory approach to planning. Oregon law requires local governments to adopt comprehensive plans that meet state-adopted goals; zoning codes and individual land use decisions must be consistent with those comprehensive plans; and a separate legal system has been established to address lawsuits alleging violations of these requirements. The Portland regional government is the only one in the country with a voter-adopted home rule charter, a directly elected policy board, and an explicit requirement that local-government comprehensive plans must also be consistent with the regional framework plan. As Ethan Seltzer’s chapter clearly articulates, this system has worked exceedingly well for Oregon over many decades.

The three regional plans adopted under SB 375 do not have this regulatory foundation, but they all are great improvements over prior plans. Most notably, they call for much more compact growth footprints, major increases in medium- and higher-density housing products, and significant shifts in the transportation investment portfolio from conventional highway projects to mass transit, walking, biking, and complete streets. In the San Diego and Sacramento regions, land use components of the SCSs are nearly entirely consistent with adopted local general plans. SCAG's land use component is substantially consistent with the local general plans, but it also projects explicit changes to them to increase densities and proximity to transit. Those changes were transparent to the region's local governments during the development of the plan, which SCAG's large governing board unanimously adopted. Many of those local governments, with SCAG's assistance, are already embarking on initiatives to update their general plans to be consistent with SCAG's SCS.

The Metropolitan Transportation Commission, the MPO for the San Francisco Bay Area, adopted its first SCS in April 2013. Its draft SCS exceeded the GHG emissions-reduction targets established by CARB and yielded even more GHG reductions than the three previously adopted plans, all of which also outperformed the CARB targets. The eight MPOs in the Central Valley have somewhat less aggressive CARB targets than the four largest MPOs and are on a slower SCS adoption schedule. However, the best information suggests that all eight are likely at least to meet their targets, and some are estimating that they will exceed them.

How effective implementation of both the land use and transportation elements of the plans will be remains to be seen. Nonetheless, the new law deserves credit for nudging these regions toward substantial change and improvement in their regional plans compared with prior efforts.

2. *The power of a performance standard to spur better decisions.* Although SB 375 does not have conventional regulatory teeth, it explicitly requires the regions to meet a GHG emissions-reduction target established by a state regulatory board if it is feasible to do so. It is up to each region to determine feasibility, but the law requires that regions develop and consider certain information in making that determination. The law allows a region to adopt an SCS that does not meet the GHG emissions-reduction target if it concludes that meeting the target is not feasible, but it can do so only if it

prepares an alternative planning scenario (APS) that illustrates what additional land use and transportation actions would need to be taken to meet the target. Probably the strongest proof of SB 375's strong carrot is the fact that none of the MPOs that have adopted or are actively developing their first SCSs have the slightest interest in an APS. It is not clear how much of the disdain for an APS is based on the perceived negative political consequences or the litigation risk that might be created if an MPO chose to prepare an APS, but what is crystal clear is how strongly MPOs wish to avoid the use of this provision in the statute.

Although public dialogue during development and adoption of the SCS is broad-based (GHG reduction is only one of many public policy objectives advanced by the plans), the requirement to achieve a specific GHG emissions-reduction target has had a major impact on the planning processes. Each region has put a great deal of technical and policy effort into analyzing the feasibility of a broad range of measures it could implement to meet the targets. Substantial changes to those plans, big and small, have resulted.

The focus and precision that result from planning to meet a specific numerical target are quite different from those in most planning processes. Most plans express the goals they value very generally, for example, improving air quality or conserving valuable natural resources. Sometimes they state the metric that will be used to determine whether the goal is being met is stated (e.g., amount of reduction in criteria pollutants or acres of wetlands conserved), but they rarely establish a specific numerical figure at the outset. Even more rarely are specific consequences known at the outset if the plan does not meet or exceed the specific metric. The SB 375 requirement that CARB set performance metrics for every MPO plan in the state is unique and has proved to be very powerful in driving change.

3. *Increased capacity of regional planning agencies.* A wave of activity, innovation, and change is sweeping through MPOs in California. Fulton notes the importance of prior law in California that devolved from the state to regions much more decision-making authority for transportation investments. With more responsibility came more accountability, which ultimately improved performance. As a group, California's regions may have been readier for the kind of enhanced responsibilities that came with SB 375 than many other regions in the country. Whatever the reasons, a flurry of positive activity has ensued over the past four years. Most

notably, there has been much greater day-to-day collaboration among the executives and senior staffs of the four largest MPOs (covering 85 percent of the state's population), as well as significant upgrades to the quality of data and analytic capabilities. All four of the largest MPOs were represented on the RTAC. They advocated that its report recommend that CARB allow the regions the time to go through a collaborative bottom-up scenario planning process so they could develop a joint recommendation to CARB on what their targets should be. This process resulted in a remarkable amount of learning, moves toward standardization, and recommendations from the MPOs for GHG emissions-reduction targets that were much more aggressive than many people had hoped for during the RTAC process.

The collaborative process was both collegial and competitive as the regions challenged one another to find practical ways to improve the performance of their scenarios. The amount of cross-learning and collaborative action was so substantial that, to use an economist phrase of the day, a cluster of regional planning knowledge was developed in the state. Part of the theory of economic clusters is that when they reach a certain critical mass, the speed of knowledge building and capacity continually increases. It was remarkable that during an era of economic collapse and reductions in government staff and capacity across the board, regional planning was such a center of activity in California. CARB endorsed each of the four MPO's target recommendations without change. The collaborative process created the beginnings of a culture of constructive partnership between CARB and the regions.

Again, SCAG is worthy of special mention. It covers six counties, each with a powerful county transportation commission, and thirteen subregional councils of governments. In the past, SCAG was relegated to rubber-stamping the actions of these various subregional actors and seldom, if ever, was regarded as a significant player in advancing a regional agenda or driving change. Since the enactment of SB 375, it has been transformed in a very significant way. Through development of its SCS, SCAG adopted a plan that departs in fundamental ways from its prior plans. Implementation of its SCS will require significant changes to local-government general plans. SCAG accomplished this with the support of its members and many of its key environmental and business stakeholders, despite the active objections of its home-building industry. SCAG's story is emblematic of perhaps

the biggest legacy of SB 375 to date: the increased importance of regional planning and action. It is likely that the law will be a precursor to other regional approaches to public policy making.

4. *National implications.* In 2012, the federal government approved a two-year federal transportation bill. Significant national changes often start in California, and the passage and early signs of success of SB 375 led many environmental interest groups to advocate that the bill include strong provisions for performance-based scenario planning and funding. Although much of the detail of early proposals (some of which were included in the House global warming bill and the original Senate transportation bill) did not remain in the bill that passed, language was included that established the basic framework to upgrade the performance and scenario planning requirements for state transportation departments and MPOs. Guidance was written post-haste to implement these portions of the bill, and MPOs and departments of transportation across the country had serious conversations about these elements in the law. Most assumed that at a minimum, they would be included in what was expected to be a longer-term bill after the election. Some people were hoping these provisions would be expanded in President Obama's second term. Others speculated that after the president was reelected, his administration's Sustainability Communities Initiative (SCI), a partnership of the Department of Housing and Urban Development, the Department of Transportation, and the Environmental Protection Agency, would use executive authority to promote integrated, performance-based scenario planning regardless of whether new legislation was passed and funding was provided. In the first term of the administration, the SCI awarded substantial grants to most of the MPOs in the country that chose to embark voluntarily on performance-based scenario planning in more comprehensive ways than those required by SB 375.

In summary, the economic, social, and environmental forces that naturally focus on a regional geography are getting stronger. Historically, regional governmental agencies have too often been weak players, ineffectual at helping either private or public sector entities plan and act in a way that channels regional forces to produce meaningful benefits for their regions. SB 375 represents an innovative approach to regional action on transportation, land use, housing, and climate change. Implementation is still in the early stage, but the track record to date is very encour-

aging. Planning, of course, is a never-ending process, and there will always be setbacks and actions that seem inconsistent with the goals of good planning. The fact that the first round of SB 375 regional plans has not solved all problems in the three regions should not be taken as evidence that the law is not working. Fulton's intent is to point out the remaining difficult work. Some of that may be accomplished if laws are enacted to reestablish some portion of redevelopment funding and further streamline the California Environmental Quality Act to help implement SCSs. The outcome of the court cases in San Diego on its regional plan and in Sacramento on the Cordova Hills development project may also influence the future trajectory of implementation. California's SB 375 may be the nudge that changes the game in many of the state's largest regions. If the early trend holds, it may lead to meaningful regional action on other issues in the state and provide impetus for the federal government to pursue integrated, performance-based regional actions more aggressively.

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While Mr. Fulton still believes SB 375 is no more than a nudge, I think the implementing actions over the two years since our original comments were written clearly indicate SB 375 is becoming an even more important and effective statute. It is noteworthy that the State of California has added two important new financing mechanisms connected to SB 375 implementation (restored tax increment financing and substantial Cap and Trade funds) and continues to reform CEQA in important ways that are explicitly linked to helping successfully implement the Sustainable Communities Strategies required by SB 375. These are major actions. They clearly signal the State's commitment to building on the strong foundation of the original statute to ensure successful implementation.

The strong performance of nearly all the 18 MPOs who have now adopted plans, their greenhouse gas emissions reductions added together clearly exceeding the "most ambitiously achievable" targets set by the California Air Resources Board, is another tangible sign of the statute's effectiveness. As a practitioner and active member of the MPO statewide organization, CALCOG, I can provide first-hand testimony that all MPOs are treating successful SB 375 implementation as a very high priority. It most definitely has changed our day to day planning world in significant ways. We are generating new and better data, developing and using new and better analytical models, and challenging ourselves through friendly peer competition to improve the performance of our plans. These plans must be updated every four years and there is every reason to believe they will continue to improve. The California Air Resources Board has signaled



that they expect to make the targets even more ambitious for the third round of plans, which will begin in 2018.

It is a little more difficult to draw conclusions from the legal actions yet, in part because some important cases are still under appeal. However, it is worth noting that:

- it is reasonable to expect that with a big new law there will be litigation to test its limits and make case law;
- only 3 of the 18 MPOs drew legal challenges;
- nearly all of the challenges relate to the state's pre-existing environmental quality law (i.e. not SB 375); and
- the two challenges that related directly to SB 375 (both MTC tea-party cases) were rejected by the trial court.

At the minimum, these legal challenges so far have in no way weakened the statute. One could make an argument that they have strengthened it. The evidence is much stronger today than it was two years ago that SB 375 is a game changer for effective regional planning in California.



## The New Jersey State Planning Experience

### *From Ambitious Vision to Implementation Quagmire to Goal Redefinition*

MARTIN A. BIERBAUM

**A**fter more than 25 years of a state plan effort in New Jersey, a sober examination is in order. Throughout its history from 1986 to 2012, except for two relatively brief periods (1998–2001 and 2002–2003), the New Jersey State Plan has been incapable of finding its way on to the center stage. Why did the state plan have so much difficulty gaining attention when it seemed so important?

The state plan's impetus was a thoughtful, if controversial, New Jersey Supreme Court decision, the Mt. Laurel II decision (*Southern Burlington County N.A.A.C.P. v. Mount Laurel Township*, 92 N.J. 158 [1983]). The decision included developing a sound planning practice to erode New Jersey's suburban exclusionary zoning barriers and provide for affordable housing opportunities.

This chapter examines the New Jersey State Plan that was developed in response to that judicial decision and investigates what the plan achieved, what it failed to accomplish, and what valuable lessons might be drawn from the experience. An effort is made to understand the roles played by the planners, including the State Planning Commission, its staff, and others with whom they interacted. In general, the New Jersey state planning experience began with the expenditure of substantial energy and resources on a plan with an expansive vision and ambitious set of goals, moved into a quagmire of implementation, and eventually saw the redefinition

and scaling back of those earlier ambitious goals.<sup>1</sup> This chapter traces the public policy process as the state plan passed through these stages. It will resonate with those who participated in the state plan process, and also with those who have studied planning and have long wrestled with the diverse descriptions of what it is that planners actually do.

### **The Compelling Case for New Jersey State Planning**

“‘Make me a plan,’ someone will say, expecting to be presented with a document that rationally plots a course of action in relation to specified goals” (Friedmann 1987, 47). Yet, the planning reality is much more elusive. Rarely, if ever, does it follow a linear path. The process does not fall within precisely measured boundaries punctuated by predictable milestones. Its forward movement is bound to occasionally slow or even stall, at times lapsing into lateral direction. It is part of a game that never seems to end. This describes the course of the development of the New Jersey State Plan.

“Bringing knowledge to action in the public domain” may have an alluring ring, but it is too deceptively simple (Friedmann 1987, 40). Complexity is an inherent aspect of this game because “planning that changes nothing of substance is scarcely worth talking about” (44). State planners might preserve their self-esteem by developing a full appreciation of the tasks they face. Once they have homed in on their mission’s true nature, they may be better equipped to match their expectations with what is feasible.

A quarter of a century ago, few state planners suspected that they were proposing anything very radical, although they knew that innovation would be part of the mix. They were excited about serving as agents of change, but actually, state planning began with a few basic conservative ideas. Then, state planning was simply about making state government more efficient and effective. At the outset, those involved believed that “the goal of planning should be to inform decision-making without overwhelming it. Planning was going to help ask the right questions and create a positive vision for the future” (Brake interview 2003). State planning would provide essential technical tools to guide land use, growth, and future development. It would incorporate and extend traditional planning tools and approaches that local jurisdictions were already practicing (Porter 2008).

A state plan would transform planning into something more proactive, more integrated in form, and more extended in scale than traditional local-

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<sup>1</sup> Aaron Wildavsky characterizes these public policy trends: “The age of design is over; the era of implementation is passing; the time to modify objectives has come” (1987, 43).

government planning. State planning would improve horizontal coordination and consistency on the state and also local levels of government; and also stop the cross municipal boundary nonsense of “we take the ratable and you get the school kids and traffic” (Ashmun interview 2012).

Although novel, the approach seemed eminently reasonable to state planners. After all, the private sector had already learned about the benefits of strategic planning (Kaplan and Norton 1996, 2001; Mintzberg 1994). If corporate managers acknowledged the benefits of adjusting and readjusting strategies and policies to be more organizationally efficient and effective as circumstances changed, why not similarly augment the public sector repertoire to meet the needs of an expanded state government? Strategic planning was an alternative to good luck (Kaufman 1992). Data-defined needs would lead to a data-driven plan based on a set of reasonably derived priorities through a consensus-building process.

New Jersey’s state government had grown substantially since the 1960s to nearly 20 departments and more than 60,000 employees by the late 1980s. Its budget by the mid-1980s exceeded \$10.5 billion annually for direct services and state aid to local governments and school districts. The state budget grew by 10.5 percent each year throughout the 1980s (New Jersey Department of State 1988). Its public investments, spending programs, and rule-making powers were having significant impacts on the state’s economy and its local jurisdictions’ activities.

The state plan’s value was embedded in its purposes: to shape a preferable future, to bring knowledge to action, to better inform public decision making, and to spur the government’s many moving pieces to work together more smoothly in a coordinated fashion. At minimum, a state plan would be instrumental in requiring the state government departments to communicate with one another and with local levels. Although the market works reasonably well in many situations, the state plan was a public policy tool that might compensate for what markets might miss, either through externalities or because of their social equity deficiencies.

In addition, the state plan proposed a carefully considered framework to strengthen New Jersey’s edge in an increasingly competitive, rapidly changing world. The state plan, in part premised on a legislatively mandated infrastructure needs assessment, was intended to provide a guide for the state’s 21st-century public investments to increase productivity. The state plan could be a data-driven alternative that enhanced the role of planners and simultaneously reduced the role of politicians and political pork barrel. The conservative touchstones of efficiency and effectiveness would be achieved through such judicious planning.

At the outset, few thought that state planning would be simple or speedy. Indeed, it was bound to be controversial. Strains would emerge because

the state plan inevitably posed society's core questions: Where should boundaries be drawn between private property rights and the public interest? Which level of government should be responsible for doing what? Where should the balance be struck between economic development and the protection of natural and cultural resources? And how should the costs and benefits of these arrangements be distributed in order to consider fundamental social equity concerns?

State planning is always contentious because these issues are tied to resource control and allocation. Moreover, too often, planning erroneously presumes that decisions are made as if a single mind were supporting a single set of preferences, as if "centralization and comprehensiveness would be valued because they are possible and desirable" (Wildavsky 1987, 121). Yet, no single set of preferences with respect to these fundamental issues exists; and the unfolding process too often reveals that not all concerned parties automatically value centralization and comprehensiveness.

State planning was also likely to be provocative because the discussion was expected to occur in full public view, not in an ivory tower or laboratory, or even in a proverbial smoke-filled back room. Its operating theater was to be a public stage with the active participation of a lively audience—"A living theater." The public would scrutinize every move. Open State Planning Commission meetings would punctuate the process.

"Remarkable," is the word Deputy Attorney General Daniel Reynolds used to describe state plan deliberations. Reynolds was assigned to represent the State Planning Commission on and off for nearly two decades. He asserted that no other state government department or commission worked with the transparency that was commonplace for the State Planning Commission. Reynolds was also struck by the large number of people who regularly attended meetings of the State Planning Commission and its subcommittees for at least the first decade. "Hundreds of people attended State Planning Commission meetings during that time. They showed up because they had serious concerns about the ways that the State Plan would affect their interests" (Reynolds interview 2010).

Conversations that might have seemed humdrum in planners' back offices became explosive when they were aired in public. The lines drawn on the State Plan Policy Map had vivid implications for local public officials and property owners alike. Discussions of changing household sizes, demographic shifts, economic trends, employment projections, potential affordable-housing locations, and property owners' legal rights combined to complicate the State Planning Commission's work. The challenge was to ensure that the state plan served as a solution and not another public policy problem (O'Connor-Houstoun interview 2007).

To be effective, the state plan required a commitment by the state to invest in public infrastructure and spending programs while adopting ap-

appropriate rules to create the incentives and disincentives to change development locations and modify the nature of the state's settlement pattern. The state plan's recommended remedies reached far beyond inclusionary zoning and addressed development trends already extending into the state's shrinking suburban-rural fringe where city and country collided (Daniels 1999). Disincentives would have to be strong enough to discourage development on the periphery; inducements would have to be potent enough to penetrate already developed areas with infill and redevelopment or to encourage development in adjacent areas that presumably already had adequate infrastructure capacity. Constitutionally backed affordable-housing requirements would also have to be met.

### **Welcome to New Jersey**

Even hostile audiences could be calmed by asking where they thought the next million people and the 800,000 projected new jobs should go by 2010. Should people move back to New Jersey's cities, continue to stream out to the state's rapidly growing suburbs, or spread out even farther across New Jersey's dwindling countryside? New Jersey's population was 7.7 million when the state planning conversation began in 1990. Twenty years later, the state plan's horizon year, the population was expected to be 8.8 million people. In 2010, New Jersey's population was actually 8,791,894.

These questions led to follow-up questions. Audiences began to think of the big picture, well beyond the latest proposed subdivision and its local impacts on water and sewer capacities, school enrollments, or traffic hot spots. What would municipal zoning build-out look like in 2010 if the master plan and zoning ordinances were followed? Did the community desire this vision? What would be the regional impacts?

New Jersey is well known for its geographic and demographic diversity. It sits on the mid-Atlantic coast, wedged between New York City and Philadelphia. The state includes 127 miles of Atlantic Ocean shore and an additional 50 miles of coastline along the Delaware Bay. It serves as a major transportation corridor for people and goods between its two neighboring metropolitan regions, as well as an important link in the larger northeastern corridor that stretches north to Boston and south to Richmond. Its port in Newark and Elizabeth, which is part of the New York Harbor system, is a major gateway to the entire North American continent.

New Jersey is the fourth-smallest state, with an area of a bit more than 8,722 square miles. However, with 8.8 million people, it is the 11th most populous state. Its population was still growing at approximately 3 to 4 percent each year at the end of the 20th century, fueled in recent years by significant numbers of immigrants from Asia and Latin America. The

state contains about 3 percent of the nation's population, with a density of 1,210 people per square mile. It is the most densely populated state in the United States.

Although New Jersey is often characterized as an urban state because of its population density, most of its residents live in relatively small, incorporated suburbs, many of which developed after World War II. The state has no remaining unincorporated land. Its high-density settlement is concentrated in a wide swath that begins in its northeast, works southwest through central New Jersey to the state's capital in Trenton, and then swings south beyond Camden to include the portion of the Philadelphia metropolitan area that lies on the Delaware River's eastern bank. The northwestern and southern parts of the state remain relatively less densely developed.

New Jersey's residents are among the most ethnically and religiously diverse in the country. Nearly one-fifth of the state's residents are foreign born. Approximately 14 percent of its population is African American; nearly 18 percent of New Jersey residents report Hispanic roots. The state has significant Portuguese and Brazilian populations. It has the second-largest Jewish population after New York, the second-largest Muslim population after Michigan, and the second-largest Cuban population after Florida; it ranks third in the country in the total number of Asians and Italians. Italians are the state's largest single ethnic group.

New Jersey has long been known for its high standard of living and appealing quality of life. Despite the lingering economic recession and the relatively high unemployment rate since 2008, New Jersey still ranks among the wealthiest states in the country. Its median annual household income is \$71,180, the second highest in the country.

New Jersey's high-growth industry clusters—health, high tech, logistics, finance, tourism, and entertainment—continue to perform well despite current cyclical strains and signs of structural weakness. Its workforce is relatively well educated and highly skilled. However, high taxes, especially property taxes, and overregulation are chronic complaints about New Jersey, frequently voiced by its business community and residents.

Despite the state's substantial wealth and the fact that several of New Jersey's counties have reputations as being among the wealthiest in the nation, "Its communities are profoundly divided by income and race. Its cities are some of the most troubled in the country and it has a growing group of older or inner ring suburbs recently experiencing similar social strains" (Orfield and Luce 2003, 1). For example, Newark, the state's largest city, is the fourth-poorest city in the United States. Camden, considerably smaller than Newark, outranks it in poverty. Camden also has the dubious distinction of being considered the most dangerous city in the

country. Camden's unemployment rate nudges 20 percent, and more than a third of its population lives in poverty.<sup>2</sup> Trenton, the state's capital and its 10th-largest city, continues to lose population, and nearly 25 percent of its households live below the poverty line. Suburbs that are beginning to experience similar stress ring each of these urban cores.

New Jersey also has the country's highest density of local governments. When the State Planning Act was signed into law in 1986, New Jersey had 1,740 units of local government: 21 counties, 567 municipalities, 616 school districts, and 536 local public authorities or special taxing districts. The state had an additional 25 state authorities (New Jersey Department of State 1988). A former leader of the New Jersey Assembly who wrote a book on this subject characterized the state's predicament as "multiple municipal madness" (Karcher 1998). "New Jersey has traditionally been governed mainly at the local level by a myriad of small units financed by a locally imposed property tax" (New Jersey Department of State 1988, 14). Land use, property taxes, and education are jealously guarded and remain mainly subject to local control.<sup>3</sup>

The state's less attractive qualities include its 19th-century industrial legacy, long memories of its racial urban social unrest during the 1960s and 1970s, and a persistent perception that the state is associated with political corruption and organized crime.<sup>4</sup> The combination of continued population growth, high population density, limited land area, and previous industrial activities has placed unusual pressures on the state's environment and natural resources.

New Jersey's geographic location has influenced its political culture. New York City to its northeast and Philadelphia on its southwest overshadow or at least divert attention from the state's own weak media coverage. "A keg tapped at both ends" was the way Benjamin Franklin allegedly described the state. New Jersey residents acknowledge an invisible boundary that splits the state at its midsection between resident loyalties to either New York or Philadelphia. The state's lack of a central urban focus exacerbates this confusion.

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<sup>2</sup> Zernike (2012) reported that Camden was laying off its entire police force of 273 officers in November 2012 and replacing them with a nonunionized county police force of 400, an acknowledgment that the police force had been ineffective in fighting crime in the city.

<sup>3</sup> Referring to the probability of changing New Jersey's predicament with respect to land use and housing, an early analyst opined that "most municipalities in New Jersey were small, relatively homogeneous and highly localistic. Reinforcing parochialism was the heavy dependence of local governments on property taxes" (Danielson 1976, 290).

<sup>4</sup> The popular media have reinforced these perceptions through television series such as *The Sopranos* and *Boardwalk Empire*, as have books that focus on organized crime, such as *The Soprano State* (Ingle and McClure 2008), and political corruption, such as *The Jersey Sting* (Sherman and Margolin 2011).



This impaired identity combines with state government's historic deference to its municipalities to impede an assertive state role (Levin, Rose, and Slavet 1974). The purpose of the state plan was, at least in part, to mitigate this predicament. From a planning perspective, the sheer number of government units and their adherence to a home-rule philosophy present extraordinary planning and public policy challenges. This situation has indeed been characterized as New Jersey's "central political challenge" (Salmore and Salmore 2008, 261) (table 4.1).

Expectations of landowners are another aspect of the state's political culture that weighs heavily on the state plan. One former government official characterized the situation as "Everyone in New Jersey gets their turn." With the creation of a state plan, "the state was threatening to take away people's turns!" New Jersey landowners purchased land with the expectation that after land was held for a time, its value would appreciate, and it would be developed. "Landowners only have to wait long enough." Large property owners operated under the assumption that "all land in the state eventually gets developed once the population and public improvements catch up to it." The state plan represented a threat to what was perceived as a "property owners' entitlement," an entitlement that was only strengthened as sprawling development pushed out from older urban areas (Pfeiffer interview 2012).

New Jersey's development community doubted that state government could muster the muscle required to engage in effective state planning. A representative of the New Jersey Builders Association recalled that from the outset, builders were skeptical of state plan success, but felt that they had little choice but to go along. They wanted greater predictability and less delay in approval processes that had grown out of control. "Too many decisions at too many levels" was the way she described it. There seemed to be "no way to insert some common sense into the decision-making process" (Harkins interview 2012). Would a state plan improve matters? The builders doubted that "the state would ever put its money where its mouth was; that State departments would ever engage in the necessary regulatory reform; or that municipalities would ever accept essential infringements on home rule. Yet all were important for the State Plan's success" (Harkins interview 2012). The builders, like some others, participated in the planning process largely out of fear, seeking protection from what the state might do to them.

However important breaking down zoning barriers and enhancing affordable housing opportunities might have been even when backed by judicial mandate, these priorities would soon be competing with others in the new forum created by the state plan. After the enactment of the New Jersey Fair Housing Act and the establishment of the Council on Affordable

**TABLE 4.1**

*Institutions, Agencies, and Organizations Active in Land Use Planning in New Jersey*

**State Planning Commission:** The State Planning Commission was established by the State Planning Act and is composed of 17 members. It oversees a cross-acceptance process that is designed to review, revise, and readopt the state plan on a three-year cycle according to the State Planning Act.

**Council on Affordable Housing (COAH):** The New Jersey Fair Housing Act established the Council on Affordable Housing to create an administrative alternative to implement the *Mt. Laurel II* decision. The State Planning Commission was expected to generate population and employment projections and identify appropriate locations for development, including affordable housing. COAH was expected to make municipal affordable-housing allocations based in part on those projections and an analysis of housing regions and affordable-housing needs.

**Office for Planning Advocacy (OPA):** The Office of Planning Advocacy coordinates statewide planning programs, encourages mixed-use developments, and promotes smart growth visions. The OPA focuses on economic development advocacy and, since 2012, on addressing the impacts of Hurricane Sandy. The OPA is the successor to the Office of State Planning (OSP) and the Office of Smart Growth (OSG), as it was renamed in 2009 by the Governor Chris Christie Administration.

**Urban Coordinating Council (UCC):** The Urban Coordinating Council was established within the Department of Community Affairs by an amendment to the New Jersey Redevelopment Act during the Whitman administration. Its purpose was to ensure coordination among state agencies and to provide assistance to programs in neighborhood empowerment plans, such as the New Jersey Redevelopment Authority and the New Jersey Economic Development Authority. For nearly eight years, it improved coordination and concentration of state efforts in urban areas, modeled on the short-lived federal Model Cities program. It functioned only during the Whitman administration and was ignored by subsequent administrations.

**Counties:** New Jersey has 21 counties. The State Planning Act envisioned an elevated role for counties through the legislatively mandated cross-acceptance process. Counties were expected to serve as brokers, manage the process, and mediate between the state and its many municipalities. All counties were provided with the opportunity to elevate the county planning role. However, the arrangements that evolved reflected both traditional county political and planning cultures and county planning capacities. Some exercised real leadership in managing the cross-acceptance process; others simply compiled municipal plans and submitted them to the state.

**Cities:** New Jersey has 565 municipalities, which create master plans to establish land use plans and zoning ordinances per the 1976 Municipal Land Use Law. In the cross-acceptance process, the respective counties first reviewed municipal plans and then submitted them to the state for review. That process yielded a list of agreements and disagreements. Many of these disagreements focused on mapping issues. Attempts were then made to reduce the disagreements.

*(continued)*

TABLE 4.1 (continued)

**Interest Groups:** Interest groups that are active in land use politics in New Jersey include New Jersey Future, Plan Smart, the New Jersey Farm Bureau, the New Jersey Builders Association, and the New Jersey League of Municipalities. Important environmental groups include the New Jersey Environmental Federation, the Association of New Jersey Environmental Commissions, the New Jersey Conservation Foundation, the American Littoral Society, Audubon of New Jersey, and the Sierra Club. Other planning groups include the APA–New Jersey Chapter and the New Jersey Planning Officials, which represents citizen planners sitting on planning boards and zoning boards of adjustment throughout the state. Other business groups include the New Jersey Business and Industry Association, the New Jersey Chamber of Commerce, and the National Association of Industrial Office Parks–New Jersey Chapter. County planning directors were extensively involved through the County Planning Directors Association; the New Jersey Association of Counties was active to a lesser extent.

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Housing (COAH) in 1985, just before the passage of the State Planning Act, housing advocates concentrated their energies more on the new forum and put distance between themselves and the state plan. An early attempt was made to coordinate COAH and State Planning Commission activities through a much-hailed memorandum of understanding. Over time, interest in cooperation waned and was even forgotten. A former COAH director could not recall any time at which COAH and state plan policies and activities were ever aligned (Vandenberg interview 2011).

New Jersey environmental advocates, from their vantage point, would gradually groan, even as activists for affordable housing came to view them as the less worthy victors in the battle brewing between competing goods—affordable housing and environmental protection. Why did the New Jersey environmental movement distance itself from the state plan? “Environmental advocates did not move away so much as they were never there” was the assessment of one of the state’s leading environmental spokeswomen and a former state plan commissioner (Ashmun interview 2012). The environmental community typically paid less attention to land use. The state plan included too much about real estate and economic development to interest them seriously. Some simply rejected any growth. Others found that more prescriptive government regulation, while not entirely satisfying, better served their needs. Large-lot zoning became an easy means to protect the environment, even though it encouraged sprawl.

Furthermore, whereas clean water and clean air programs had federal backing and benefited from the full force and effect of state rule-making powers, the state plan came to this contest as a constrained contrivance.

It was entirely a state government initiative and lacked federal legitimacy. By design, its policy recommendations were only advisory. “In the State Planning Act, nothing was required—there was no ‘must do’” (Ashmun interview 2012). Its niche would have to be more precisely defined.<sup>5</sup>

In contrast, state planners, some of whom approached their work with missionary-like zeal, could not understand how anyone could disagree with what they were proposing. After all, sprawl was the result of either unplanned or poorly planned land use decision making. Who could argue in favor of the obvious aesthetic assaults created by these formless agglomerations that respected neither the land nor its people, but rather seemed to be driven by an irrational automobile dependency? To state planners, well-designed, compact, mixed-use, walkable communities with a range of housing types at different prices and with built-in environmental amenities were unquestionably preferable to the disconnected designs and social isolation wrought by subdivisions and strip malls. Furthermore, an argument could be made for state intervention in land use decision making to curtail local corruption. The public perception of widespread political corruption in New Jersey was harmful. In 2003, a poll showed that 77 percent of New Jersey residents believed that the state had “a lot” or “some” political corruption, while only 15 percent said that there was “only a little” or “none” (Gale 2006, 118). State officials were aware of this situation. There was a sense that public corruption grew from a system in which there were simply too many jurisdictions, too many public officials, and inadequate media coverage (Richman and Paul interview 2010).

Only gradually did state planners come to grips with the fact that a settlement pattern is the physical manifestation of an underlying culture, a reflection of accustomed behaviors and established benefit streams. Cultures raise questions about the ways in which resources are applied to goals: “knowledge, power, money, talent, trust, and others—necessary to achieve the objectives” (Wildavsky 1987, 42). In the absence of challenges to the underlying culture, existing development patterns would remain, for the most part, business as usual.

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<sup>5</sup> One academic observer of this scene forecast the way environmentally minded suburbanites might react to a state plan, although he was writing after *Mt. Laurel I* and before *Mt. Laurel II* or the enactment of the State Planning Act. He expected that “to maintain the quality of life for residents of the particular suburban community, the powers of local governments over land use and housing have been widely employed to prevent outsiders from sharing the local environment with those who already live there. As in the case of the local property tax, ecological concerns tend to be mixed with other exclusionary motivations as the typical suburb seeks to maximize internal benefits.” He also predicted that “increasingly, suburban officials are confronted by aroused constituents who want their local government to find a means of shielding them from change” (Danielson 1976, 49).

## The New Jersey State Planning Act

Despite sitting governor Tom Kean's initially strong negative reaction to *Mt. Laurel II*, W. Cary Edwards, the governor's special counsel and subsequently his attorney general, signaled that the governor would entertain a state planning bill if it remained relatively noncontroversial. The State Plan Ad Hoc Committee was established in the summer of 1983 to test the potential for building a coalition in support of a state planning act.

Planners, once they were pulled into this process through the enactment of the State Planning Act, found that the New Jersey Supreme Court's thinking about exclusionary zoning was too confining. The court's main concern was to expand the definition of the general welfare to prohibit ways in which suburban municipalities used their delegated zoning powers to restrict low- and moderate-income housing opportunities. The state plan was expected to provide the numbers: population, employment, and housing projections and preferred locations based on sound housing principles. Under the New Jersey Fair Housing Act, COAH would coordinate its activities with the State Planning Commission to ensure that municipalities created the required affordable housing opportunities to meet their respective regional fair-share obligations (Shostack interview 2011).<sup>6</sup> The planners had a wider vision supported by more ambitious goals.

In discussing the ways to develop a state plan, the Ad Hoc Committee made an early determination that it was important to gain the support of the League of Municipalities. Eventually, that committee agreed on a unique process, dubbed "cross-acceptance," to enlist the league's support (Hamill interview 2010). The process was ultimately written into the State Planning Act (1986). The cross-acceptance process was a means to ensure that local jurisdictions would be active participants in the planning process. It involved comparing and contrasting local plans with a preliminary draft of the state plan.

Within the state legislature, Senator Gerald R. Stockman, a Democrat from Mercer County, whose constituents hailed from both Princeton's well-groomed neighborhoods and Trenton's gritty streets, sponsored the

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<sup>6</sup> The Kean administration played an important role in getting the bill drafted and enacted. At the same time, the administration labored on the Fair Housing Act (N.J.S.A.52:27D-301 et seq.), attempting to design both bills to work in tandem as a response to the New Jersey Supreme Court's *Mt. Laurel II* decision. The notion understood, at least by professional planners and some developers, was that if the State Planning Commission adopted meaningful population and employment projections tied to its policy map, then the COAH would drive the "amount and look of the resulting development." COAH would be the implementation agent of the state plan. The State Planning Act did not address the question of implementation directly. Some may have believed it unnecessary because it was paired with the Fair Housing Act (Rahenkamp email 2012); others viewed the lack of attention to implementation as a flaw in the State Planning Act.

committee's draft bill. His district mirrored New Jersey's uneven development and polarization, which he tried to bridge. Stockman, who had grown up in Trenton, insisted that redevelopment be included in the act's title to ensure the prominence of urban issues. He enlisted the assistance of state legislators from around the state to gain the support required for its passage (Stockman interview 2011).

Governor Kean signed the bill into law in January 1986 after it passed through the state legislature with only mild resistance. The law became effective immediately. The Fair Housing Act had been enacted six months earlier. Together, the laws were expected to create an administered approach to allocate low- and moderate-income housing to municipalities on the basis of a standard of regional fair share. The pairing created an escape or safety valve for municipalities to avoid the more onerous judicial remedy imposed on them by *Mt. Laurel II*.<sup>7</sup>

The state legislature was faced with a dilemma to which it was expected to respond. The New Jersey Supreme Court *Mt. Laurel* decision pointed to the harsh realities of New Jersey's planning and zoning practices and required an expansion of the state's land use role as an antidote. Yet, the state legislature was reluctant to undermine traditional local land use prerogatives (New Jersey State Planning Act 1986, N.J.S.A. 52:18A-196[e]; Rose 1988). The cross-acceptance process was a result of this legislative dance, a cooperative planning process that encouraged substantial local contributions, guaranteed to soften the impact of any state government plan.

Beyond this process, in further concessions to municipalities, the state legislature limited any changes to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.; Rose 1988) enacted a decade earlier. That law required local jurisdictions to adopt municipal master plans. Zoning ordinances had to be consistent with land use and housing elements of those plans. However, notably, the state legislature avoided mandating consistency between municipal plans and the state plan (Rose 1988).<sup>8</sup> Instead, the State Planning Act focused on state government action. It established a State Planning Commission, prescribed its membership, defined its scope, and

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<sup>7</sup> The legislative findings in the State Planning Act made no mention of *Mt. Laurel I* or *Mt. Laurel II*. Instead, the State Planning Act declared that the state needed sound and integrated statewide planning and the coordination of statewide planning with local and regional planning; it also emphasized the importance of responding to judicial mandates with respect to low- and moderate-income housing in ways that would require sound planning and prevent sprawl (New Jersey State Planning Act, N.J.S.A. 52:18A-196[a]; Rose 1988). The state legislature's findings provided that statewide planning was essential to conserve natural resources, to revitalize New Jersey's urban centers, to protect the quality of its environment, and to provide needed housing and public services while promoting economic growth (N.J.S.A. 52:18A-196[h]; Rose 1988).

<sup>8</sup> Just as important, the state legislature in the Fair Housing Act did not require that municipal housing elements be consistent with COAH regional fair-share housing allocations.

assigned it tasks that included the preparation, adoption, review, revision, and readoption of the state plan on a three-year cycle through the cross-acceptance process.<sup>9</sup>

The establishment of the 17-member State Planning Commission, which included members of the governor's cabinet, representatives of county and municipal governments, and six public members, represented a major policy decision that elevated the state planning function far beyond what had formerly existed.<sup>10</sup> The administration retained significant influence in light of the representatives of the governor's cabinet on the State Planning Commission and the fact that the state planning director and his staff were to be part of the Department of Treasury,<sup>11</sup> reporting to the state treasurer.

### Framing the Issue

In policy making, framing the issue is as important to the process as the search for solutions. State planning is not just or mainly a technical exercise. There is no simple recipe. "Before we can consider options and choices, we must have a decent sense of what is at stake, . . . to whom and to what do we need to pay attention" (Forester 1999, 40). Yet, "We do ourselves a great disservice if we think about planning and design deliberations as mere 'process,' periods of potentially distracting and draining 'talk,' a necessary evil accompanying the 'real work' of planning and design" (Forester 1999, 63). "When a practitioner sets a problem, he chooses and names the things he will notice" (Schon 1987, 4). The problem framed in this way is not foreordained. Instead, "depending on our disciplinary backgrounds, organizational roles, past histories, interests, and political/

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<sup>9</sup> An issue from the beginning was that the cross-acceptance process was too restrictive in that it did not permit an adequately robust role for the private sector. This view was advanced by the development community, which was especially suspicious of the municipal role because it viewed municipalities as the major issue of concern from the *Mt. Laurel II* perspective (Rahenkamp interview 2011).

<sup>10</sup> Curiously, the State Planning Commission and its staff were preoccupied with the development of the State Development and Redevelopment Plan and managing the cross-acceptance process. They paid relatively little attention to other more general planning functions, including ways in which a state planning office might provide planning-related research, planning, or ancillary services to other state departments and agencies or build planning capacity with respect to local jurisdictions or the public at large.

<sup>11</sup> The Department of Treasury was likely selected because of the treasurer's interest in growth management at the time of enactment. The location was also viewed as an advantage in that placing it within any of the state government's functional departments would put the State Planning Commission at a disadvantage vis-à-vis other functional departments. The State Planning Commission was intended to sit above those functional departments. This situation later became a problem when the State Planning Commission was moved from the Department of Treasury to the Department of Community Affairs during the Whitman administration.

economic perspectives, we frame problematic situations in different ways” (Schon 1987, 4).

At the outset, the State Planning Commission had to draw boundaries around the problem it wished to address. It identified the substantive concerns to which it would pay more or less attention. At first, it was guided by the State Planning Act’s legislatively established goals and by the New Jersey Supreme Court’s affordable-housing mandate, but subsequently, it was guided by the commission’s deliberations as informed by presentations made to it by state departments, local jurisdictions, and interested parties, supplemented by Office of State Planning (OSP) staff. However, as it became obvious that the state plan was going to be about much more than the New Jersey Supreme Court had envisioned, housing advocates became wary (Bisgaier interview 2012). The State Planning Commission’s imagination stretched far beyond affordable housing. It considered ways to preserve natural resources and to protect the environment. Planning for economic development, capital facilities, highway access, and farmland preservation also fell within its ken. Even a quick reading of the State Planning Act made it clear that the act provided an expansive vision structured by eight legislative goals.

Rather than digging deeply, the State Planning Commission was intended to operate on the edges of these policy fields. The commission was a forum created to strike an appropriate balance among these competing concerns. “It has to be a place where common sense can enter the process and prevail” (Zellner interview 2012). The nature of its reforms would be tied to its ability to transcend parochial interests in pursuit of a more broadly defined public interest. In trying to strike that balance, the state plan beamed a light on sprawl even before the concepts of smart growth and new urbanism became part of the planning vernacular.

Sprawl was never precisely defined, but it played out on the state’s landscape in practical ways, producing benefits for some and generating costs for others. Connections between cause and effect were often subtle and obscure. The expense was only occasionally calculated. Combating sprawl was distinguishable from cleaning water or air. Reducing sprawl raised questions about whether the state could effectively plan and manage New Jersey’s rapidly changing landscape.

Traffic congestion was sprawl’s most conspicuous consequence in this heavily traveled corridor state. Working households typically “drive until they qualify,” mirroring multiplying mismatches between employment and affordable-housing locations that add to the vehicle miles traveled each day. Its effects also included urban disinvestment, threats to water resources and wildlife, and the disappearance of woodlands and farms. The future promised a polarized polity. Congestion underscored the prominence of the entangled connections between municipal finance and land use decision



making—the “ratables chase” for short. State planners wondered how these strands might be rearranged into a fabric that made more sense.<sup>12</sup>

As the 20th century drew to a close, the State Planning Commission found itself in an uncomfortable position. It questioned the sustainability of the American suburban dream in overwhelmingly suburban New Jersey. Demographic and employment projections and rising energy costs propelled the inquiry. The State Planning Commission was at the forefront, posing profound questions about where New Jersey was headed.<sup>13</sup>

Despite the decision to frame the issue in this way, combating sprawl was not an easy sell. Sprawl was difficult to define. Cause-and-effect relationships were unclear or contradicted by what passed for common sense. If highways were congested, why not simply widen them? If managing storm water was a problem, why not just zone for low density? The sprawl issue also fell to what social scientists sometimes label as wicked problems, those social ills that are not easily amenable to solution.<sup>14</sup>

One early prognosticator questioned the prospects for a successful state planning experience. He urged that expectations be lowered and warned that “success will continue to be elusive until the system of municipal finance is reformed and until the principle of home rule is subordinated to the general welfare of New Jersey residents” (Rose 1988, 170). He expected that a state plan erected on a flawed foundation would inevitably disappoint.

These obstacles were not lost on State Planning Commission members, but what they could do was limited. Candace Ashmun recalled that once Governor Kean admonished the commission early in the process that the state plan should avoid any mention of property taxes, commissioners knew that the “State Plan was painted into a box” (Ashmun interview 2012). Fur-

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<sup>12</sup> In addition to the judicial decisions that touched on these issues, the New Jersey state legislature authorized the convening of the New Jersey State and Local Expenditure and Revenue Policy Commission (the SLERP Commission) in 1985. It conducted hearings and issued reports, completing its work just as the State Planning Commission’s efforts were commencing. The SLERP Commission pointed to a fundamental imbalance in the state’s fiscal system, which relied too heavily on local governments to provide services but failed to provide sufficient revenues for those governments. It also found that the tax system burdened those New Jersey residents who were least able to pay. The state legislature did not receive the report enthusiastically. The Kean administration drew a distinction between state plan efforts and the SLERP Commission recommendations.

<sup>13</sup> For a general survey of states exploring sprawl issues and smart growth, see Flint (2006). Flint fails to accord New Jersey its prominent place as a pioneer in identifying and addressing these issues in the 1980s.

<sup>14</sup> Wicked problems have no stopping rule, ultimate test, or solution. They raise profound social values issues. They never quite go away; instead, they are more likely displaced. “Once the patient’s temperature has been lowered by incomplete treatment, attention is diverted and another problem surfaces in its place” (Friedmann 1987, 218). Race and economic class integration and thorny public finance issues are wicked problems. Changing suburban land use patterns and combating sprawl would likely prove indistinguishable from these problems.

thermore, by the time the State Planning Act was enacted, the state context of planning had already changed. The New Jersey state legislature had previously enacted legislation in piecemeal fashion that would overlap and infringe on state planning as it was beginning to take shape (Rose 1988). Legislation had carved out substantial public policy areas that would inevitably affect state planning, but it had circumscribed the State Planning Commission's authority by statutorily empowering other state departments, agencies, and regional jurisdictions.<sup>15</sup> The state plan was expected to coordinate, integrate, and align its activities with others. However, there seemed to be no corresponding reciprocal expectation written into these previously enacted laws. How would cooperation and collaboration be assured?

With respect to local jurisdictions, they did not just spout home-rule rhetoric. They faced real fiscal concerns. To local officials, the state plan looked like one more unfunded mandate imposed by state government. Local public officials predictably pushed back. Operating on government's front lines, municipalities often serve as government's retail operation. Local jurisdictions get to see and hear from their customers. "Too often municipalities lack the resources to absorb all the costs that they are expected to absorb" (Rahenkamp interview 2011). Local public officials readily viewed the state plan as raising costs without providing offsetting revenues (Rahenkamp interview 2011).<sup>16</sup>

In light of these circumstances, for the state plan to gain attention, state planners would have to elbow their way onto this already crowded stage. To secure their place, they would have to become more familiar with pre-existing statutes, rules, policies, procedures, and other cultural artifacts

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<sup>15</sup> Among the growing list of statutory authorities that would fall beyond the direct influence of the State Planning Commission were the following: the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.); the New Jersey County Planning Act (N.J.S.A. 40:27-1 et seq.); the New Jersey Freshwater Wetlands Protection Act (N.J.S.A.13:9b et seq.); the Water Pollution Control Act (N.J.S.A.58:11A-1 et seq.); the New Jersey Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.); the New Jersey Flood Hazard Area Control Act (N.J.S.A.58:16A-50); the New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.); the Hackensack Meadowlands Development Act (N.J.S.A. 13:17-1 et seq.); the New Jersey Coastal Area Facilities Review Act (N.J.S.A.13:19-1 et seq.); and the New Jersey Pinelands Protection Act (N.J.S.A.13:18A-1 et seq.). Beyond environmental concerns, the legislature enacted the New Jersey Agriculture Retention and Preservation Act (N.J.S.A. 4:1C et seq.) with respect to farmland preservation programs and the New Jersey Highway Access Management Act (N.J.S.A. 27:1A-1 et seq.) to manage state highway access. The presumption was that the State Planning Commission would provide a forum to coordinate these proliferating statutory authorities. However, there was no onus placed on the agencies established under these wide-ranging acts to coordinate their activities. These multiple initiatives resulted in what was referred to as the state's "creeping incremental" approach to state and regional planning (Rose 1988, 157).

<sup>16</sup> When state planners met with county planning directors at monthly meetings, they were regularly peppered with questions about when state departments would get their own houses in order. Illustrations were usually provided of state departments operating at cross-purposes. Other public forums and information sessions also created opportunities for these attacks.

that were bound to constrain them. State planning emerged as a more tentative undertaking. State planners had to learn on the job about what already cluttered their terrain while simultaneously marketing their novel planning ideas to local politicians who were less than enthusiastic. Rather than working on a clean canvas, they were learning new skills and incorporating volumes of new information. State planners had less time to devote to their bold new vision; instead, they had to shift gears to concentrate on what they had formerly considered unwanted distractions. They had to learn about and reconcile all the edges. The challenge was to be more practical without reverting to being entirely piecemeal.<sup>17</sup>

### The New Jersey State Plan's Vision, Goals, and Policies

The New Jersey State Plan eventually emanated from a lengthy New Jersey state planning history that reached back at least to the expansive growth in the 1920s. State planning gained momentum during the New Deal with federal support, only to be disrupted during World War II and the immediate postwar period (table 4.2). State and regional planning gradually regained traction in the late 1960s and early 1970s, a period of considerable social urban unrest in New Jersey. The New Jersey Department of Community Affairs (DCA), established in 1966, with its Division of State and Regional Planning, was instrumental in these efforts.<sup>18</sup> The state plan built on and reinforced the general direction previously provided by the *State Development Guide Plan*, which the Division of State and Regional Planning had devised to serve other purposes. The *State Development Guide Plan* had been cited in the *Mt. Laurel II* decision as a basis for regional affordable housing needs.

Yet, before the New Jersey State Plan's first final version was adopted in June 1992, it passed through four iterations. The first, released in April 1987, was a rudimentary working paper that was criticized for being too environmentally oriented. There were loud outcries from developers and large landowners who were incensed by the accompanying State Plan Policy Map, which was covered with large splashes of green indicating agricultural and environmentally sensitive areas. Their ire concentrated on a

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<sup>17</sup> Planning academics have described this approach as “bricolage,” with the planners serving as “bricoleurs.” The work begins with no clear end in sight. Instead, the bricoleur works with a heterogeneous store of materials and tools that are collected over time, often without specific purpose, a veritable garbage can of tools and materials. The goals become clear only through process engagement. Planners learn to piece things together to devise a new strategy based on their collective repertoire (Innis and Booher 2010). In this way, planners work more like restorers of fine paintings than artists who work on clean canvases painting fine masterpieces.

<sup>18</sup> For a more thorough history of the New Jersey State Plan, see Bierbaum (2007) and Bierbaum and Nowicki (1991).

**TABLE 4.2***Milestones in New Jersey Land Use Planning*

1917	The New Jersey State Home Rule Act is enacted. It provides for municipalities to have “fullest and most complete powers” for self-governance.
1934	Governor A. Harry Moore establishes the New Jersey State Planning Board. It develops state plans and planning studies and focuses on parks, public lands, water supply, sewage disposal, transportation, and utility services (federally funded).
1947	The new state constitution provides for the delegation of the state’s zoning power to municipalities and a new state government department structure.
1948	The New Jersey State Planning Board is incorporated as part of the New Jersey Department of Conservation and Economic Development as a result of the reorganization of State government.
1951	The New Jersey State Plan is developed to guide postwar development. Recommendations include construction of the Garden State Parkway, the New Jersey Turnpike, and the Round Valley Reservoir; the acquisition of the Wharton and Worthington Tracts; and the acquisition and development of Island Beach State Park.
1955	State planning is elevated to a section within the New Jersey Department of Conservation and Economic Development.
1956	The Bureau of State Planning launches a number of studies, such as the Meadowlands Development Study, the Pinelands Region Study, and the Newark Area Transportation Study, all with regional planning implications.
1960	The Bureau of State Planning receives a federal grant to devise a “horizon plan” that sets 2000 as a horizon year with an anticipated population projection of 20 million, subsequently reduced to 10 million. The Bureau of State Planning also promulgates a report urging that the state bond for land acquisitions.
1961	The State Planning Bureau is expanded and elevated to become the Division of State and Regional Planning within the New Jersey Department of Conservation and Economic Development; it launches a number of regional planning initiatives.
1964	New Jersey passes the Farmland Assessment Act of 1964 to mitigate the loss of farmland to rapid suburban development through the use of favorable tax assessments.
1964–1970	New Jersey experiences urban social unrest (Elizabeth, Paterson, and Jersey City, 1964; Newark and Plainfield, 1967; Passaic, 1969; Asbury Park, 1970).
1965	The State Planning Bureau helps create a statewide guide for open-space acquisition and preservation. The Tri-State Transportation Committee is established through a multistate compact to improve transportation in the New York metropolitan region.

*(continued)*

**TABLE 4.2** (continued)

1966	The New Jersey Department of Community Affairs is established to centralize all functions of state government pertaining to local jurisdictions, including a state planning function. The Delaware Valley Regional Planning Commission is established through tristate agreement.
1969	The legislature establishes the Hackensack Meadowlands Development Commission. The commission continues to serve as a regional planning, zoning, and regulatory body charged with reclaiming the Hackensack Meadowlands and reconciling economic development, environmental protection, and solid waste disposal. It also has tax sharing capacity.
1970	The New Jersey Department of Environmental Protection is established.
1972	Governor William T. Cahill establishes by executive order the State Planning Task Force, prepares a report recommending the establishment of a state planning commission.
1973	The Coastal Area Facility Review Act is enacted in response to the 1972 passage of the federal Coastal Zone Management Act. New Jersey begins to develop its New Jersey Coastal Management Program to address the complex coastal ecosystem.
1975	The New Jersey Supreme Court decides the <i>Mount Laurel I</i> case, which establishes a municipal obligation to provide an opportunity for low- and moderate-income housing based on an assessment of regional housing need.
1976	The New Jersey Municipal Land Use Law (MLUL) is enacted, which preserves local zoning and planning prerogatives.
1977	The state legislature approves casino gambling in Atlantic City, which is expected to accelerate development pressure on the New Jersey Pinelands region.
1978	The U.S. Department of Housing and Urban Development approves the State Development Guide Plan, which recognizes New Jersey's statewide land use element as a guide to allocate federal funding. The U.S. Congress enacts legislation establishing the New Jersey Pinelands National Preserve and approves the New Jersey Coastal Zone Management Program.
1979	The New Jersey Pinelands Protection Act is enacted, establishing the Pinelands Commission to develop and implement a comprehensive management plan with jurisdiction over 22% of the state's land area.
1981	The New Jersey Agriculture Retention and Development Act is enacted, which allows the state to purchase farmland and impose deed restrictions on lands that are purchased.

**TABLE 4.2** (*continued*)

1983	The New Jersey Supreme Court decides <i>Mount Laurel II</i> , which reaffirms the principles of its <i>Mount Laurel I</i> decision, but fashions a remedy to counteract what the court interprets as intentional municipal delays drawing upon the State Development Guide Plan.
1985	The New Jersey Fair Housing Act, passed by the state legislature and signed into law by Governor Tom Kean, establishes the Council on Affordable Housing and provides an alternative forum to the courts for the resolution of conflicts related to the municipal provision for affordable-housing opportunities.
1986	The New Jersey State Planning Act, passed by the state legislature and signed into law by Governor Tom Kean, establishes the State Planning Commission, which is charged with developing a state development and redevelopment plan. The Office of State Planning is established within the Treasury Department. This initiative is entirely state funded.
1992	The New Jersey State Planning Commission approves the first final version of the New Jersey State Development and Redevelopment Plan.
1993	The Office of State Planning devises a “centers designation” as a certification process to encourage local jurisdictions to implement the state plan.
2001	The New Jersey State Planning Commission approves the final second version of the State Development and Redevelopment Plan.
2002	The McGreevey administration establishes its “war on sprawl” as a major priority, renames the Office of State Planning the Office of Smart Growth, creates a subcabinet Smart Growth Council, and conducts a Smart Growth Policy Summit.
2004	The state legislature passes, and the governor signs, the Highlands Water Protection and Planning Act, which establishes the Highlands Council to protect the water resources in the state’s Highlands region in the northwest; the Fast-Track Permitting Act is enacted to expedite construction permits; and the Transfer Development Rights Act establishes transfer development rights as a planning tool.
2008	The third version of the State Development and Redevelopment Plan is submitted to the State Planning Commission for its review, deliberation, and approval; sections are added to address concerns about energy and climate change. The State Planning Commission never approves this version because it determines that the impact assessment completion arrived too close to the change in administration. The outgoing Corzine administration decides to defer judgment and leave the state plan’s approval to the next administration.
2010	Governor Chris Christie transfers the Office of Smart Growth (OSG) to the Department of State and changes its name from the Office of Smart Growth to the Office for Planning Advocacy (OPA);

(*continued*)

TABLE 4.2 (continued)

	develops and releases a new state strategic plan. The current administration decides to devise its own plan and announces an intention to be more focused and strategic, to rely on the prior cross-acceptance process and not a new one, and to deemphasize the use of the State Plan Policy Map.
2012	A draft strategic plan is released but is withdrawn after a determination that the impact of Hurricane Sandy will necessarily alter state plan priorities. The Office of Planning Advocacy has promulgated no subsequent draft.

provision in this version that called for only one dwelling unit per 20 acres of land in those regions.

The Draft Preliminary State Development and Redevelopment Plan, which appeared nine months later, in January 1988, reflected additional mapping and substantial state department contributions. That iteration was reviewed by OSP staff, external consultants, and ultimately the State Plan Commissioners. Comments were incorporated from experts, not only from New Jersey, but throughout the country. To make the previous draft more acceptable, the 20-acre zoning requirement was softened and explained.

The Preliminary State Plan was released in January 1989 as a three-volume document.<sup>19</sup> It was then subjected to a two-year cross-acceptance process involving negotiations with 21 counties, the then 567 municipalities, countless professional planners, a host of concerned interests, and thousands of interested citizens who participated in public meetings or submitted written comments. Eventually, the State Planning Commission produced an interim state plan that was to undergo an impact assessment, as required by legislative amendment to the State Planning Act (N.J.S.A. 52:18A-202.1-g, h, i). Its fundamental structure consisted of its vision statement, a set of statewide policies that read like a lengthy set of best management practices, a resource management system consisting of planning areas and a centers hierarchy, the State Plan Policy Map, and the cross-acceptance process through which the state plan had been developed. Unfortunately from a policy perspective, during cross-acceptance, attention shifted from statewide policies to lines on the State Plan Policy Map, which became, in the eyes of many, synonymous with statewide zoning.

<sup>19</sup> The first volume presented the rationale for the state plan, its conceptual framework, and its legislative mandates. Volume 2 consisted of 88 strategies and nearly 300 policies. Volume 3 included technical guidelines, technical reference abstracts, and a mapping protocol.

During the year in which academic experts scrutinized the interim plan, minor changes were made. Agriculture and urban revitalization policies were revised and added. The concept of capacity-based planning was introduced, along with community development boundaries. The State Planning Commission also requested a staff implementation report to strengthen the state plan's impact. When the impact assessment was completed, it bolstered the state plan's legitimacy by demonstrating that the state plan would yield the state savings when compared with the anticipated trend scenario (Burchell 1991, 2000, 2008).<sup>20</sup>

The state plan, titled "Communities of Place," was an aspirational document. It encouraged a new settlement pattern as an antidote to sprawl, one that offered a sense of place. It also suggested a novel land development process as an alternative to relying primarily on developer-driven proposals. Its hope was to capture the imaginations of New Jersey residents, especially the numerous public officials who sat on local planning boards and governing bodies (New Jersey State Government 1992).

The state plan seemed especially relevant to the needs of a middle range of the state's urban centers, more than a few of which were county seats.<sup>21</sup> Pre-World War II suburbs with central business districts, mixed uses, affordable housing, and often rail connections could also easily identify as "communities of place."<sup>22</sup> In these small to midsized cities and towns, New Jersey residents could experience a newfound urbanity but avoid the ravages of New Jersey's previous urban unrest associated with the state's largest urban centers.

Just how the state plan would assist New Jersey's neediest cities, where political leaders expressed less interest in the state plan, remained unclear. Despite efforts to reach out to urban political leaders, they remained skeptical. African American political leaders feared the dilution of their power and of the influence of their constituents. They perceived only a small advantage in a state plan that included a 20-year horizon. Their concerns were more immediate. Because the State Planning Act had omitted improvements for older urban areas with respect to public safety and education, the state plan left such improvements largely unaddressed. The property tax

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<sup>20</sup> Dr. Robert Burchell and his teams at the Center for Urban Policy Research, Edward J. Bloustein School of Planning and Policy, Rutgers University, were contracted to do three impact assessments on three different state plans in 1991, 2000, and 2008. Each study compared trend and plan scenarios with respect to the legislatively required parameters provided by the amendment to the State Planning Act that called for an impact assessment. Burchell noted in each that the plan scenario had advantages over the trend scenario (Burchell 1991, 2000, 2008).

<sup>21</sup> Examples include such municipalities as Flemington, Freehold Borough, Morristown, New Brunswick, Somerville, Salem, and Bridgeton.

<sup>22</sup> Municipalities in this category included Long Branch, Newton, Red Bank, South Orange, and Westfield in northern New Jersey; Hopewell Borough in central New Jersey; and Collingswood and Haddonfield in southwestern New Jersey.



issue was politically compartmentalized and distanced as well. *Communities of Place* had little meaning to the most distressed urban areas.

Nevertheless, the State Planning Commission could take some satisfaction from a few urban success stories, although demonstrating direct causes and effects was not easy. For example, in Newark, the state's largest city, hints of a downtown revival began to appear with the construction of the New Jersey Performing Arts Center and renovations to nearby commercial office buildings (Tuttle 2009).

A more robust boost to the state's urban fortunes was evidenced by substantial reinvestment activity in Hudson County. That activity benefited from a strengthened Manhattan housing market overspill. In addition, large-scale land assembly where 19th-century railroads and ferry slips had once crowded the waterfront became possible, making redevelopment economically feasible. The installation of the Hudson-Bergen Light-Rail Line by New Jersey Transit augmented these improvements. Hudson County had competent planning professionals who interfaced frequently with OSP staff to devise an effective urban redevelopment strategy (Heyer and Gruel 1989, 1999). Hudson County redevelopment served as the state planners' riposte to skeptical developers who argued against the viability of a New Jersey urban market as envisioned by the state plan at the time.

The state plan urged an overhaul of the planning process by calling on municipalities to enunciate an affirmative vision to which developers might respond. From the State Planning Commission's perspective, the development process had become too reactive and adversarial. Developers were too frequently told what they could not do, rather than being provided with meaningful guidance. Public values and regional concerns were subordinated or ignored as municipalities relied on reactions to developer proposals and limited their concerns to what transpired within their own municipal boundaries.

At the time, the State Planning Commission's approval of the state plan in 1992 seemed like a remarkable achievement. It was distinguishable from previous state planning efforts in important ways. It was neither federally driven nor federally funded; instead, it underscored the state government's ascendancy. This effort was no longer project oriented. It emphasized a highly interactive process that in interesting ways paralleled the lessons of private sector strategic planning.

The process for creating the state plan tied together two valuable data streams—an infrastructure needs assessment and a cross-acceptance process—and linked them to a single deliverable, the state plan. The process elevated the county planning function and enhanced its potential for regional planning. Horizontal and vertical coordination, integration, and alignment of plans across government departments and among the levels

of government were encouraged. Finally, a continuous planning process seemed to be anticipated by requiring independent evaluation through an impact assessment that compared trend and plan scenarios. In these ways, the state plan reflected the complexity and expanded scope of state government; the novel concerns it was expected to address in the future; and the technical sophistication required to comprehend and manage contemporary state planning issues (Bierbaum and Nowicki 1991).<sup>23</sup>

### Politics of New Jersey's State Plan

Despite the enactment of the State Planning Act, the efforts of the State Planning Commission, and the adoption of the state plan in 1992, New Jersey's politics largely remained unreceptive to the plan. The failure of successive New Jersey governors to embrace the plan, as well as the failure of the State Planning Commission to devise an effective political strategy in light of disappointing gubernatorial support over time, proved to be a major stumbling block that undermined the state plan's effectiveness. As one state planning director asserted, "Planning does not create the message, politics does" (Zellner interview 2012).

The State Planning Commission never developed a relationship with the state legislature or adequate support from state legislators, who questioned its value. A state plan with explicit goals, established priorities, and strategies to achieve them seemed antithetical to legislative culture. In addition, local governments appeared increasingly to believe that the state plan, rather than leading to benefits for local jurisdictions, was adding expense.<sup>24</sup> This belief was reinforced as state plan processes became more onerous, and as state departments insufficiently realigned their respective programs to provide the incentives and disincentives that were supposed to be designed to change local-jurisdiction behaviors.

State planning is political, but it is distinguishable from pure politics. Planning, unlike politics, relies more heavily on building and working from a firm knowledge base, framing issues, establishing explicit priorities,

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<sup>23</sup> Curiously, observers of this planning scene had outlined a plan development framework 15 years earlier. The problem was framed a bit differently, but the plan development outline was essentially the same as the one followed by the State Planning Commission without explicit reference to this framework. However, the recommended framework hardly conveys the degree of difficulty or the political distractions that were encountered in trying to achieve it. The problem was a fragmented, disjointed municipal planning process that promised only suboptimal results. The proposed solution to remedy the situation was one that would introduce and apply state standards to be administered by local authorities, but subject to state audit and supervision (Levin, Rose, and Slavet 1974).

<sup>24</sup> One planning consultant cited the example of Plainsboro, New Jersey. The municipality assiduously adhered to the principles of the state plan, but it still took two years and considerable municipal expense to obtain the State Planning Commission's endorsement (Caton interview 2010).

and devising a range of solutions to address the problems framed. Planning is about using knowledge to inform public decision making and about building consensus on a set of fundamental principles from that knowledge base. Politics is more about preferences, positions, and values and less about a sound empirical base, carefully framed problems, and deliberately crafted solutions. Instead of offering a single solution, politics is about searching for compromise, cajoling the battling factions, and reconciling conflicting preferences (Wildavsky 1987).

How did the changing politics and policy preferences of eight different governors over a 25-year period affect the New Jersey State Plan? Governor Tom Kean first expressed outrage at what he felt was judicial infringement of executive or municipal prerogatives. He eventually reversed course, lent cautious support to the state planning idea, and signed the State Planning Act into law. Each succeeding administration has had its own spin, paying more or less attention to the state plan and usually posing different planning priorities to distinguish itself from its predecessors. Meanwhile, lacking an effective political strategy, state plan advocates have had to adjust to the fact that with only brief exceptions, state plan goals have been largely trimmed and transformed by each succeeding administration.

Chris Christie, New Jersey's current governor, is no different. He has taken a dim view of earlier state planning efforts. On public occasions, his lieutenant governor, who is now in charge of the Office of Planning Advocacy (OPA), heir to the former OSP, has been outspoken in her criticism of the state plan. As an alternative to earlier iterations, the current administration has proposed a new draft plan that is less comprehensive than previous efforts. The current draft focuses on state, not municipal, activities; steers away from the State Plan Policy Map; and eliminates the cross-acceptance process. Because the governor's base is closely tied to suburban voters, and he is cultivating support among municipalities, there is no longer talk about exclusionary zoning or affordable-housing opportunities. Governor Christie based his reelection campaign for his second term in part on the importance of addressing storm damage caused by Hurricane Sandy's impact on the Jersey shore in October 2012. The OPA staff played a role in that regard, but the state plan was sidelined once again. This situation is not entirely unexpected. Frequently, when planning fails to secure its purposes adequately, either because of political or administrative discontinuities or because of the inherent nature of the problems faced, those in charge try to remain relevant by adapting to the changing situation.<sup>25</sup>

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<sup>25</sup> Wildavsky (1987) pointed to this tendency. Yet, the more planning accommodates to politics by shortening its time horizons, reducing the need for prediction, limiting coercive mea-

### Florio's Late Arrival

The first state plan was approved in June 1992 during the administration of James Florio (1990–1994), who inherited the state plan from his predecessor, Tom Kean (1982–1990). Florio was less concerned about affordable housing and suburban zoning or the state plan per se. His administration was preoccupied with school reform and distracted throughout by budgetary issues and a tax revolt. These issues fell beyond the purview of the state plan.

Near the conclusion of Florio's first and only term, the governor issued Executive Order 114, which called on state departments to consider the state plan in adopting their policies, regulations, and functional plans and facilitated the implementation of state plan centers and planning areas. This move, however, seemed little more than an empty gesture because it came just a week before the governor was to leave office. Florio was defeated by Christine Todd Whitman in November 1993 and was hardly in a position to order the implementation of anything, much less a complex and potentially controversial state plan.

Nevertheless, an extended staff-driven discussion with the State Planning Commission evolved during the last year of the Florio administration. From that discussion, a process emerged that called for "centers' designation" as a way to implement the state plan. The rules were adopted, and a procedure was established (State Plan Rules NJAC:17:32). The OSP encouraged municipalities to delineate centers that the state would assist in directing future growth. The OSP would provide technical assistance and enlist support from relevant state departments. Two municipalities were pursued initially. Others soon followed (Dallessio interviews 2003, 2012).

The lines drawn around centers as part of this designation process were soft.<sup>26</sup> Center designation was a certification process that included an initial review by OSP staff and further scrutiny by the Plan Implementation Committee (PIC), a subcommittee of the State Planning Commission. The State Planning Commission usually ratified PIC recommendations. The value of this process was that it provided the impetus for dialogue

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asures, providing attractive incentives, or exploring different scenarios, the less planning remains distinguishable from public policies achieved through other means. Rather than serving to better inform decision making, planning may default to less thoughtful and comprehensive policy-making modes. Under these circumstances, state planning can be expected to become less visionary and more project oriented, confining itself to more manageable categories. Economic development or shore restoration are simpler than attempting to do research or make the interdisciplinary, multilevel leaps to solve problems in more penetrating ways (Wildavsky 1987).

<sup>26</sup> According to the OSP director, there was insufficient political support to delineate more meaningful urban growth boundaries with real consequences at the time (Simmons interview 2003).

among the State Planning Commission and its staff, state departments, counties, and municipalities. Over time, the importance of the process increased as local jurisdictions that lacked adequate planning capacity came to rely more heavily on the OSP for financial and technical support. Celebrations were held when centers were designated to highlight the value of state certifications and to underscore significant municipal achievements. At its height during the second Whitman term, more than 300 of the state's 566 municipalities received State Planning Commission endorsement.

Although the State Planning Commission believed that these actions were significant in implementing the state plan, the development community continued to be skeptical. "From inside Trenton, the centers designations and their precise boundaries seemed like a small detail. To influential outsiders, especially to the New Jersey Builders Association, the centers designations and their precise boundaries meant a lot" (Rahenkamp interview 2011). According to a credible consultant, "Homebuilders were looking for their next project. They wanted assurances that there was adequate and relevant zoning to facilitate the realization of that next project" (Rahenkamp interview 2011).

Municipal motives were mixed. Some sought center designation as a way to slow or even stop growth rather than to encourage it. Municipalities self-selected absent State Planning Commission priority or strategy. Many municipalities undoubtedly expected to manipulate the process to their own advantage by employing state certifications to cash in on still largely unspecified state largesse.

For the most part, the state's largest urban centers, experiencing the most stress, continued to avoid the process, perceiving little advantage to an exercise with limited promise and a long-term time horizon. Others joined a growing chorus that pointed to a designation process that had become too onerous and underplayed important regional issues in its focus on centers. State department benefits ranging from meager to uncertain only added credence to their criticisms.

Developing the state plan had absorbed much time and energy; too little attention was paid to its implementation. The question of outreach to state departments was left to a single OSP assistant director while steps were being taken for the state plan's final approval. Immediately after the adoption of the state plan in June 1992, the assistant director, Charles Newcomb, tried to cajole state departments and agencies into complying with the state plan. However, much of his initial outreach was limited simply to informing them about what the state plan contained. "It took a long time, and faces kept changing. By the time we got through this year-long process, the Florio administration was on its way out and we were con-

fronted with all new faces brought in by the Whitman crew.” Despite his best efforts, the assistant director’s successes were, by his own admission, “spotty” at best (Newcomb interview 2003).

Six state departments were represented on the State Planning Commission. Department representatives participated in state plan deliberations and voted to approve the state plan, but they appeared to achieve little success in penetrating their respective departments. The OSP acknowledged state departments’ importance for implementing the state plan, but it was perplexed and frustrated by the resistance it encountered. It was unclear just how the state plan fit with missions and programs of state departments. Unfortunately, department reactions to the state plan reinforced tendencies by the OSP to turn inward, to concentrate on its relations with local jurisdictions, and to complicate its process of centers designation, rather than building more productive relationships with state departments (Purdie interview 2003).

Department representatives sitting on the State Planning Commission were typically political appointees, often with only tenuous connections to department programs. They tended to report to their respective commissioners, but they rarely interacted with career bureaucrats or frontline staff. At least one program director characterized them as drawn from among the cadre of “professional meeting goers.” That director emphasized that there was no implementation strategy, and “it was unreasonable to expect that a State Plan could be implemented simply by gubernatorial exhortation” (Connolly interview 1998). As part of the monitoring and assessment process, state departments were asked to submit annual reports to the State Planning Commission to document progress in implementing the state plan. Governor Florio reiterated this provision in his Executive Order 114. However, failure to report carried no penalty. Only a small number of programs across the large universe of state programs provided reports (OSP 1998). Those that did became skillful in reporting in self-serving ways. The OSP failed to cut through this fog by not pressing for measurable objectives to enable a more meaningful assessment. Instead, it expressed satisfaction with the handful of department programs that appeared to be going along with the state plan. Herbert Simmens, the OSP director, offered a somber assessment of the state plan’s progress during the Florio administration: “There was no money to give out, little or no cooperation from State agencies, a depleted staff and a slashed budget. Yet we struggled on to find ways to make the State Plan relevant” (Simmens interview 2003).

Eight years after the State Planning Act’s passage and two years after the initial State Planning Commission approval of the state plan, the means of implementing the plan remained unclear. Summing up this predicament,

one state planner commented, “Someone needed to say that we had a plan. Now let’s focus on it and figure out how to do it. But that never happened. In fact, it is difficult to understand how something like that could ever happen in state government” (Purdie interview 2003).

### **Whitman’s Leadership**

Christine Todd Whitman (1994–2001) sent mixed messages during her first term when she characterized her administration as “open for business.”<sup>27</sup> However, from the start of her second term, the governor made the state plan a priority through a campaign of public land acquisition designed to prevent or at least significantly slow New Jersey’s inexorable march to build-out and through other less visible moves directed at New Jersey’s older urban areas. The campaign called for saving a million acres over the next 10 years. In addition, the governor devised an urban strategy, barely noticed, that included innovative urban design, reinvestment, and revitalization. The Department of Transportation also embarked on a program to begin changing the interface between transportation and land use through corridor planning and what transportation engineers referred to as “context-sensitive design.” The latter was important because many state highways serve as main streets in New Jersey.

Simultaneously, the OSP director persuaded the State Planning Commission to embark on a second cross-acceptance process despite the objections of some state planning commissioners. The objecting minority took their case to the governor’s office, arguing for greater attention to implementation rather than embarking on yet another arduous cross-acceptance process. The OSP director prevailed (Brake interview 2003).

In 1995, the State Planning Commission began a reexamination of the state plan as a first step toward embarking on a second cross-acceptance cycle. The preliminary plan included significant changes to cross-acceptance, including the introduction of the concept of sustainable development, performance measures, and new statewide policies related to urban design and the coast. In addition, state departments were pressed to explain to the State Planning Commission how their respective programs related to the state plan. Finally, the Office of State Planning awarded Smart Growth grants to the state’s largest urban centers to goad them into participating in the cross acceptance process (DeGrove 2005).

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<sup>27</sup> Whitman’s critics point out that during her first term, she reduced New Jersey’s income tax and thereby indirectly increased reliance on local property tax revenues, which led to state fiscal difficulties for subsequent administrations. This action also was likely to make state plan implementation more difficult.

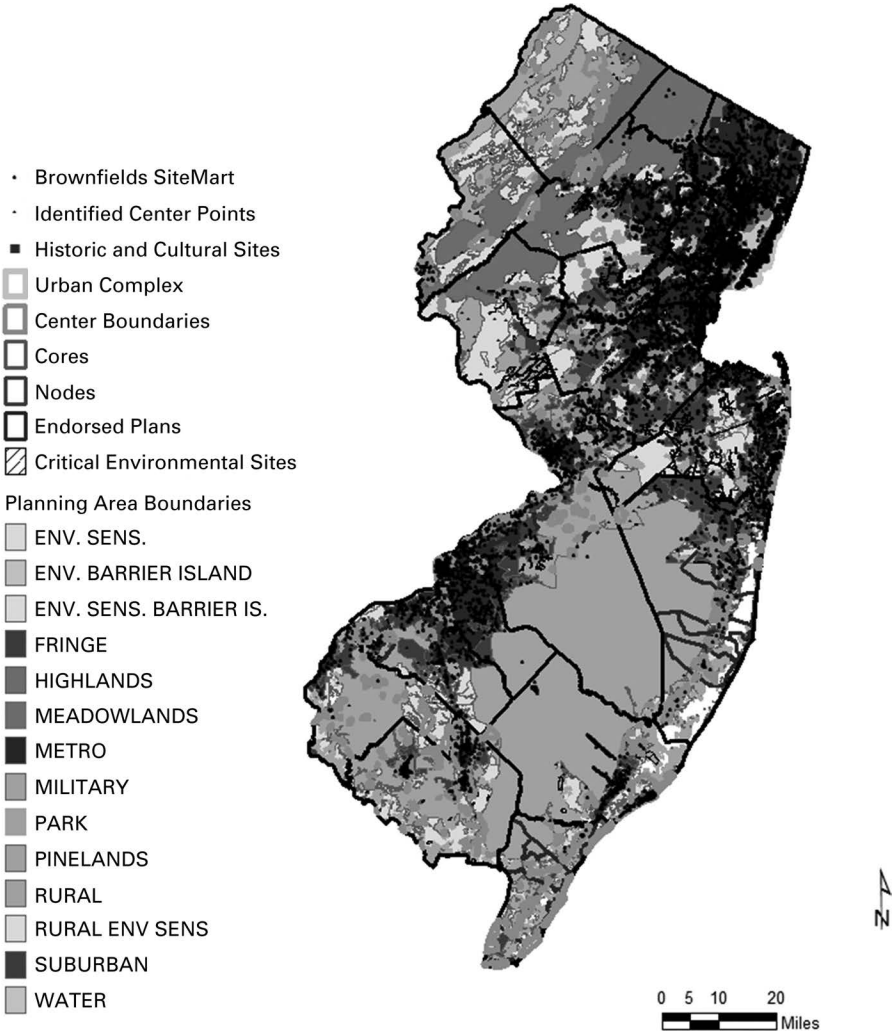
Between 1995 and 1999, the second cross-acceptance process was conducted, and a revised interim state plan was developed. An impact assessment was completed on the interim state plan, and its findings were submitted to the State Planning Commission. In March 2001, the State Planning Commission approved the second state plan. The governor had already left for Washington, DC. The second state plan was characterized as an improved version of the 1992 state plan, with its core concepts and framework remaining intact (New Jersey State Government 2001; Zorn 2004).

The significant changes between the first and second versions of the state plan had to do with the State Plan Policy Map, in which new lines reflected the continuing trend in the direction of New Jersey's build-out. Calls for reform of the centers designation process into a transformed plan endorsement process were voiced. Improving technologies had substantial impacts. The policy map became more fine-grained, a consequence of digitization, and email and word processing changed the nature of the cross-acceptance process by facilitating both horizontal and vertical communication (figure 4.1).

Perhaps more important, during the second cross-acceptance process, Whitman expressed a commitment to the state plan. In her second inaugural address, Whitman directed her cabinet "to use the State Plan as a guide in making permit and funding decisions." She led a campaign in support of an open-space and farmland-preservation bond issue. She set a goal to triple the state's pace of land preservation, calling for more than 300,000 acres of preserved land by the end of her administration and an ultimate goal of a million acres of preserved land over the next decade (Whitman 1998a, 4-5).

Whitman emphasized the connection between preserving open space and strengthening reinvestment in cities. The state plan could serve as a guide to strategic land acquisition combined with improved coordination of the state's infrastructure investment practices. The passage of an open-space and farmland-preservation referendum and the legislation that followed established a stable funding source for land acquisitions and provided a potent state plan implementation tool. Whitman created a sense of urgency around the state plan, arguing that she was fearful that New Jersey would become the first state to be entirely built-out (Whitman 1998b). Although the development community would have preferred that the governor invest more heavily in the state's infrastructure in designated growth areas (Tuohey and Rodrigues interview 2012), her antidote to sprawl was a two-pronged attack: saving precious open space on the metropolitan periphery and promoting smart growth everywhere else. In this way, Whitman fashioned an "inside/outside" strategy: strategies that would both slow land development in more rural agricultural and environmentally





**Figure 4.1** Policy Map of the New Jersey State Development and Redevelopment Plan, 2014

Source: VERTICES, LLC (2014).

sensitive areas of the state and promote growth in urban and suburban areas that presumably had existing infrastructure capacity closer to the urban core (Rusk 1999).

Through administrative reorganization, the governor consolidated authority within the DCA Commissioner’s Office. The State Planning Commission and the OSP were moved from Treasury to the DCA. The governor’s policy chief, Jane Kenny, moved over to become the DCA commissioner. The state plan became a tool to concentrate on redevelopment

in older urban areas as significant amounts of land were simultaneously acquired in rural areas of the state. In other moves, Kenny consolidated power by bringing other organizations under her aegis within the DCA. The New Jersey Redevelopment Authority was wrested from the Commerce Commission. Enhanced influence over brownfields redevelopment was pulled in from the DEP through the New Jersey Brownfields Act, which established a New Jersey Brownfields Taskforce chaired by the DCA commissioner. The Urban Coordinating Council (UCC) was created by amendment to the New Jersey Redevelopment Law. The UCC also fell within the DCA commissioner's purview and served to improve coordination of state department and agency efforts in urban areas, as well as enhanced coordination of federal government programs (Bressler interview 2010; Cancro interview 2010).

These new authorities augmented the existing influence that the DCA commissioner already wielded in her roles as chair of the New Jersey Housing Mortgage Finance Agency and the COAH (N.J.S.A. 52:27D-301 et seq.). In addition, an Urban Rehabilitation Code was devised, an urban faith-based initiative was launched, and a homeowners' mortgage incentives program for university employees living in urban centers encouraged urban reinvestment. Simultaneously, the OSP launched a Mayors' Institute in collaboration with the Regional Plan Association and the School of Architecture at Princeton University to assist mayors in urban problem solving. A Community Development Institute was also established at Rutgers University to enhance urban planning capacity.

A prominent environmental attorney with impressive Republican credentials, Joseph Maraziti, was appointed as the new State Planning Commission chair. He brought new energy to the position, insisting that the commission no longer meet just in Trenton but move monthly commission meetings around the state. Maraziti encouraged public participation and urged a cross-acceptance process for state departments to ensure that their policies were better aligned with the state plan.

In January 2000, the governor promulgated Executive Order No. 109 (Whitman 2000a), which imposed conditions on pending wastewater management plans (Whitman 2000b, 2000c). This order was an interim measure to slow land development in parts of the state that lacked sewers. A month later, the state's revised Coastal Area Facilities Review Act (CAFRA) regulations were proposed and subsequently adopted. These rules were authorized pursuant to amendments to the CAFRA Act of 1993 but had long languished. The rules tied development in New Jersey's coastal zone to the state plan (CAFRA Rules).

Initial resistance to these rules became even more important because the administration sought and obtained a \$3-million legislative appropriation for smart growth grants for municipalities and counties to calm

local opposition to their adoption. Local jurisdictions were expected to use these grants to promote planning compatible with the state plan. These grants not only provided important incentives to get local jurisdictions involved in state plan implementation, but also served to underwrite work by the state's professional planning consultant community, which for the first time had a stake in the state plan. Whitman's state budget for fiscal year (FY) 2000 initially included \$3 million approved by the state legislature; she subsequently included another \$3 million in the FY 2001 and FY 2002 budgets, respectively, providing a substantial amount of resources related to the state plan for local jurisdictions (DeGrove 2005).

In the spring of 1998, the governor's support for the state plan was questioned. The governor feared that the situation was providing symbolic value for state plan detractors. A rapidly suburbanizing municipality, Washington Township, located seven miles east of Trenton, modified its master plan to obtain state plan center designation. The township received DCA funding to plan for a bypass road to divert traffic around its planned town center. However, the township was thwarted by a cross fire that erupted between the state DOT and the DEP related to the alignment of the proposed road and the amount of permissibly filled wetlands. The governor's initial inclination was simply to assign a project manager to complete the project, but she subsequently agreed to support a more thorough approach in the six departments represented on the State Planning Commission. This process was tantamount to a state department cross-acceptance process similar to what had been called for by State Planning Commission members and county planning directors before them. It involved changing the culture of state departments by establishing a corps of influential department managers with a vested interest in the state plan for the first time.

This process built in program evaluation and process improvement techniques, with state plan principles as its focus. It commenced with six focus groups to determine the depth of knowledge that state departments had about the state plan and to assess the extent to which the state plan was being implemented. These groups revealed a baseline of state plan awareness and identified the means to implement the state plan more effectively within and across state departments through directors and staff who spoke with authority from within those departments. The state bureaucracy became engaged in novel ways. People in the middle, the bureaucratic problem solvers, for the first time became familiar with the state plan and transformed its high-level principles into the state government's daily working reality.<sup>28</sup>

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<sup>28</sup> Perhaps the most telling finding of these group interviews was that not one state department understood its mission to be compatible with that of the state plan. Meanwhile, cabinet members

From an implementation perspective, Whitman's departure from state to federal government 10 months before her second term was expected to end was unfortunate. State plan implementation was disrupted. Preparations were made to smooth the transition to the next administration in January 2002. No new initiatives were launched. In retrospect, it was during Whitman's second term that the state plan reached its pinnacle.<sup>29</sup>

### McGreevey Falls Short

Governor Whitman was succeeded by Democrat James E. McGreevey (2002–2004). His administration began by building on the previous administration's state plan momentum but expectedly added new twists and took credit for state plan improvements. Smart growth was substituted for state planning.<sup>30</sup> The administration's policy bias shifted to more urban-leaning constituents and redirected public land acquisition away from rural areas and into urban and older suburban locations.

McGreevey outdid his predecessor by declaring a "war on sprawl." He took a number of bold visible actions and expressed a desire to be the "smart growth" governor. Days after taking office he signed an executive order that established a subcabinet Smart Growth Council on the Maryland model and provided attorney-general support for municipalities that opposed anti-smart growth development. He presided over a

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had been reporting to the governor that they were implementing the state plan. Each focus group concluded with recommendations for multipoint implementation programs for each of the respective departments (Bierbaum 2007). The approach taken drew heavily on the works by Argyris and Schon (Argyris 1982; Argyris and Schon 1974; Schon 1984) to engage practitioners in "double-loop" learning and to provide a safe place for reflective practitioners to share their experiences. The objective was to establish communities of practice within and across state departments and agencies represented on the State Planning Commission (Snyder and Briggs 2003; Wengen 1998). This approach was especially important in light of the position previously taken and articulated by the state planning director, which had at best marginal impact on state departments and agencies (Purdie interview 2003; Simmens interview 2003).

<sup>29</sup> The governor accumulated an impressive list of accomplishments related to the state plan, especially when compared with prior and succeeding administrations (Bressler interview 2010; Cancro interview 2010; Dallessio interviews 2003, 2012). These state government achievements were bolstered by supportive activities occurring beyond state government (see Duany, Plater-Zyberk, and Speck 2000; examples are the establishment of the Office of Smart Growth within the U.S. EPA; the endorsement of smart growth by other state governments, e.g., Maryland; and the development community's growing perception of value in smart growth, as evidenced by support from the National Association of Home Builders and the Urban Land Institute. The Congress of New Urbanism was also established in the 1990s, promoting the concept of new urbanism, which was compatible with the New Jersey State Plan. Simultaneously, the concepts of sustainability and sustainable development were beginning to lend international credibility to New Jersey's state plan efforts. However, Whitman's list of state plan accomplishments needs to be qualified by the fact that her administration also reduced the state income tax, which added to the dependence on local property taxes, with expected deleterious impacts on local land use decision making.

<sup>30</sup> Perhaps most conspicuously, the OSP underwent a name change to become the Office of Smart Growth (OSG).

“Smart Growth Summit” and lambasted developers in his second State of the State address, identifying them as the enemy in what he promised to be a protracted war (McGreevey 2003). McGreevey also appointed a policy advisor for smart growth issues.

However, the McGreevey administration rapidly unraveled. “McGreevey may have at first appeared to want to do the right thing, but he had the wrong people around him who hurt him” (Kuperus interview 2012). A tug-of-war ensued among cabinet colleagues, with the state plan as its prize. The governor stepped back, overwhelmed by personal scandal. He was incapable of providing the leadership necessary to end cabinet squabbling. McGreevey resigned his post, ostensibly for personal reasons, but persistent petulance between Bradley Campbell, his DEP commissioner, and Susan Bass-Levin, his DCA commissioner, over who would lead smart growth and who controlled the state plan endured beyond the governor’s departure.

Adam Zellner, politically well connected and attuned (he had formerly worked as an aide to a powerful state senator), but lacking professional planning credentials, was appointed Office of Smart Growth (OSG) director. He saw through the state plan game that was being played. “It was a contest to see who would control the future of rural New Jersey” (Zellner interview 2012). The prize at stake was the state plan. He used his own network to blaze an independent trail and believed that he could be instrumental in getting contending parties to say yes, leaving to the DEP its penchant for saying no (Zellner interview 2012). He focused OSG activities on fewer municipalities, operating more strategically, and concentrated on projects, especially transit-oriented development and brownfield cleanups.<sup>31</sup>

Campbell tried to extend the governor’s war on sprawl by devising and posting a new map as an alternative to the State Plan Policy Map. He also created a new office within the DEP, the Office of Sustainability, to rival the OSG. Unlike the State Plan Policy Map, which was the result of an interactive process, the DEP consulted with no one. The BIG Map divided the state into color-coded zones: red, amber, and green.<sup>32</sup> It was posted on the DEP website and was declared to be the basis to guide DEP’s regulatory powers.

The BIG Map was a caricature compared with the State Plan Policy Map, which had evolved into a complex mosaic compiled over nearly 15 years through two cross-acceptance processes and a computerized geo-

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<sup>31</sup> The change in direction was palpable; not only Zellner, but also state planning veterans who remained attested to it (Karp interview 2012; Murray interview 2012).

<sup>32</sup> BIG was an acronym that stood for “blueprint for intelligent growth.”

graphic information system. Rather than an accurate reflection of New Jersey reality, the BIG Map was little more than an echo of Campbell's views and his estimate of his ability to impose top-down decision making on other state departments and local jurisdictions. The state plan was only advisory; the DEP map threatened to be the basis for statewide regulation, based on the DEP's authority to restrict sewer service and to regulate specified land uses, such as wetlands. The reaction was swift. Both local jurisdictions and the regulated community pushed back, in favor of what had been a decade and a half of public dialogue.<sup>33</sup>

The entire state plan and the smart growth effort suffered damage. Long-standing state plan opponents had witnessed enough to believe that their fears had been fulfilled. For them, the state government's malicious motives had been unmasked. Painstaking efforts to build trust were destroyed in a matter of weeks. The BIG Map was viewed as tantamount to statewide zoning. Any distinction previously nurtured between the state plan and state regulation was obliterated. State plan critics got to say, "I told you so."

Bass-Levin, the DCA commissioner, who initially supported her cabinet colleague, backed away in the face of controversy. She repositioned herself not only as the defender of her DCA turf, but also as the protector of local interests, and challenged Campbell. Between the two, the heavy-handed regulator and the defender of local interests, the state plan's purpose was weakened and obscured.

Through an ironic twist, the powers concentrated within the DCA during the Whitman administration dealt Bass-Levin a controlling hand in this game of intramural arm wrestling (Brake interview 2010; Richman and Paul interview 2010; Tuohey and Rodrigues interview 2012). Within six months, the governor instructed Campbell to remove the BIG Map from the DEP website. Bass-Levin appeared to emerge as the victor, but her victory was at best pyrrhic so far as the state plan was concerned. According to the New Jersey Builders Association, the collateral damage was substantial. "In board rooms both within and outside the state, decisions

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<sup>33</sup> David Fisher, who represented the home builders on the State Planning Commission, commented on the "curious alliance" that emerged when he met with the State Planning Commission chairman and OSG staff to discuss ways to scuttle the DEP commissioner's folly (Fisher interview 2011). According to Tim Tuohey, formerly executive director of the New Jersey Builders Association, but then chairman of the State Planning Commission, "Bradley Campbell did not need the State Plan. He wanted smart growth. As a regulator he did not have to pay attention to anyone else sitting around the table. Environmental regulations would drive smart growth. Campbell would be in charge. The BIG Map pretended to be rational, but it was based on nothing more than Campbell's whim" (Tuohey and Rodrigues interview 2012).

were being made to go elsewhere” (Tuohey and Rodrigues interview 2012).

Zellner recalled the “unending conflict between the two departments until McGreevey eventually resigned his office.” He added that throughout his tenure as state planning director, working with state departments remained difficult. “The laborious effort of identifying conflicts across state agencies was left largely undone.” Instead, “State plan implementation was based largely on project-by-project reviews” (Zellner interview 2012). The dialogue within and across state departments was rapidly reduced, even as lower-level state department representatives continued to meet (Requa interview 2012).<sup>34</sup>

Before McGreevey resigned as governor, he promoted and signed a bill establishing the Highlands Watershed Protection and Planning Council as a regional planning entity in the state’s Highlands Region, a physiographic region that served as a significant source of water supply to the northern half of the state. The legislation promised to elevate and expand regional planning in New Jersey, but as a corollary, it also reduced the state plan’s geographic jurisdiction. Zellner became the Highlands Council’s director. Three state planning directors followed him in rapid succession over the next five years. The first was a youthful recent hire, and the second and third had been mayors of exurban municipalities with strong environmental leanings.<sup>35</sup>

### **Absence of Leadership Under Corzine**

Jon Corzine, who was McGreevey’s elected successor after the brief interregnum of acting governor Richard Codey, never seemed to grasp the state plan’s potential to address the state’s long-term needs. Corzine was a

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<sup>34</sup> One signal achievement during the McGreevey administration is worthy of special note. Charles Kuperus, who served on the State Planning Commission during the Whitman administration (1995–2001), was appointed secretary of agriculture by McGreevey and served in that capacity throughout the McGreevey administration and into the Corzine administration (2002–2008). As secretary of agriculture, Kuperus calmed the agricultural community’s antipathy to the state plan. He promoted the idea of a “working landscape” and repositioned the Department of Agriculture in the state plan by strengthening links between New Jersey agriculture and consumers, e.g., restaurants, schools, farmers’ markets, and food banks. He also supervised the development of and guided the State Agricultural Board’s approval of the Smart Growth Plan for Agriculture to serve as a guide not only for New Jersey agriculture, but also for farm organizations in other states (Kuperus interview 2012).

<sup>35</sup> Eileen Swan came from exurban Hunterdon County, where she had been an open space advocate in Lebanon Township and had eventually served as its mayor (Swan interview 2012). Ben Spinelli, a former corporate attorney, came from exurban Chester Township in Morris County, where he had been mayor. He served first as Swan’s deputy and legal counsel before becoming OSG director when Swan left to lead the Highlands Council, succeeding Adam Zellner in that post.

former Goldman Sachs chief executive and U.S. senator from New Jersey. Planning seemed to be alien to his transactional style (Spinelli interview 2012). He appeared to be too impatient to appreciate that “at stake was not just consensus building, but the integration of acting and learning, relationship building and world shaping, that reaches far beyond narrow deal making to the creative practice of deliberative planning and design in the public sphere” (Forester 1999, 84). Ben Spinelli, Corzine’s state planning director, believed that Corzine viewed the state plan as a Republican issue so that he could simply ignore it. Spinelli sputtered as he described his frustration in trying to explain state plan intricacies to the governor and his staff (Spinelli interview 2012). Just getting decisions out of the governor’s office during this time was difficult (Richman and Paul interview 2010).

Under Corzine, the state plan suffered from gubernatorial neglect. The State Planning Commission limped along, hindered by unfilled vacancies and postponed meetings. The Governor’s Office focused on energy and climate change, preempting a role for the state plan in those substantive areas. Meanwhile, the OSG was left reeling from budget cuts and director and staff turnover. After completing the third round of cross-acceptance, the OSG director decided to outsource the writing of the state plan because of his assessment of limited OSG staff capacity.<sup>36</sup> Spinelli made his top priority mending fences with local officials who were still fuming about the BIG Map. As a former mayor, he felt that he had street credibility in reaching out to local officials. His second priority was to jump-start the cross-acceptance process to produce the state plan’s third version.

Spinelli lamented the absence of any leadership from the governor. Relations with state departments, including COAH, with which State Planning shared a floor in the same building, further deteriorated (Spinelli interview 2012). The new DCA commissioner, Joseph Doria, to whom Spinelli reported, was a former state legislative leader and mayor of a built-out Hudson County municipality who provided Spinelli with little comfort. As an urban mayor and legislative leader, Doria showed little empathy for the state plan or Spinelli’s predicament.<sup>37</sup> In the face of the housing market’s collapse, Doria opted to concentrate on housing issues. The state

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<sup>36</sup> The author was enlisted to write the third version of the state plan shortly after the completion of the third cross-acceptance process. The director instructed him to base that version of the state plan on the recently completed cross-acceptance process and to follow a format similar to that of the previous state plan (2001), but to add sections on energy and climate change and to expand the statewide transportation policies. The author conferred with the Governor’s Office on energy and climate change policies.

<sup>37</sup> According to Spinelli, Doria seemed more interested in pleasing local government constituents than in upholding state plan principles (Spinelli interview 2012). Doria, whose expertise was



plan continued to drift (Doria interview 2010). The COAH director at the time remarked that throughout this period, there was little interest in problem solving, and COAH and OSG staffs rarely met or communicated (Vandenberg interview 2011).<sup>38</sup>

For home builders and advocates of affordable housing, the state plan remained incomplete. They wanted designated centers with appropriate zoning. Assurances they sought that growth would occur at designated locations never materialized. The home builders viewed government on every level as deceitful. In their view, the State Planning Act and the Fair Housing Act were intended to work in tandem as coordinated and compatible pieces of legislation. “The State Plan would tell us how much growth and where it should go; and COAH under the New Jersey Fair Housing Act would serve as scorekeeper to ensure that affordable housing was getting built and that municipalities lived up to their constitutional obligations,” but none of the moving pieces worked together as intended (Rahenkamp interview 2011).

Spinelli resigned out of frustration before the completion of the third-party impact assessment and submission of the interim state plan to the State Planning Commission. He defended his resignation by criticizing the administration, which he believed “lacked the vision, courage, political will and commitment to the idea of comprehensive planning” (Spinelli interview 2012). Spinelli was replaced by an acting director for the remainder of Corzine’s term. The impact assessment was still incomplete when Corzine lost his bid for reelection to Chris Christie in November 2009. The State Planning Commission, troubled by vacancies and faced with a change in administration, postponed approval of the third version of the state plan while it awaited direction from the new administration.

After two years, the Christie administration developed its own draft state plan, which it released for public comment in March 2012. There would be no State Plan Policy Map; no new cross-acceptance process; and no reliance on the infrastructure needs and impact assessments that had been done earlier during the Corzine administration for a different state plan. In November 2012, the draft state plan was withdrawn for revisions in light of the substantial damage to the Jersey Shore that resulted from Hurricane Sandy in October 2012, and not to be seen again since then.

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in education, admitted that he never fully understood the purpose of the state plan and ranked its importance below that of educational and affordable-housing issues (Doria interview 2011).

<sup>38</sup> Meanwhile, COAH’s third-round municipal housing obligations had become entangled in litigation, which further complicated relations among OSG, COAH, and the state’s local jurisdictions. This situation was largely attributed to the stance taken by former DCA commissioner Bass-Levin, reflecting her long-standing antipathy toward COAH and to a lesser extent the state plan (Bisgaier interview 2012; Kinsey interview 2011; Shostack interview 2011).

## Lessons Learned

State planners realized that to achieve the state plan's vision, the existing playing field had to change substantially so that urban redevelopment and infill would become more attractive and cost-competitive with development on the metropolitan periphery. That was the "what" of state planning. Once the state plan's vision and goals were articulated, the challenge was to get the disparate government pieces to operate in more coherent and strategic ways. Government would have to refashion its tools—public education, infrastructure investments, technical assistance, grants, regulations, and taxes—to provide essential incentives and disincentives to move toward preferred outcomes that were compatible with the state plan. That was the "how" of state planning. The "how" proved at least as challenging as the "what," but too little time and attention was paid to it. Yet, neither was possible without plentiful political will.

Although the New Jersey state planning experience provides a number of important, if occasionally painful, lessons, the state plan also succeeded in providing benefits that should be mentioned. Moreover, despite the many obstacles faced in developing and implementing the state plan, during the relatively brief time in which it benefited from gubernatorial attention, it was able to mitigate and in some instances overcome those impediments.

Among the less tangible, but still meaningful state plan benefits was the "robust dialogue" that resulted from the cross-acceptance process (Kuperus interview 2012). The state plan provided a vision and a public forum for lively discussion and debate on the major issues of the day (Ashmun interview 2012). Planners involved in the process often acted as negotiators seeking desirable ends and mediators managing the conflicts inherent in this ambitious planning exercise. These participants did far more than chase after compromises; they also contributed to public learning, deliberation, and consensus building.<sup>39</sup>

The dialogue that ensued heightened awareness of the value of state and regional planning statewide among planning professionals, local public officials, and the public at large. The interactive planning process stood for the proposition that municipal planning, however well intentioned and effective it might have been previously, was inadequate to address important state and regional concerns, including global competitiveness and social equity and the wicked issues that formed the focus of the New Jersey Supreme Court's concern.

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<sup>39</sup> John Forester views this role as an important one for planners. It is a thread that runs through many of his writings (Forester 1989, 1999, 2009).

Historically weak and constrained, county planning in New Jersey was reinvented. County planning benefited directly and indirectly from much of what transpired. Not only did the state plan strengthen the prospects for regional planning in counties that chose to take advantage of the opportunities, but also the state planning process encouraged dialogue across counties as they began to share experiences and learn from one another, using the state plan as a focus or point of departure.<sup>40</sup>

For those demanding more tangible benefits, the state plan also provided accomplishments in that category. It supplied a vision and a rationale for urban reinvestment and redevelopment activity. Signs of success were evident in the state's largest city and along its "gold coast" in Hudson County, although it was difficult to prove direct cause-and-effect connections. The state plan's vision provided support for additional urban reinvestment related to transit-oriented development and for brown-field cleanups. Activities in New Jersey's small and midsize cities and towns, many of them connected by rail, further reflected the state plan's influence.

Other tangible achievements may have been less conspicuous because of the indirect role typically played by state planners. For example, the state plan led to specific instances of improved coordination, integration, and alignment within and across state departments and agencies and with local governments that may have gone unnoticed or were not necessarily connected to state plan efforts. Washington Township, mentioned in this chapter, provides just one illustration. There were others. The state plan contributed to the provision of state technical and financial assistance to local jurisdictions throughout the state, enhancing local planning capacity.

The Whitman administration instituted aggressive open-space land acquisition and farmland-preservation programs, touted as New Jersey's "campaign for one million acres." Those programs continued through succeeding administrations and will have lasting visible impacts on New Jersey's landscape. Local jurisdictions, echoing the state's programs, established their own land acquisition programs. Moreover, the Department of Agriculture's embrace of smart growth became a signal contribution to land stewardship and natural resource conservation not only in New Jersey, but also in similarly situated states where farming takes place on the metropolitan edge.

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<sup>40</sup> An outstanding county in this regard and a model for others was Somerset County, which held charrettes to brainstorm actions later taken with respect to urban revitalization, transit-oriented development, open-space land acquisitions and farmland preservation, and multi-municipal regional planning (Ashmun interview 2012; Bzik and Katrina interview 2008).

An emphasis on public land acquisition provoked outcries from developers and advocates of affordable housing. Throughout the histories of the COAH and the State Planning Commission, cooperation between them proved difficult. Yet, COAH continued to function, generating municipal housing allocations based on a formula of regional need from its inception until the McGreevey administration, when its role was undermined. Nevertheless, the COAH took credit for approximately 40,000 to 70,000 new low- and moderate-income residential units and an additional 15,000 rehabilitated units between 1987 and 2001 (Henderson interview 2010; Thompson interview 2010; Vandenberg interview 2011). The issue of affordable housing in New Jersey remains controversial (Cancro interview 2010; Caton interview 2010; Henderson interview 2011; Kinsey interview 2011; Thompson interview 2011; Vandenberg interview 2011).

In addition, different actions of state departments yielded significant changes that may not be directly attributable to the state plan even though it had a significant influence. Each of the six Department State Plan Implementation Teams engaged in extensive internal marketing. Other more tangible effects were also obvious. For example, the Department of Transportation State Plan Implementation Team focused the DOT on “fix-it first,” improving urban gateways, protecting scenic byways, implementing context-sensitive design with respect to state highway main streets, engaging in multijurisdictional corridor planning, computerizing its rights-of-way and land inventory, and facilitating transit-oriented development projects in implementing the state plan. The Department of Community Affairs State Plan Implementation Team sketched an infrastructure investment bank to prioritize and fund portions of projects compatible with the state plan and to streamline related permitting procedures. The Department of Environmental Protection State Plan Implementation Team concentrated on aligning the state’s coastal rules with the state plan. The Department of Treasury State Plan Implementation Team contracted to digitize state properties and instituted a facilities-siting policy compatible with the state plan.

Two former state plan directors agreed that the value of the state plan process had more to do with good governance than with smart growth. They talked less about smart growth and more about the state plan as a way to coordinate, integrate, and align government actions (Spinelli interview 2012; Zellner interview 2012). Local-government planners, especially county planners, agreed. The problem that they hoped to solve through the state plan was arbitrary and inconsistent decision making by state departments and agencies (Bzik and Katrina interview 2008; Goldschlag interview 2008; Lewis interview 2008). The state plan served as a communications tool horizontally across departments and

vertically among government levels. The fact that the state plan was a written document meant that interested parties could be held more accountable than they might otherwise have been in the absence of such an instrument.

Spinelli, a former mayor, added that “the State Plan took the right to be stupid away from local public officials by placing some boundaries around what they could and could not do.” For Spinelli, the state plan created a convenient scapegoat by providing local officials with something to blame when they had to make locally unpopular decisions. He added that the benefits of that function were incalculable (Spinelli interview 2012).

What other important lessons were learned from the New Jersey State Plan experience, and what potential pitfalls might others who embark on a similar enterprise be able to avoid? The lessons that follow are not mutually exclusive; rather, they significantly overlap.

1. *Calculating Cultural Constraints.* Calculating cultural constraints and the parameters that they inevitably set is important in establishing reasonable expectations. The New Jersey State Plan did not begin with a clean slate. Its foundation rested on a preexisting culture that was influenced by a suburban ethos and social and racial cleavages and was reinforced by jurisdictional fragmentation, home rule, a heavy reliance on local property taxes, and a sense of property owners’ entitlement that combined to constrain the state plan’s effectiveness. Cultural issues were also important in understanding and attempting to change behaviors of state departments. Each department required special treatment tailored to its particular cultural norms. The situation was complicated by legislative enactments empowering state authorities, but requiring no reciprocal responsibility to cooperate with the state plan. Yet, state planners learned too slowly about the ways in which they would have to shift their focus from the state plan’s bold vision to reconcile their efforts with work that was already in progress, but was controlled by others who had too little interest in cooperating with them.
2. *Framing the Issue.* Framing the issue on which the state plan focused may have been more important than its search for solutions. “In the face of power . . . planners must pick their targets carefully” (Forester 1999, 24). The focus on curbing sprawl was not predetermined, although it was a good fit with legislative goals. Developers and advocates of affordable housing would have preferred a framing that adhered more closely to the New Jersey

Supreme Court's formulation. Environmental advocates would have liked the state plan to be clear about protecting and preserving resources while slowing growth. Local planners might have been more pleased with a construction that emphasized improved alignment of the state government's plans, policies, and programs. Still others would have been satisfied with a less ambitious, but more data-driven infrastructure investment guide. Instead, the State Planning Commission framed the issue to appeal to a wide public interest. This framing contributed to the commission's difficulties in shaping an effective political strategy. Who were the beneficiaries of the state plan? What were its benefits? How would benefits be obtained? "The State Plan has to be translated into what it means to different interests and the ways they will benefit from it" (Zellner interview 2012). That challenge might have been better met if the distribution of its benefits had been more specific. In addition, to the extent that the state plan touched on society's wicked problems, it may have promised more than it could possibly deliver.

3. *Understanding the Value of Political Leadership.* Political leadership, especially gubernatorial leadership, proved to be essential to state plan efforts, but it proved to be in short supply. More than half a decade after the approval of the state plan, Governor Whitman in her second term began to provide the leadership necessary to develop and implement it. Before that time and with only minor exceptions since then, political leadership with respect to the state plan has been largely absent. Zellner had it right when he quipped that "planning does not create the message, politics does" (Zellner interview 2012). The state plan can provide a useful road map for the state government's executive branch. The State Planning Commission can serve as a vehicle to mediate and mitigate internal and external conflicts, deliberate on the long term, brainstorm priorities for the short term, and still provide the governor with plausible deniability. Political leadership can either put the tool to good use or fail to understand its usefulness and neglect it. The history of the New Jersey State Plan provides illustrations of both situations.
4. *Contending with Controversy.* The state plan was bound to generate controversy. The issues that the plan dealt with were contentious; culture clashes with other state government branches, executive departments, and local jurisdictions were inevitable; and the state plan's public process requires a forum that is capable of

addressing, resolving, and managing conflicts. Addressing these concerns is not “mere process” or “periods of potentially distracting and draining ‘talk’” (Forester 1999, 63). Instead, it is best viewed as meaningful deliberation to strengthen capacities to listen and engage.

5. *Overcoming Ownership and Control Issues.* The story of the New Jersey State Plan has been one of struggle over control among members of the governor’s cabinet, among the different levels of government, and among the various stakeholder groups. These struggles obscured the state plan’s principles and the ways in which they might lead to efficient and effective government. A fundamental question remains: Can state government move beyond ownership and control questions to deal with the important substantive policy concerns that the state plan was intended to address (O’Connor-Houstoun 2007)? Political leadership necessarily plays an important role in addressing this issue.
6. *Remaining Flexible.* A state plan operates best as a leadership document. It poses a vision with goals to provide a general direction. It should be flexible enough to address changes as they occur and capable of being updated in light of shifting priorities. Drafting a state plan with an appropriate level of detail is a challenge. How does a state plan remain general enough to provide flexibility, but also detailed enough to serve as a useful decision-making tool? The number of statewide policies, absent specified priorities and battles, that ensued over lines on the State Plan Policy Map led to questions of scale and the level of detail. Future state plans may prove more useful if they pay more attention to appropriate scale and take into account alternative planning scenarios (i.e., if-then statements), rather than being fixed on a single outcome or settling on one solution.
7. *Neglecting Key Plan Elements.* The New Jersey State Plan was expected to draw from two data streams: an infrastructure needs assessment and the cross-acceptance process. The apparent intention was to provide a data-driven alternative to politics as usual. Time and energy were expended on the labor-intensive cross-acceptance process, but the infrastructure needs assessment failed to develop as a useful decision-making tool. In addition, the state plan was expected to provide population, employment, and

housing projections for various applications, especially the establishment of regional affordable-housing allocations. Many of these projections were not produced; those that were lacked sufficient legitimacy, which limited their application. The inadequacy of key plan elements impaired state plan effectiveness.

8. *Focusing on State Plan Implementation.* State plan implementation deserves special attention. A state plan needs to be written with implementation in mind. Policy makers, including planners, cannot be presumed to take implementation into account. Implementation required a strategy to guide complex interactions among a host of actors across departments, multiple government levels, and for-profit and not-for-profit organizations. Implementation should have adequate statutory authority and control, sufficient funding, ability to address veto points, and clearly articulated priorities (Mazmanian and Sabatier 1989, 282–285). State plan implementation required attention to internal and external marketing, meaningful guidance, staff training, performance measures with explicit targets, monitoring, and evaluation. Too little thought was given to these concerns at the outset.<sup>41</sup>
9. *Mitigating Disruptions.* Numerous disruptions with each change in administration adversely affected New Jersey's state planning experience. It is likely no accident that the state plan fared best under a governor who attained a second term, the only governor to accomplish that feat in a span of more than 20 years. Indeed, a state plan may be a second-term rather than a first-term issue, better tied to a governor's legacy than to a platform plank for the next election campaign. The State Planning Commission frequently found itself the target of misunderstandings and assaults with each change in administration. Over the past decade, frequent director and staff turnovers and reductions in staff have also caused state plan disruptions. Ways to mitigate such disruptions need to be found, for example, strengthening the civic sector; devising an effective, broad-based political strategy; and identifying and nurturing client groups that will provide continuous support.

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<sup>41</sup> Daniel A. Mazmanian and Paul A. Sabatier provide a framework for implementation in their book *Implementation and Public Policy* (Mazmanian and Sabatier 1989, 282–284). Application of this framework at the appropriate time would have provided a checklist for state plan implementation and would have identified the numerous ways in which more successful implementation might have been achieved.



10. *Addressing Temporal Concerns.* Neither land use changes nor infrastructure investments easily confine themselves to the short term, but short-term payoffs that elected public officials understandably seek need to be taken into account in building an effective political strategy. The short-term calculations of elected public officials should not simply be dismissed. Instead, planners have to strike a balance between the short run and long-term benefits. The cross-acceptance process for the New Jersey State Plan was never completed in the three-year cycle suggested by the State Planning Act. Extending this cycle seems reasonable. A time frame synchronized with the decennial U.S. census may prove to be more workable.

Taking the opportunity to pause and reflect leads to instructive lessons learned. The analysis in this chapter provides insight into the ways in which New Jersey's state plan moved from its initial ambitious goals to an implementation quagmire to a scaled-down redefinition to the point that the state plan is barely mentioned in New Jersey. This analysis may have future relevance for New Jersey, as well as for other similar enterprises in other states.

Although there are undeniable benefits to this nearly 25-year state plan exercise, some early state plan advocates have found the state plan less than reliable, its causal connections too tenuous, its level of abstraction too high, its misinterpretation too easy, and its political manipulations too frequent. Even the more civic-minded, affordable-housing or environmental advocates, each clothed in different public interest garb and often at odds with one another, have discovered common ground in the disappointment they have expressed about the state plan. This chapter clarifies the state plan's valued contributions, along with its profound and overwhelming difficulties, while illuminating the role played by the State Planning Commission and others who have taken the task of state planning so seriously for so long. The issues that the state plan sought to address have not disappeared and may continue to require revisiting, even in the foreseeable future.

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- The New Jersey Pinelands Protection Act. N.J.S.A.13:18A-1 et seq.
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## Interviews

*These interviews were conducted over a 14-year period from 1998 through the summer of 2012. Dates are cited along with a very brief biographical description. Some people were interviewed more than once.*

Ashmun, C. Former state planning commissioner, environmental advocate, and founder of the Association of New Jersey Environmental Commissions: September 6, 2012.

Bisgaier, C. Attorney at law; former legal services and Department of the Public Advocate attorney who brought the *Mt. Laurel I* and *II* suits: August 1, 2012.

Brake, D. Former state planning commissioner; former Council on Affordable Housing member; and former director of PlanSmart, a planning advocacy nonprofit organization that was preceded by the Regional Planning Partnership and the M-S-M Planning Organization before it was PlanSmart. Brake held leadership posts in all these organizations: June 23, 2003; May 5, 2008; November 12, 2010.

Bressler, S. Former policy analyst, New Jersey Redevelopment Authority, and staff to Urban Coordinating Council: December 23, 2010.

Bzik, R. Somerset County planning director: August 12, 2003.

Bzik, R., and Katrina, L. Somerset County planning director and Somerset County assistant director: May 2, 2008.

Cancro, A. Former director of housing and chief of staff, New Jersey Department of Community Affairs; former chief of staff, United States Environmental Protection Agency—Region II; currently township administrator, Township of Springfield, NJ: September 8, 2010.

Caton, P. Planning Consultant; Principal, Clarke, Caton, & Hintz: December 6, 2010.

Connolly, W. Currently retired; formerly director of codes and standards within the New Jersey Department of Community Affairs. Comments contained herein were made while Connolly served as Team Leader of the DCA State Plan Implementation Team throughout 1998 and 1999.

Dallessio, T. Former policy analyst in Governor Whitman's Policy Office in charge of the "Million Acres" campaign; former Office of State Planning area planning manager and public information officer: July 8, 2003; June 18, 2012.

Doria, J. Former New Jersey Department of Community Affairs commissioner; former mayor of Bayonne, NJ; and former Speaker of the New Jersey State Assembly and former state senator: September 24, 2010.

Fisher, D. Former state planning commissioner, New Jersey Builders Association representative: March 2, 2011.

Fox, E. Former area planning manager, Office of State Planning, Camden County planning director: July 20, 2003; May 2, 2008.

- Goldschlag, B. Assistant planning director for Monmouth County, NJ: May 14, 2008.
- Hamill, S. Former director of Mercer-Somerset-Middlesex Planning Organization, the predecessor of PlanSmart; founding member and former staff member of New Jersey Future, an organization established to support the state plan effort at its inception: December 22, 2010.
- Harkins, J. Former policy analyst for the New Jersey Builders Association assigned to the State Planning Commission and Council on Affordable Housing: telephone interview, April 23, 2012.
- Henderson, K. Policy analyst with the New Jersey Council on Affordable Housing: August 18, 2010.
- Karp, S. First hired as a cartographer by the OSP in 1989 and later trained as a geographic information systems specialist; the last remaining staff member who worked on the 1992 version of the state plan still working as an OPA staff member: May 8, 2012.
- Kinsey, D. Planning consultant and principal with Kinsey and Hand, Planning Consultants; formerly director of coastal resources with the New Jersey Department of Environmental Protection: February 4, 2011.
- Kuperus, C. Former state planning commission member; Plan Development Committee chair; former secretary of the New Jersey Department of Agriculture: September 4, 2012.
- Lewis, D. Mercer County planning director: May 7, 2008.
- Murray, R. Former deputy director of the Office of Smart Growth who worked with Adam Zellner during the first two years of the McGreevey administration: July 6, 2012.
- Newcomb, C. Planning consultant, Banisch Associates; former assistant director of the Office of State Planning who worked there during the first two cross-acceptance processes: June 19, 2003.
- O'Connor-Houstoun, F. Treasurer of the State of New Jersey in the administration of Governor Tom Kean (1982–1990). She was a driving force within the administration for the New Jersey State Development and Redevelopment Plan. The Office of State Planning (OSP) was placed within the New Jersey Department of Treasury because of her interest in the State Plan. At the time she was interviewed she was the President of the William Penn Foundation in Philadelphia, Pennsylvania. July 2007.
- Pfeiffer, M. Former deputy director of the Division of Local Government Services, New Jersey Department of Community Affairs: March 18, 2011; May 31, 2012.
- Purdie, W. OSP Area Planning Manager: June 4, 2003.
- Rahenkamp, C. Planning consultant, representing builders and municipalities throughout southern New Jersey: February 3, 2011; email correspondence, October 11, 2012.
- Requa, J. Member of the State Plan Implementation Team, who continued as a Department of Community Affairs project specialist in meeting with State departments after the author departed to take a post in the Governor's Policy Office: email correspondence; telephone interview; October 2, 2012.
- Reynolds, D. Former deputy attorney general assigned to represent the State Planning Commission for nearly two decades: October 6, 2010.

- Richman, C. Deputy commissioner, New Jersey Department of Community Affairs; and Joyce Paul, executive assistant, New Jersey Department of Community Affairs: November 19, 2010; January 6, 2011.
- Shostack, H. Former analyst for the Office of Legislative Services who worked on state plan legislation; former special assistant, New Jersey Department of Community Affairs: March 25, 2011.
- Simmens, H. OSP Director: June 3, 2003.
- Spinelli, B. Attorney at law; former director and deputy director of the Office of Smart Growth at the end of the McGreevey administration and throughout the first half of the Corzine administration: April 16, 2012.
- Stockman, G. Attorney at law; former New Jersey state senator who proposed the State Planning Act in the New Jersey State Senate: January 31, 2011.
- Swan, E. Former director of the Office of Smart Growth during the McGreevey administration: May 3, 2012.
- Thompson, S. Acting director of the Council on Affordable Housing, former staff member of the Council on Affordable Housing: November 22, 2010.
- Tuohey, T. Executive director of New Jersey Builders Association and former chairman of the State Planning Commission; and Carlos Rodrigues, former urban designer with the Office of State Planning and currently legislative and regulatory policy analyst with the New Jersey Builders Association: May 2, 2012.
- Vandenberg, L. Former director of the Council on Affordable Housing during the McGreevey and Corzine administrations; former policy analyst with the Governor's Policy Office during the first two years of the McGreevey administration: March 22, 2011.
- Zellner, A. Former director of the Office of Smart Growth at the outset of the McGreevey administration; later deputy commissioner at the DEP and director of the Highlands Council before leaving government to work in the private sector: April 24, 2012.



## *Commentary*

FRANK J. POPPER

**M**artin Bierbaum has written the best account of New Jersey's ongoing struggle to control growth at the turn of the 21st century. Writing from the perspective of a lawyer, Ph.D., and civil servant, he conveys a startling, up-close portrait of a visionary, but unformed and ultimately ineffectual, plan. In Bierbaum's telling, the only plausible meltdown candidates are the uncountable Garden Staters whose concerns intersected with the state plan—plus the government officials, such as Bierbaum and five state governors who avoided losing their cool during what must have felt like extreme land use planning.

As Bierbaum implies, and as the presentations on U.S. states in other chapters show, much of American state planning works this way. It inherently intrudes on the traditional operations of local government, developers, state agencies, a few federal ones, and, in New Jersey, several million often feisty property owners. State planning frustrates large numbers of Americans who are already impatient with planners, paperwork, lawyers, consultants, and approval delays. All of these can be viewed as proxies for assertive centralized government, which many Americans also cannot stand.

In 2009, the Lincoln Institute of Land Policy funded a study that focused on New Jersey, Maryland, Oregon, and Florida. It was the definitive examination of 40 years of state land use planning. The evaluation found ambiguous, sometimes disappointing results much like the ones



Bierbaum describes, and it attributed them largely to cultural and political resistance. Many Americans dislike top-down planning of any kind, not just in land use. In this regard, Americans resemble Europeans who have come to loathe the European Union's approaches to national sovereignty. Home rule in Plainfield, New Jersey, and la belle France in Marseilles: twin sisters under the skin, feeling marginalized because they are far from the core, united to resist the seeming modernity of large-government rationality.

Bierbaum portrays other disquieting but familiar aspects of American planning. To academics, these regularly defeat hopeful but obtuse attempts to conduct useful comparative national studies of planning. Successful exceptions over the past generation are studies by J. Barry Cullingworth and Richard Wakeford, both Britons who contrast the United Kingdom with the United States. For practitioners, the American system's planning-hostile features are obvious; academic descriptions of them seem platitudes or abstractions unlinked to last year's legislation or tomorrow morning's bureaucratic hassle.

**Local governments and state planning are sometimes at odds.** In 1966, Richard Babcock, a Chicago lawyer and the country's leading zoning expert, called New Jersey "the zoo of municipal governments." Little has changed. Bierbaum shows that local government repeatedly resists the state plan much more effectively than developers or other businesses do. New Jersey fought the state plan's creation, cross-acceptance concept and procedures, fair-housing goals, and environmental hopes. In all but the first item, local governments achieved successes. Every American state-level planning effort has seen the same pushback. All states cherish their version of home rule and believe that it is stronger and broader. They are often right about the nuances of their specific version. The problem goes deeper yet: most American planning remains adamantly local even though newer issues—climate change, alternative forms of energy, public health, ecological restoration—lend themselves to federal-level intervention. Federal agencies like the FBI tend to keep state and especially local agencies at a distance. In the federal system that the U.S. Constitution's creators wanted, no level of government can truly trust another. In European unitary systems, all levels of government are not merely theoretically or legally as one; they are one in practice.

**Planners as Prufrocks.** American planners do not have the influence or impact of their European counterparts, and few Americans want them to be more powerful. Jane Jacobs, Lewis Mumford, and Robert Moses, the three figures whom educated Americans might identify as planners, dis-

avowed the label “planner” because they disliked what planners did. In local land use disputes, other officials, including politicians, engineers, lawyers, consultants, and citizen leaders, typically have more power than planners. Developers, small and large, nearly always have more power. Bierbaum confirms this pattern at the state level, where the state plan is purely advisory, “a constrained contrivance,” as he calls it. He offers no evidence that this situation will ever change. The most common task of American planners is custodial: cleaning up other people’s messes, not preventing them. They usually get responsibility for the job irresponsibly late. All along, they lack jurisdiction over public infrastructure or tax policy—areas that affect how a community looks and feels, which are at the roots of land use planning. Public construction and finance, particularly local dependence on the property tax, feature large in Bierbaum’s tale, possibly because they are particularly deficient in New Jersey. These difficulties further inhibit the impact of planners.

**Progressivism is not always progress.** Bierbaum perceptively notes, “The state plan could be a data-driven alternative that enhanced the role of planners and simultaneously reduced the role of politicians and political pork. The conservative touchstones of efficiency and effectiveness would be achieved through such judicious planning.” The words might characterize 1913, when Woodrow Wilson, New Jersey’s governor, became president. Even today, many American liberals view the plan’s intended coordination of public agencies as tedious, illusory, pointless, risky, and neat-freakish. Many Americans in the 21st century are weary of or disgusted with government agencies of all kinds and therefore will not support reform programs proposed by those agencies.

**Environmental absence.** The plan’s creators strived for a document that addressed the environment and sprawl, but New Jersey’s highly vocal environmental groups demurred. They regarded the plan mostly as a fair-housing measure because that was its judicial origin. To most environmentalists, especially in mostly suburban places like New Jersey, fair housing is a good cause, but it is not the prime one. Bierbaum quotes one of the longtime leaders of the state’s environmental movement, Candace Ashmun: “Environmental advocates did not move away [from the Plan] so much as they were never there.” American (and European) planners are not necessarily environmentalists, or vice versa. To environmentalists, planners are technicians who are sometimes too neutral and clinical. To planners, environmentalists are insufficiently detached and have many of the same overheated flaws as politicians. Most planners and environmentalists do not understand one another.

**“It’s the economy, stupid.”** In 1992, Bill Clinton’s presidential campaign had a well-publicized mission statement, “It’s the economy, stupid.” This is almost always true in the United States. As a whole, planners have trouble convincing others that they understand this. New Jersey planners, for instance, underestimated the reach of the state’s biggest industries, like health, finance, tourism, and entertainment, in addition to the noise aggrieved private landowners could make. The distinctive American economic approach of low-regulation capitalism—unlike the European *dirigiste*, purely Keynesian, and socialist model—offers no politically optimal time to plan. If the economy is growing, a regional or higher-level plan seems unnecessary. If the economy is not growing, such a plan seems mostly pointless. American history suggests that, were it not for Thomas Jefferson (localism) and Herbert Hoover (zoning), the country might not plan its land uses at all. Today’s politically savvy planner knows that it is the economy and growth that count.

**America the awful. New Jersey too.** Bierbaum points out that the New Jersey State Plan had little to offer the state’s biggest cities or poorest populations and the racial and ethnic minorities that constituted most of both. Instead, the plan was primarily aimed at fast-growing suburbs and the rural areas they urbanized. The 2009 Lincoln Institute 40-year study showed much the same: state-level land use planning does not improve race or class relations. In fact, it can harm them. On the whole, New Jersey’s culture reflects old industries; aging suburbs; office parks; decaying urban centers; new gentrification; remnant farming; tourist coastlines; second-home vacation areas; Appalachian foothills; and courthouse and gang corruption, all of which promise little in the way of racial or income equality. This is much the same for the rest of America.

The great French poet, essayist, and editor Charles Péguy wrote that everything begins as mysticism and ends as politics. Bierbaum’s state plan story fits this description. As a planner at Rutgers University, the school most central in devising and administering the plan, I often read doctoral dissertations that analyze liberal government initiatives and find them comprehensively lacking. Yet, the students reject scaling back the initiatives or abolishing them. It is a wonder that a few students do not rebel and embrace antigovernment conservatism. Yet, they never do. Bierbaum’s account reminds me of this. But then I realize that we are lucky to have current and future civil servants who, like Bierbaum, will work more positively and sagaciously.



## Using Incentives to Combat Sprawl

### *Maryland's Evolving Approach to Smart Growth*

GERRIT-JAN KNAAP

Maryland has a long-standing reputation as a national leader in land use policy and planning. It established the first state planning commission in the United States in 1933. Since then, the state has enabled local governments to plan, established a state department of planning, and identified areas of critical environmental concern. Most recently, it began work on a state development plan. But in 1997, the state's notoriety in land use grew dramatically with the passage of the Smart Growth and Neighborhood Conservation Acts, better known as Smart Growth. What made this approach so innovative and attractive was its reliance on incentives instead of regulation. Local governments would continue to plan and regulate land use, but the state would target its expenditures to locations specifically designated for growth or conservation. For spearheading this new approach, Governor Parris Glendening received the prestigious Innovations in American Government Award from the Kennedy School of Government (Frece 2008).

After the Glendening administration, the state continued to pioneer new approaches and draw national acclaim. In the past decade, the state has adopted new planning visions, required additional elements in local comprehensive plans, strengthened the connection between local planning and zoning, and placed new restrictions on development on septic systems. Soon after Governor Martin O'Malley was inaugurated in 2007, the Maryland Department of Planning (MDP) began work on PlanMaryland, the

first new state development plan in the United States in over two decades. The governor signed the plan in 2011; in 2012, he received the Outstanding Leadership in Planning Award from the American Planning Association.

State development plans are not common in the United States. Only five small states—Hawaii, New Jersey, Connecticut, Delaware, and Rhode Island—have such plans.<sup>1</sup> Perhaps this is not surprising. Every state but Hawaii delegated the power to plan and regulate land use to local governments in the 1930s. As a result, state plans inevitably create tension between state and local governments over land use control. Further, the geographic size and diversity of most states make the task of statewide planning unwieldy at best.

Although statewide planning is not sweeping the nation, interest in regional, interagency, intergovernmental, and multistakeholder approaches to land use and sustainability is on the rise. On June 16, 2009, the U.S. Department of Housing and Urban Development, the U.S. Department of Transportation, and the U.S. Environmental Protection Agency signed a memorandum of understanding establishing the Partnership for Sustainable Communities, which was intended to break agency silos and facilitate a new level of interagency cooperation among three large federal government agencies. Subsequently, the U.S. Department of Housing and Urban Development provided over \$150 million in grants to multistakeholder coalitions to develop regional sustainable communities plans at the metropolitan scale. Maryland's ongoing effort to prepare and implement a state development plan thus not only represents a bold new experiment in state land use policy, but also offers new insights on regional and intergovernmental approaches to planning for sustainability.

This chapter presents an overview of Maryland's unique approach to land use, smart growth, and sustainability. The primary focus is PlanMaryland, the state's emerging and controversial state development plan.

## **The State of Maryland: Geography, Growth, and Politics**

The state of Maryland lies on the Atlantic Seaboard at the southern end of the Boston-Washington megalopolis. It is the fifth most densely populated state in the United States and has been growing steadily but unevenly for several decades. Most of Maryland's 5.8 million residents live in the suburbs of Baltimore and Washington, which are only 40 miles apart. The

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<sup>1</sup> As far as I know, these are the only states with something called a state development plan that includes a spatial strategy expressed in a map. Florida has what it calls a state development plan, but it is essentially a set of goals and guidelines; the state development plan of New Hampshire addresses only economic development.

combined Baltimore-Washington metropolitan area, with over 9 million residents, is the fourth-largest combined statistical area in the United States. Maryland is the wealthiest state in the nation, but there are deep pockets of poverty in Baltimore City, the Appalachian West, and the Southern Eastern Shore. It is demographically diverse, highly segregated, and expected to become majority minority within the next decade. The state surrounds the largest, most productive, yet highly impaired estuary in the United States: the Chesapeake Bay. Much of Maryland's progressive approach to land use and environmental policy builds on its efforts to protect and rehabilitate the Chesapeake Bay.

Maryland's growth patterns, like those of all other states, reflect the structure and dynamics of the state's economy. Baltimore, the state's dominant urban center, continues to suffer industrial decline. Its loss of population, from nearly a million residents in 1950 to just over 620,000 today, has slowed and has rebounded in certain parts of the city (National Center for Smart Growth 2012). Although it is located in the nation's richest state and is part of a prosperous metropolitan area (Brookings Institution 2012), 21 percent of its residents lived in poverty in 2010, and one in nine Baltimore housing units was vacant (J. Hopkins 2012). As employment and households left Baltimore City and Washington, DC, suburban development became the dominant land use pattern in the state and remains so today. In part for this reason, Maryland is second in the nation in transit ridership, but it regularly ranks among the most congested states in the nation. And although the state competes for jobs with neighboring Virginia, the economy of the Washington suburbs rises and falls with expenditures of the federal government, which tend to rise more often than they fall.

Politically, Maryland is progressive; 60 percent of registered voters are Democrats. Democrats are concentrated in the Baltimore-Washington corridor, especially in predominantly black Baltimore City and Prince George's County. Western Maryland and the Eastern Shore, meanwhile, are predominantly Republican and white. Political divides on many policy issues, including land use, reflect these geographic and cultural divisions. The state has 24 counties and 157 municipalities, but only 10 municipalities have more than 25,000 people.<sup>2</sup> Several Maryland counties have more than half a million residents and substantial planning capacity. Montgomery County, in particular, has a national reputation for its innovative approach to planning. The Maryland Association of Counties (MACo) is politically powerful and highly protective of local land use

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<sup>2</sup> By statute, Baltimore City is considered both a city and a county.

control. Much of the political conflict in Maryland's General Assembly pits progressive Democrats from the Baltimore-Washington corridor, who favor a stronger role for state government, against Republicans from the rural east and west, who favor local control.

### Land Use Planning and Zoning

Planning and zoning are done in Maryland much as they are in most other states. As authorized by the state legislature in 1927, municipalities and counties in Maryland develop and adopt comprehensive land use plans and implement those plans through zoning ordinances, subdivision regulations, transferable development rights, and adequate public facilities ordinances (all of which are explicitly authorized by statute), as well as other land use policy instruments (table 5.1). The 1992 Economic Growth, Resource Protection, and Planning Act did not fundamentally change the relative power of land use governance in the state, but it established the basic framework for planning and zoning that remains today. The 1992 act requires that local governments adopt a comprehensive plan before they adopt a zoning ordinance or subdivision regulations. Plans must contain eight elements<sup>3</sup> and must be submitted to the MDP for review on a six-year (now 10-year) cycle. The MDP reviews plans for consistency with 12 land use visions, also articulated in the act.<sup>4</sup> The act did not grant the MDP the authority to approve or certify local plans or to withhold state funds if it deems that plans do not further state goals. The state does have the express authority to intervene in land use decision making, but it has rarely exercised that authority and has generally left land use regulation and development approval in the hands of local governments.<sup>5</sup> Local zoning and subdivision regulations must be consistent with the comprehensive plan, although the enforcement of such consistency has varied and has recently been contested in the courts. Spending by all state agencies must also be consistent with local plans, a requirement that remains in force but is often forgotten.

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<sup>3</sup> The elements required in comprehensive plans are land use, transportation, community facilities, mineral resources, implementation, sensitive areas, municipal growth, and water resources. Priority preservation areas and workforce housing are optional elements. The last two required elements and the two optional elements were added in 2006 (Maryland Code Annotated, Article 66B).

<sup>4</sup> In the 1992 Act there were seven visions. Now there are twelve (Maryland Department of Planning 2014).

<sup>5</sup> The state has two ways of intervening. First, it has automatic standing in all court cases involving land use. The state has used this authority sparingly, but effectively to influence some key land use decisions. The second is automatic standing in local land use proceedings. This is the basis on which the MDP can comment on local comprehensive plans. I thank Amanda Conn for this insight.

**TABLE 5.1***Milestones in Maryland Land Use Planning*

1904	Zoning in Maryland begins when the General Assembly grants authority to Baltimore to limit the height of buildings within certain areas; similar authority is subsequently granted to other cities.
1927	The General Assembly enacts a general zoning enabling act authorizing cities of 10,000 or more to zone; it also establishes the Maryland-Washington Metropolitan District under the control of the Maryland-National Capital Park and Planning Commission.
1933	The General Assembly enacts the Planning Enabling Act, which confers planning and zoning authority on municipalities; it also creates the first state planning commission in the United States to coordinate Depression-era public works programs of the National Resources Planning Board and the Works Projects Administration.
1938	The Planning Commission publishes <i>Five Years of State Planning</i> , which outlines the state's vision for Maryland in 1970.
1956	The Commission on State Programs, Organization, and Finance issues <i>Improving State Planning in Maryland</i> , which emphasizes aid to local jurisdictions, centralized coordination of planning in the executive branch, and increasing the expertise and size of the state planning staff.
1959	Legislation creates the State Planning Department; broadens its areas of concern to include the state's water resources and the protection, development, and maintenance of Assateague Island; and provides the first mention of a state development plan.
1969	The State Planning Department becomes a cabinet-level agency and is renamed the Maryland Department of State Planning; Program Open Space, focusing on parkland acquisition, is established.
1974	The Maryland Planning Act gives the state authority to intervene in local land use decisions.
1977	The Maryland Agricultural Land Preservation Program is created to preserve agricultural land and woodland in Maryland.
1981	The Department of State Planning designates 57 areas of unique character (wetlands and rail services-designated areas) for preservation, conservation, and utilization.
1982	The Stormwater Management Act requires on-site treatment of storm water on new development sites to prevent non-point-source pollution.
1983	Virginia, Maryland, Pennsylvania, the District of Columbia, and the U.S. EPA sign a multistate Chesapeake Bay agreement. The agreement recognizes that population growth and its associated development patterns are major causes of environmental degradation.
1984	The Chesapeake Bay Critical Areas Program establishes restrictions on land use activities within a 1,000-foot area along the shoreline of the Chesapeake Bay and its tidal tributaries.

(continued)



**TABLE 5.1** (continued)

1987	The Chesapeake Bay agreement starts an interstate effort to protect and restore the Chesapeake Bay.
1988	The Year 2020 Panel, created as a result of the regional Chesapeake Bay agreement, is directed to produce a report on growth management regulations, environmental programs, and infrastructure requirements to protect the bay while accommodating projected population growth in the bay region through 2020. The Department of State Planning becomes the Maryland Office of Planning.
1992	The Economic Growth, Resource Protection, and Planning Act is enacted, establishing seven visions for development in Maryland and statewide growth management policies. The Forest Conservation Act is adopted to protect Maryland forests.
1997	Brownfields cleanup and redevelopment legislation is enacted; the components of the smart growth initiative (the Smart Growth Areas Act, the Rural Legacy Program, Job Creation Tax Credits, and the Live near Your Work Program) are enacted.
2000	“Smart codes” legislation establishes a statewide rehabilitation building code and model infill and mixed-use development codes. The Maryland Office of Planning is renamed the Maryland Department of Planning (MDP). The Center for Smart Growth Research and Education is established at the University of Maryland.
2001	The GreenPrint Program is created, preserving over 22,000 acres of Maryland’s most valuable ecological land. The Community Legacy Program is enacted to provide flexible funding to support local revitalization projects. The Maryland Office of Smart Growth is established as a direct arm of the governor’s office with oversight responsibility for smart growth activities in state agencies.
2003	The Office of Smart Growth is transferred to the MDP. A gubernatorial executive order establishes the Priority Places Program as part of the smart growth effort with MDP oversight.
2004	The General Assembly rejects a gubernatorial effort to abolish the Office of Smart Growth and enacts the “flush tax.”
2006	The General Assembly adds new planning elements required in local-government comprehensive plans: a municipal growth element and a water resources element. A new act requires counties seeking certification of farmland preservation programs to designate priority preservation areas (PPAs) and to include a PPA element in their comprehensive plans.
2009	The Smart and Sustainable Growth Act includes Smart Growth Indicators and Planning Visions, a package that strengthens local-government comprehensive plans, directs local jurisdictions and the state to collect smart growth measures, and establishes a statewide land use goal.
2009	Smart, Green, and Growing legislation strengthens statewide planning by linking the MDP to other state agencies, advocates, and stakeholders in implementing the Sustainable Communities Act and creates the Maryland Sustainable Growth Commission.

TABLE 5.1 (continued)

2011	Governor Martin O'Malley accepts PlanMaryland, the state's first long-range plan for sustainable growth, and files an executive order to begin the execution of the plan.
2012	The Sustainable Growth and Agricultural Preservation Act limits the spread of septic systems on large-lot residential development to reduce the last unchecked major source of nitrogen pollution in the Chesapeake Bay and other waterways.

In recent years, the state has passed new legislation designed to strengthen planning and zoning at the local level. Specifically, in 2006 the General Assembly passed legislation requiring local governments to include two new elements in their comprehensive plans: a municipal growth element (municipalities only) and a water resources element.<sup>6</sup> In addition, the Smart, Green, and Growing Legislation of 2009 strengthened the linkage between zoning and comprehensive plans and required local governments to adopt goals for urban containment and to submit a series of development indicators to the MDP.

Unlike in most other states, counties, not cities, play the larger role in land use planning and governance. Most Maryland counties are large in area; some have hundreds of thousands of residents and no municipalities. Most counties offer the full range of urban services, including roads, schools, police and fire protection services, and land use planning. This point cannot be overstated. Maryland often ranks high in rankings of state activity in land use and environmental policy, and deservedly so.<sup>7</sup> Still, counties—not cities or the state—play the dominant role in land use governance. The quality of that governance runs from that of Montgomery County, which has perhaps the most storied planning history of any county in the nation, to that of Garrett County, large parts of which are not zoned to this day.

The state has six metropolitan planning organizations. The Baltimore Regional Planning Council and the Metropolitan Washington Council of Governments serve that function for the Baltimore and Washington regions, respectively. Both focus primarily on transportation planning, but each also conducts land use analyses and provides limited technical assistance to member jurisdictions. The state also has six regional planning

<sup>6</sup> To be eligible for certain state programs, local governments also had to include priority preservation areas and workforce housing elements in their comprehensive plans.

<sup>7</sup> For a ranking of state land use programs, see Insurance Institute for Business and Home Safety (2009).

commissions, one of which serves every county in the state. Regional governments in Maryland—including the Baltimore and Washington Councils of Government—have never played a major role in land use planning, but a Sustainable Communities grant from the U.S. Department of Housing and Urban Development has led to new efforts and some optimism for a regional sustainable communities plan for the Baltimore metropolitan area. Finally, Montgomery and Prince George’s Counties are served by the Maryland–National Capital Park and Planning Commission (M-NCPPC). Created in 1927, the M-NCPPC was designed to address the regional land use issues of suburban Washington, DC. In practice, however, the Montgomery and Prince George’s branches of the M-NCPPC perform much like the planning commissions of most other counties in the state.

### **Institutions of State Land Use Governance**

Maryland has a number of unusual and interesting state agencies, offices, and commissions focused on land use and sustainability (table 5.2). The MDP is a cabinet-level agency with a modest budget but considerable technical capacity. Together with its sister agencies, the MDP has some of the best statewide data resources in the nation and recently received the Special Achievement in Geographic Systems Award from the Environmental Systems Research Institute. The MDP is also a major contributor to the innovative iMap project and the BayStat Subcabinet, established specifically to monitor progress toward cleaning up the Chesapeake Bay. In part for these reasons, sitting Governor Martin O’Malley has a national reputation as a leader in performance-based management.

The state has three other unusual smart growth–related government institutions. The Office of Smart Growth (OSG) was established in 2001 to provide leadership, coordinate the work of state agencies, and keep the governor informed on smart growth implementation. Its director reported directly to the governor. During the Ehrlich administration, the only Republican administration in the past 40 years, the OSG was eliminated. In 2007, Governor O’Malley reinstated it and moved it within the MDP. It was then again vacated, however, when the director was reassigned to head the Governor’s Delivery Unit. The position remains vacant today.

The Smart Growth Subcabinet was created by executive order in 1998 and was codified in legislation along with the OSG in 2001. When the subcabinet was established, it included nine cabinet secretaries and the executive director of the National Center for Smart Growth. In 2010, it was

**TABLE 5.2**

*Institutions, Agencies, and Organizations Active in Land Use Planning in Maryland*

**Maryland Department of Planning (MDP):** The Maryland Department of Planning reviews the plans of local governments, certifies priority funding areas, and provides technical assistance. Its comments on local plans are only advisory.

**Office of Smart Growth (OSG):** The Office of Smart Growth oversees implementation and coordination of smart growth policy throughout the state, recommends changes in policy and state law to the governor, and coordinates among various state agencies. The office has been vacant through the Ehrlich and the O'Malley administrations.

**Sustainable Growth Commission:** The Sustainable Growth Commission is composed of representatives of local and state governments, businesses, and nonprofit organizations. It identifies regional issues for the Smart Growth Subcabinet, recommends avenues of collaboration between state and local agencies, and oversees the implementation of PlanMaryland, the state growth plan.

**Smart Growth Subcabinet:** The Smart Growth Subcabinet includes the secretaries of 15 state agencies or their appointees. It assists in the implementation of smart growth policy; advises the governor of changes in state law relevant to the smart growth policies; and must approve sustainable community designations, adopt PlanMaryland, and submit an annual report on the implementation of smart growth policies.

**Smart Growth Coordinating Committee:** The Smart Growth Coordinating Committee aids the Smart Growth Subcabinet in the implementation of smart growth policy; recommends changes in laws, regulations, or procedures necessary for the implementation of smart growth policy; and reviews potential projects to be funded as special exceptions and reports such projects to the subcabinet.

**Maryland–National Capital Park and Planning Commission (M-NCPPC):** The Maryland–National Capital Park and Planning Commission is a bicounty agency that governs Maryland's two most populous counties, Prince George's and Montgomery. It maintains a 52,000-acre regional system of parks, provides land use planning, and administers the public recreation program in Prince George's County.

**Counties:** Maryland has 23 counties and Baltimore City (which is treated as both a city and a county). Counties in Maryland provide urban services, such as schools, roads, sewers, and water, and play a large role in land use planning. Counties that zone (only one does not) must review their plans every five years and must submit comprehensive plans to the MDP every ten years.

**Cities:** Maryland has 157 cities, but most are small. Most but not all have land use zoning authority. Like counties, cities that zone must review their plans every five years and must submit plans to the MDP every ten years.

**Regional Planning Agencies:** Maryland has seven regional planning agencies, whose scopes of activities vary extensively. The Baltimore Metropolitan Council and the Metropolitan Washington Council of Governments provide technical assistance

*(continued)*

**TABLE 5.2** (*continued*)

in a variety of policy areas; the others focus primarily on economic development. None have land use authority.

**Metropolitan Planning Organizations:** Maryland has six metropolitan planning organizations that serve federally designated transportation functions. The two largest are the Baltimore Regional Transportation Board, staffed by the Baltimore Metropolitan Council of Governments; and the National Capital Regional Transportation Board, staffed by the Metropolitan Washington Council of Governments.

**National Center for Smart Growth Research and Education:** The National Center for Smart Growth Research and Education, located at the University of Maryland at College Park, conducts research and provides leadership training on smart growth issues and policies. By statute, the center's director serves on the Smart Growth Subcabinet and the Sustainable Growth Commission.

**Interest Groups:** Interest groups active in land use policy in Maryland include the Maryland Home Builders Association, the Chesapeake Bay Foundation, 1000 Friends of Maryland, the Maryland Municipal League, and the Maryland Association of Counties, probably the most influential interest group on land use issues.

expanded to include 15 members.<sup>8</sup> The Smart Growth Coordinating Committee provides staff support to the Smart Growth Subcabinet. High-level staff from each of the agencies represented on the Smart Growth Subcabinet sit on the Smart Growth Coordinating Committee. For this reason, the meetings of the Smart Growth Coordinating Committee are where most of the work is done and many of the decisions of the Smart Growth Subcabinet are effectively made. Besides serving as a vehicle for interagency coordination, the Smart Growth Coordinating Committee is charged with reviewing proposals for exceptions to the Smart Growth Areas Act.

Maryland's newest institution of land use governance is the Sustainable Growth Commission.<sup>9</sup> The commission evolved from the Task Force on the Future for Growth and Development, which was established in 2007, largely to address an impasse over annexation between the usually kindred

<sup>8</sup> The Subcabinet includes the secretaries of planning, agriculture, budget and management, business and economic development, environment, general services, housing and community development, natural resources, transportation, higher education; Health and Mental Hygiene, Department of Labor, Licensing, and Regulation, the assistant secretary for neighborhood revitalization in the Department of Housing and Community Development; the Director of the Maryland Energy Administration, and the executive director of the National Center for Smart Growth Research and Education, University of Maryland, College Park.

<sup>9</sup> The former Economic Growth, Resource Protection, and Planning Commission, created by the 1992 Growth Act, was allowed to sunset in 2003.

Maryland Association of Counties and Maryland Municipal League (MML). In 2010, the General Assembly recommissioned the task force and expanded its charge to include evaluating progress toward achieving the state's planning visions; identifying infrastructure needs; promoting planning coordination; evaluating the implementation of the Smart, Green, and Growing legislation; and "advising on the content and preparation of the State Development Plan, State Transportation Plan, and State Housing Plan and the implementation of those plans including the relationship of these plans with local land use plans" (Maryland Department of Planning 2009). To perform these and other functions, the commission established several workgroups, including a workgroup focused exclusively on PlanMaryland.

### **State Land Use Policy**

Maryland has a long and rich history of state activism in land use policy (see table 5.1). The state's first planning law, passed in 1927, authorized local planning commissions to adopt comprehensive plans. Over the ensuing decades, laws were passed to acquire parkland, protect forests and wetlands, reduce soil erosion, preserve farmland, and regulate storm water runoff. In the 1980s, much of the emphasis turned to the Chesapeake Bay after the signing of the Chesapeake Bay agreement in 1983. In the 1990s, the General Assembly passed the Economic Growth, Resource Protection, and Planning Act of 1992 and the highly acclaimed Smart Growth Acts in 1997.

Maryland's pioneering smart growth program was introduced as legislative and budgetary initiatives in the 1997 session of the Maryland General Assembly. Although there were five pieces of legislation in that initial package, the thrust of Maryland's new growth management effort was embodied in only two: the Smart Growth Areas Act and the Rural Legacy Act. Together, they represented then governor Glendening's inside-outside strategy to encourage growth and revitalization inside existing cities, towns, and other urbanized areas, and to identify and protect the best farmland, forests, and other natural areas outside the urban envelope. Many other existing programs were grouped under the state's smart growth banner, and many programs that were added in succeeding years were harnessed in one way or another to support those two principal approaches.

The centerpiece of Maryland's smart growth initiative was the Smart Growth Areas Act. Intended to influence development decisions by restricting growth-related state spending to areas designated for growth, the Smart Growth Areas Act required local governments to designate priority funding areas (PFAs). By statute, these areas included all of the state's incorporated municipalities, the developed areas inside the Baltimore

and Washington beltways, and other areas designated by the state's 23 counties that met specific state criteria.<sup>10</sup>

As is the case with comprehensive plans, the MDP does not have the authority to require local governments to amend PFAs if they are deemed not to comply with state law. State agencies, however, are required to assure that growth-related expenditures are consistent with both local plans and the restrictions imposed by the Smart Growth Areas Act (Knaap and Lewis 2007). When the MDP finds that a PFA submitted by a local government does not comply with state law, it designates the objectionable part as a comment area. These comment areas are then not eligible for growth-related expenditures.

Growth-related spending by state agencies consists of certain programs administered by the Maryland Departments of Environment, Housing and Community Development, Business and Economic Development, and Transportation. By statute, a "growth-related" expenditure is "any form of assurance, guarantee, grant payment, credit, tax credit, or other assistance, including a loan, loan guarantee, or reduction in the principal obligation of, or rate of interest payable on, a loan or a portion of a loan" (Lewis, Knaap, and Sohn, 2009, 460).

The Rural Legacy Act, the complement to the Smart Growth Areas Act, was designed to protect agricultural lands and other natural resources from urban development. Under the Rural Legacy Program, the state provides funds to local governments and land trusts to purchase the development rights of large, contiguous tracts of agricultural, forest, and natural areas subject to development pressure. To receive Rural Legacy Program funds, local governments and land trusts must prepare rural legacy plans; preference is given to applications that complement existing land conservation programs.

The Rural Legacy Program added to Maryland's national reputation as a leader in land preservation. The first land preservation program was established in 1967 and focused specifically on agricultural land preservation; subsequent programs were adopted that fund land preservation for forest use, public open space, and natural habitat. Although funding has ebbed over the course of business cycles and gubernatorial administrations, most of these programs remain intact today.<sup>11</sup> By statute, the Rural

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<sup>10</sup> For more on these criteria, see Cohen (2002). For more on the PFA designation process, see Lewis, Knaap, and Sohn (2009).

<sup>11</sup> These programs include the following:

- The Maryland Environmental Trust, a statewide land trust, was created in 1967, primarily to buy conservation easements on rural lands.
- Program Open Space, created in 1969, provides state funds for parks and conservation areas and is administered by the Department of Natural Resources.

Legacy Program is funded by the sale of general obligation bonds and the real estate transfer tax, but because the real estate transfer tax has not been raised, funding has been redirected from other land preservation programs in the state. Although the program has preserved nearly 69,000 acres, it remains considerably short of its goal to preserve 200,000 acres, largely because of a lack of dedicated funding (figure 5.1).

Maryland also has a number of innovative affordable-housing, small-business, and community-development programs.<sup>12</sup> Like the Priority Funding and Rural Legacy Programs, most of these programs are place specific and require local governments to identify targeted areas for state funding. In 2010, the state collapsed two of these programs and a popular historic tax credit program into the Sustainable Communities Initiative. Some areas designated under previous programs automatically became designated sustainable communities; the Smart Growth Subcabinet now reviews new applications for sustainable communities by local governments. Once designated, a sustainable community becomes eligible for funds from a variety of state programs administered by a number of agencies.

The programs of several other state agencies are also place specific. The Department of Business and Economic Development offers a number of business and economic development incentives that are available or more attractive only in low-income regions of the state or inside PFAs. In 2007, the General Assembly passed legislation creating base realignment and closing zones to address growth expected in Maryland from U.S.

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- The Maryland Agricultural Land Preservation Program, created in 1977, is administered by the Maryland Department of Agriculture and established a foundation that purchases agricultural preservation easements that permanently restrict development on prime farmland and woodland.
  - The Conservation Reserve Enhancement Program is a voluntary, incentive-based federal program that is capitalized in Maryland through a cooperative agreement.

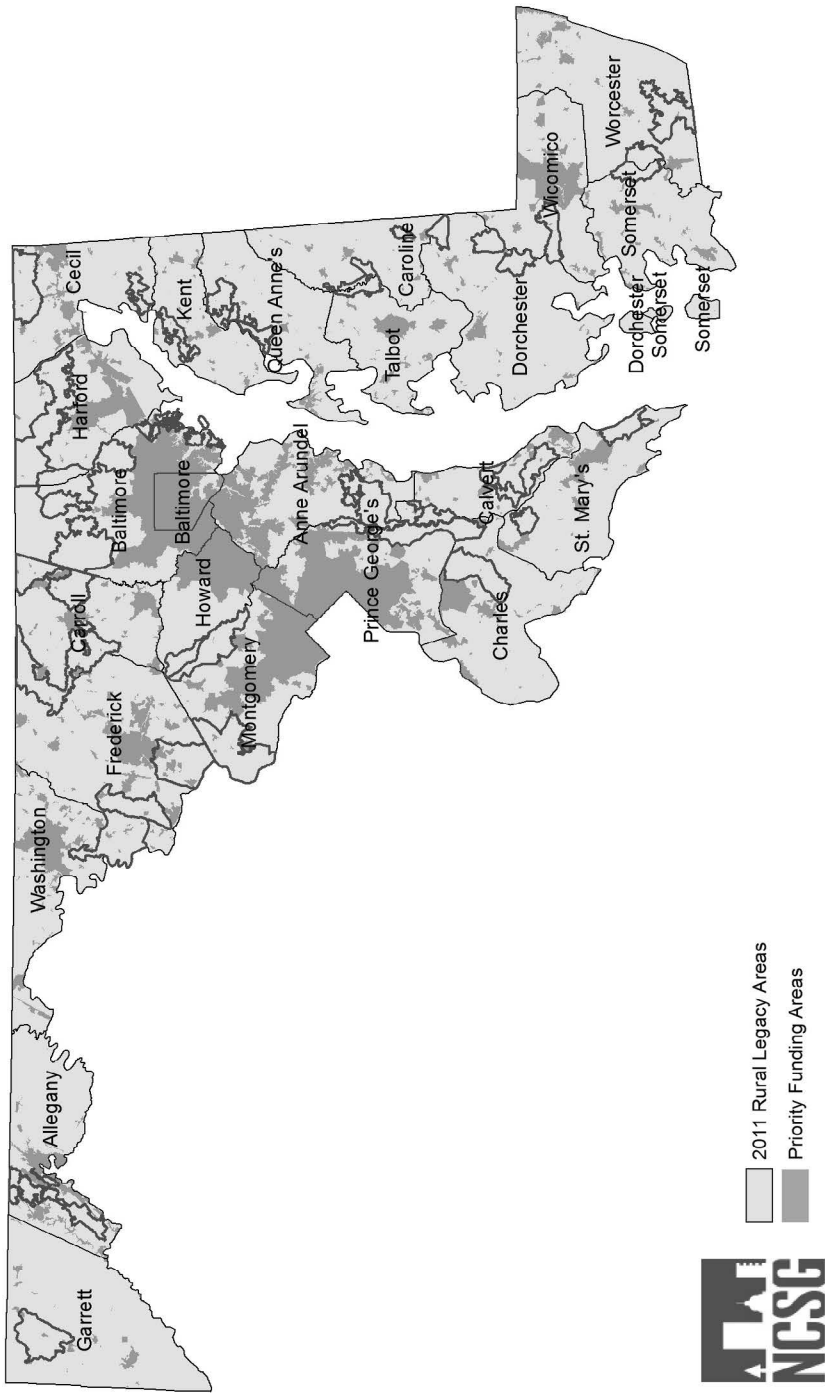
See Lewis (2011) for more analysis of these programs.

<sup>12</sup> These programs include the following:

- The Maryland Capital Access Program is a revitalization program designed to support small businesses. It enables private lenders to establish a loan-loss reserve fund from fees paid by lenders, borrowers, and the State of Maryland.
- The Neighborhood Business Development Program provides financing to new or expanding small businesses and nonprofit organizations in eligible neighborhoods.
- Community Investment Tax Credits are awarded to sponsoring organizations to use as incentives for business contributions.
- The Community Legacy Program provides funding to local governments and community-development organizations for projects such as business retention and attraction that foster home ownership and commercial revitalization.
- The Maryland Affordable Housing Trust provides grants to create, preserve, and promote affordable housing throughout the state.
- The Maryland Mortgage Program provides low-interest mortgages for single-family homes.

See Lewis (2011) for more analysis of these programs.





**Figure 5.1** Statewide Priority Funding and Rural Legacy Areas in Maryland, 2011  
 Source: *National Center for Smart Growth Research and Education (2014).*

Department of Defense realignment of domestic activities. In 2008, under the leadership of the Maryland Department of Transportation, the General Assembly passed legislation that expressly enabled state land and financial resources to be used for transit-oriented development (TOD), thus strengthening the state's ability to promote mixed-use, pedestrian-friendly development around existing and future transit stations. Subsequently, the Department of Transportation identified 14 priority TOD areas.

Several new initiatives to rehabilitate the Chesapeake Bay are currently under way. The U.S. Environmental Protection Agency (EPA), in coordination with the bay watershed jurisdictions of Maryland, Virginia, Pennsylvania, Delaware, West Virginia, New York, and the District of Columbia, developed and, on December 29, 2010, established a nutrient and sediment pollution diet for the bay to guide and assist Chesapeake Bay restoration efforts. This pollution diet is known as the Chesapeake Bay Total Maximum Daily Load (TMDL).<sup>13</sup> The Chesapeake Bay TMDL is the largest and most complex TMDL ever developed, involving six states and the District of Columbia and addressing the impacts of pollution sources throughout a 64,000-square-mile watershed.

In addition to setting TMDLs, the EPA required the bay states to develop watershed implementation plans (WIPs) in phases. Phase I WIPs must allocate the allowable load among different sources, identify state-wide strategies for reducing nutrients, and identify how the bay jurisdictions will put measures in place by 2025 that will by 2017 achieve at least 60 percent of the necessary nitrogen, phosphorus, and sediment reductions from 2009 levels. The six watershed states and the District of Columbia began submitting final Phase I WIPs to the EPA in November 2010.

Phase II WIPs refine Phase I WIPs to include more local detail about where and how nutrient and sediment loads will be reduced to clean up the bay. Although the Phase II WIP is a state document, the state worked closely with local teams to develop it. The local teams, organized at the county level, include representatives of entities with responsibility and authority to control nutrient and sediment loads, such as county and municipal governments, soil conservation districts, and federal and state agencies.<sup>14</sup>

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<sup>13</sup> For more on the Chesapeake Bay TMDL, see U.S. EPA (2014).

<sup>14</sup> Local WIP reports vary in length and detail, but they generally include the following information:

- An overview of the local WIP team process, a description of team membership, and a summary of Phase II WIP efforts
- Local-area narrative strategies to achieve nutrient and sediment reductions
- Local-area 2012–2013 milestones
- A description of local-area tracking and reporting methods
- An optional description of local watershed-planning frameworks

Local governments are encouraged to use their full range of planning, regulatory, and incentive tools to implement the WIPs, including increasing urban densities, encouraging infill, promoting low-impact development designs, establishing storm water utilities, and offsetting the nutrient loads of new development.<sup>15</sup> Most of these tools will also serve to promote smart growth, but some sticky issues have arisen regarding the relative nutrient load contributions of agriculture compared with those of low-density development and the potential disincentives that the required offsets create for infill development.<sup>16</sup>

The most recent initiative to rehabilitate the bay is the Sustainable Growth and Agricultural Preservation Act (SB 236), known as the Septic Bill, which was passed in April 2012. Based the authority of the Maryland Department of Environment to regulate wastewater disposal, including sewers and septic systems, the act places restrictions on septic systems in major residential developments in certain parts of the state.<sup>17</sup> Provisions in the act encourage local governments to identify four development tiers.

- Tier I areas are already served by public sewer systems; no major subdivisions will be allowed on septics in Tier I areas.
- Tier II areas are planned to be served by public sewer systems; no major subdivisions will be allowed on septics in Tier II areas.
- Tier III areas are not planned to be served by public sewer systems; major subdivisions can occur on septics after approval by the local planning board.

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- Optional documentation of technical discrepancies and recommended future steps to address concerns.

See Maryland Department of Environment (2014).

<sup>15</sup> As it relates to future land use changes, TMDL implementation guidance can be stated very simply: In areas that meet water quality standards, new development should strive to ensure that postdevelopment water quality is as good as predevelopment quality. For development where standards are not attained, postdevelopment water quality should be improved over predevelopment levels. The latter statement holds true for impaired waters whether or not a TMDL has been developed, and it applies to physical, chemical, and biological aspects of water quality. Where this is not possible on-site, it may be necessary to consider off-site mitigation. See Maryland Department of Environment (2014) [www.mde.state.md.us/programs/Water/TMDL/TMDLImplementation/Documents/www.mde.state.md.us/assets/document/General\\_Guidance.pdf](http://www.mde.state.md.us/programs/Water/TMDL/TMDLImplementation/Documents/www.mde.state.md.us/assets/document/General_Guidance.pdf).

<sup>16</sup> According to the bay watershed model, farmland contributes more nitrogen to the bay than low-density development. If development decisions are made purely on nutrient-loading criteria, low-density development should be encouraged on farmland. Also, it is much less difficult to manage storm water on greenfield sites than on infill sites. This creates an incentive for greenfield development over infill development. Both of these facts create dilemmas for promoting water quality improvement and smart growth.

<sup>17</sup> Local governments had until December 31, 2012, to define what constitutes a major subdivision, but a minor subdivision cannot exceed seven units. See [www.mdp.state.md.us/PDF/OurWork/SepticsBill/SB236ImplementationGuidanceV2.pdf](http://www.mdp.state.md.us/PDF/OurWork/SepticsBill/SB236ImplementationGuidanceV2.pdf).

- Tier IV areas are planned for preservation and conservation; no major residential subdivisions will be allowed to occur on septics in Tier IV areas.

Local governments had until December 31, 2012, to submit their tier maps to the MDP. Mapping tiers and submitting the maps to the MDP are voluntary, but jurisdictions that do not map and submit tiers will not be able to approve major subdivisions outside areas currently served by public sewer systems. If there is disagreement between the MDP and a local jurisdiction, the local jurisdiction must hold a public hearing, but, as a result of a last-minute compromise in the General Assembly, it is not bound by the recommendations of the state. If local governments do adopt the tiers, they are required to include these tiers in their comprehensive plans by the next comprehensive plan review.

The Septics Bill is intended to fill a major gap in the Maryland state land use framework. Although the act does not require changes in zoning or comprehensive plans, it is closely tied to local comprehensive plan designations. Proponents of the bill, now that it has passed, describe its impact as a downzoning of nearly half the state. At this writing, local governments are still working with the MDP to prepare their tier maps.

The Maryland Department of Environment is also leading the state's efforts to mitigate and adapt to climate change. In 2009, the Maryland General Assembly passed the Greenhouse Gas Emissions Reduction Act of 2009. The law requires the state to develop and implement a plan to reduce greenhouse gas emissions by 25 percent from a 2006 baseline by 2020. The recently released plan includes a set of activities by 11 state agencies and seeks to reduce greenhouse gases in four general sectors: energy; agriculture, forestry, and waste; residential, industrial, and commercial buildings; and transportation and land use. Transportation and land use strategies include more compact development, greater mixture of uses, increased transit ridership, transit-oriented development, and a variety of other smart growth techniques. The institutional strategy for implementing the transportation and land use strategies, however, is not defined.

### **Has Smart Growth in Maryland Fostered Smarter Growth?**

Maryland's land use policies have been the subject of more academic research than those of any other state, with the possible exception of Oregon. Researchers have explored the effects of Maryland's policies on urban containment, land preservation, urban revitalization, economic development, and other issues. The issue that has received the greatest attention is whether growth in Maryland has been contained within PFAs.

In an early study using Landsat data, Shen and Zhang (2007) examined changes in land use before and after the passage of Maryland's smart growth legislation in 1997. They found that the likelihood of urban development was higher inside than outside PFAs both before and after they were drawn, but that the density of urban development had fallen since 1973 and fell even more rapidly after 1997.

Lewis, Knaap, and Sohn (2009) examined the designation of PFAs, state expenditures relative to PFAs, and the extent to which development was contained within PFAs both before and after they were adopted. They found that PFAs were drawn generally following growth areas in comprehensive plans and were certified by the MDP in about a year after the legislation was passed. They also found that although most growth-related expenditures are subject to PFA review, those funds represent only about 5 percent of state expenditures, and that approximately 85 percent of the funds subject to PFA review come from the Department of Transportation (Lewis, Knaap, and Sohn 2009). In addition, using data provided and reported by the MDP,<sup>18</sup> they found that after 1997, approximately 25 percent of new housing units and 75 percent of residential acres were developed outside PFAs. In most counties, the share of development outside PFAs did not decrease after 1997, even after the researchers controlled for changes in fuel prices, economic growth, and other external factors.

A study by Hanlon, Howland and McGuire (2012) explored the effects of PFAs on the probability of agricultural land development over the period from 2000 to 2004 in Frederick County. They found that land inside Frederick County's PFA was more likely to be developed, but not by much. They concluded that PFAs are not strong enough to preserve agricultural land in many parts of the county where pressures for urban development are strong (Hanlon, Howland, and McGuire 2012).

The efficacy of Maryland's land preservation programs has also received extensive analysis. The MDP examined Maryland's rural preservation programs (Tassone et al. 2004). The MDP study analyzed three issues: (1) public attitudes toward conservation; (2) the impacts of restrictive zoning on access to agricultural loans; and (3) the performance of Maryland's conservation tools. The majority of the report, however, focused on the ability of Maryland's conservation programs to provide permanent protection of large parcels of land. The MDP found that the average size of an economically viable farm in Maryland was growing, as in all other states; but where zoning permitted, fragmentation of farmland was occurring even in rural legacy areas. Further, the MDP found that easement costs

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<sup>18</sup> An interactive map of PFAs can be viewed at [www.mdp.state.md.us/OurProducts/pfamap.shtml](http://www.mdp.state.md.us/OurProducts/pfamap.shtml).

rose with development pressure, especially when zoning did not restrict fragmentation. For this reason, the MDP concluded “that state conservation goals for rural land and resources cannot be achieved through public expenditures for easement purchase without supportive zoning” (Tassone et al. 2004, v).

Lewis (2011) and Lewis and Knaap (2012) also analyzed Maryland’s land preservation programs, with a particular focus on the Rural Legacy Program. Like the MDP, they examined many measures of land preservation, such as preservation contiguity, land parcelization, and agricultural land conversation. They concluded that, although over 69,000 acres of land have been preserved in rural legacy areas, the success of the program has been mixed. Like the MDP, they found that in rural legacy areas that received a steady stream of preservation funding and had strong agricultural zoning, many measures, such as fragmentation, parcelization, and land conversation, were trending in a positive direction, but in others, they were not trending in the right direction. Furthermore, more than 10 years after most rural legacy areas had initially been designated, Lewis and Knaap reported that nearly 66 percent of all land in designated areas remained unpreserved, and that the rate of development in many such areas had yet to slow.

Other elements of Maryland’s smart growth program have received less attention. Sohn and Knaap (2005) analyzed the effects of the Job Creation Tax Credit Program, which provides greater tax credits and less stringent eligibility requirements for jobs created inside PFAs. They found that the share of jobs in some industrial sectors increased inside PFAs after the Job Creation Tax Credit was adopted, but that the influence was small and sector specific. Lewis (2011, 2012) examined the effects of the Community Legacy Program, a spatially targeted revitalization program, in Baltimore City. The Community Legacy Program provided more than \$10 million over seven years to support a variety of residential, commercial, and civic revitalization projects in 28 community legacy areas in Baltimore City. Funding levels varied considerably across these areas, and seven designated areas were never awarded funding over the entire study period. She found that location in a community legacy area did raise the probability of residential rehabilitation, and that the probability increased with the levels of public expenditure, but always by a very small amount. Her findings suggest that the Community Legacy Program was having its intended effects, however, in neighborhoods that received a high, consistent level of funding.

In 2011, the National Center for Smart Growth released a report on smart growth indicators in Maryland. This report differed from the other studies in that the indicators were wide ranging, including measures of

population, economic development, land preservation, housing, and natural resources, but it did not attempt to assess programmatic impacts by using statistical analysis. The center found that most indicators were not trending in the right direction. It concluded: “The evidence assembled in this report did not find a compelling level of change in the variables chosen to represent the goals of Maryland’s Smart Growth Program.” Further, “If the indicators here are leaning in any direction, it is that Maryland has not made substantial progress toward improving its performance in many of the areas it says it cares about” (National Center for Smart Growth Research and Education 2011, 3).

In sum, there are many good examples of smart growth in Maryland, but there is little statistical evidence of smart growth success. To some extent, this is not surprising. Changes in state agency procedures, expenditure patterns, and regulatory decisions in response to sweeping new state land use policies take time. State budgets are limited and have steadily declined in real terms over the past two decades. The built environment is durable and responds slowly to policy change. How development patterns would have evolved in the absence of Maryland’s targeted spending approach is impossible to ascertain. The research results must therefore be considered in context. And even if targeted state spending has not altered development patterns to date, it still makes good policy sense to assure that state spending does not subsidize urban sprawl. There is no question that Maryland has expended considerable efforts toward those ends.

### **PlanMaryland: The Evolving State Development Plan**

Although most of Maryland’s smart growth program and policy instruments remain in place today, and a series of new policies were adopted after 2000, the O’Malley administration, which came into office in 2007, was interested in a new approach to smart growth. Providentially, when the MDP was created in 1959, the General Assembly charged it with the following task:

Prepare, and from time to time revise, amend, extend or add to, a plan or plans for the development of the State, which plan or plans collectively shall be known as the state development plan. Such plan shall be based on studies of physical, social, economic and governmental conditions and trends and shall aim at the coordinated development of the State in order to promote the general welfare and prosperity of its people. (Maryland Department of Planning 2011)

In 1974, the General Assembly added provisions requiring the MDP to identify in the state development plan areas of critical state concern. Coun-

ties were to recommend these areas, authorizing MDP to adopt guidelines, and providing counties an opportunity to comment. These new provisions were part of a larger bill that would have created a state land use board to review conflicts between the state development plan and local comprehensive plans. The provision for a state land use board, however, did not survive.

Why a state development plan was never prepared before 2007 is uncertain. Secretary of Planning Richard Hall revived the idea and convinced newly elected Governor O'Malley that a state development plan could reinvigorate smart growth. Also, because it had been authorized many years earlier, the governor could do it without the approval of the General Assembly. The governor was intrigued, and in 2007 the MDP began internal discussions about its long-standing but unfulfilled obligation to adopt and implement such a plan.<sup>19</sup>

Early on, the MDP floated pieces of the plan before the Task Force on the Future of Development in Maryland. Specifically, it introduced three geographic information system layers called GreenPrint, AgPrint, and GrowthPrint as initial state land use designations. The Department of Natural Resources created GreenPrint to identify the most highly valued ecological land in the state. The MDP and the Department of Agriculture jointly created AgPrint to identify land with high agricultural value that was threatened by urban development. The MDP created GrowthPrint, which represents the aggregate of lands currently designated by one of the state's growth and revitalization programs. There was some discussion of using these prints as initial plan designations, but the task force gave little support to this proposal.

While the plan was being prepared, the MDP held a series of nine listening sessions, engaging more than 600 citizens, elected officials, and other community leaders, in the fall of 2008. Thirteen more public forums followed in 2010. In the spring of 2011, the MDP and its sister agencies held an additional eight open houses just before the release of the first draft of PlanMaryland on April 28, 2011.

In developing the plan, the MDP worked with other state agencies, the Smart Growth Coordinating Committee, the Smart Growth Subcabinet, and the Sustainable Growth Commission. The PlanMaryland workgroup of the Sustainable Growth Commission met every few weeks for nine months to help shape the final document. A second draft of PlanMaryland was released on September 7, 2011. Shortly thereafter, more than 300

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<sup>19</sup> In his commentary on this chapter, Secretary Hall disputes my assertion that the governor launched the state planning effort in part because he did not need the approval of the General Assembly. As a member of the governor's cabinet, Secretary Hall should know. But at a presentation I gave to the governor and his staff, Governor O'Malley interrupted me to ask: "Do you mean I can do this without the approval of the General Assembly?" I said yes.



comments, both favorable and unfavorable, were posted online. For further public exposure, the MDP prepared bumper stickers, launched Twitter feeds and Facebook sites, conducted online surveys, and even created an interactive game to illustrate planning principles. On December 19, 2011, the MDP formally delivered PlanMaryland to Governor O'Malley, who accepted it with great fanfare before an audience of former governors, state officials, local planners, environmental leaders, and other stakeholders.

Controversy dogged the plan at every step. The Maryland Association of Counties (MACo) and the MML, never enthusiastic about the idea, waited impatiently as the MDP developed the first draft. What concerned MACo and the MML most was the possibility that PlanMaryland would undermine local planning and zoning authority and place further restrictions on funding and permits from state programs. Tensions were not relieved when the *Washington Post* quoted Governor O'Malley as saying at the annual meeting of MACo, "This is not a wall that prohibits counties from making stupid land-use decisions. They're still free to do that, but we're not going to subsidize it any more" (*Washington Post* 2011).

Through their participation in the workgroup of the Sustainable Growth Commission, MACo and the MML were able to get some concessions from the MDP on certain elements of the plan. As recommended in the workgroup report, GrowthPrint, AgPrint, and GreenPrint were no longer offered as preliminary planning area designations; an entire chapter in the plan titled "Possible Future Actions" was deleted; and the plan explicitly stipulated that it would not supplant local zoning or comprehensive plans. Despite these changes, however, the plan was delivered to the governor without support from many stakeholders, especially MACo and the MML.

PlanMaryland was a contentious issue during the 2012 session of the General Assembly. Several rural counties had formed a coalition to oppose the plan or severely limit its influence. A conference organized by rural Carroll County leaders and headlined by prominent researchers internationally renowned for their denial of climate change and opposition to smart growth, helped stir controversy and stiffen opposition (Fuller 2011). Over a dozen bills were introduced that in some way limited the influence of the state plan. One bill, HB 1201, passed. It contained the following provisions:

Article—State Finance and Procurement 5–606.

- (A) The plan may not be used to deny:
  - (1) a state-issued permit; or
  - (2) state funding mandated by:

- (i) statute or regulation; or
- (ii) the annual state operating or capital budget.
- (b) The plan does not:
  - (1) supersede any state statute or regulation;
  - (2) supersede any local ordinance or regulation;
  - (3) affect the delegation of planning and zoning powers granted by the state to local jurisdictions under articles 23a, 25a, 25b and 66b of the code; or
  - (4) overturn or prevent a decision of a local jurisdiction to fund a project.
- (c) The plan may not require a local government to change or alter a local ordinance, regulation, or comprehensive plan.

The O'Malley administration did not oppose HB 1201, maintaining that it did not alter the intent or efficacy of PlanMaryland. However, it is hard to deny that local governments won an important symbolic battle that will have uncertain implications for PlanMaryland for years to come.

### **The Structure of PlanMaryland**

Although the statutory framework for PlanMaryland was established in 1959 and affirmed in 1974, the goals, objectives, and framework of the plan reflect 21st-century realities and planning sensibilities. One of the first accomplishments of the task force and the Sustainable Growth Commission, and perhaps still the most significant, was the rewriting of the state's land use visions, which are intended to serve as the statement of goals for all state and local land use policies. On the basis of the task force's recommendations, the General Assembly adopted these visions in 2009. By default, these became the official goals of PlanMaryland. The visions address the usual range of land use goals and objectives, for example, land preservation, transportation efficiency, economic development, and affordable housing. As a result, the primary focus of PlanMaryland is attacking urban sprawl, and the fundamental attack on sprawl, once again, is to be waged by targeted state spending.<sup>20</sup>

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<sup>20</sup> According to the 1959 statutes, since supplanted, the state development plan should contain the following:

- Recommendations for the most desirable general pattern of land use within the state, in light of the best available information concerning topography, climate, soil and underground condition, water source and bodies of water, and other natural or environmental factors as well as in the light of the best available information concerning the present and prospective economic bases of the state trends of industrial, population, or other developments, the habits and standards of life of the people of the state, and the relation of land use within the state to land uses within surrounding areas.

What was prepared by the MDP and signed by the governor is probably more appropriately characterized as a plan to plan rather than a fully developed plan. Although PlanMaryland contained information on development patterns and trends and overall statements of goals and visions, it did not contain a spatial vision for the future of the state, nor did it spell out plans for transportation, housing, economic development, or capital improvements.<sup>21</sup> Instead, it articulated a process by which local governments would nominate areas for five planning-area categories and five preservation/conservation planning-area categories, the state would approve (or deny) those nominations, and the approved designated areas would receive priority under certain state agency programs.

Although the version of PlanMaryland signed by the governor laid out a process for designating planning areas, it did not name those planning areas, specify the criteria for their designation, or identify which state programs would link to which planning areas. In the process expressed in the plan, the MDP would later name the planning areas and the criteria for designating each; local governments would then nominate areas for designation; the Smart Growth Coordinating Committee would review the designations; and the Smart Growth Subcabinet would approve them. Once designations were approved, local governments would be eligible for funds from state programs targeted to those designations. These programs would be determined later.

In April 2012, the MDP submitted draft planning-area guidelines to the Sustainable Growth Commission. The PlanMaryland workgroup and the full Sustainable Growth Commission reviewed them, and the Smart Growth Subcabinet approved them on April 18, 2012. Work on the state agency strategies began immediately thereafter. Preliminary drafts were prepared and submitted to the workgroup of the Sustainable Growth Commission. The entire commission reviewed a condensed summary of those strategies, which the Smart Growth Subcabinet approved by con-

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- The major circulation pattern recommended for the state including major and minor routes and terminals of the transit transportation and communication facilities whether used for movement within the state or for movement from and to adjoining areas.
  - Recommendations concerning the need for the proposed general location of major public and private works, water reservoirs, and pollution control facilities and military or defense installations, which works for any other cause are of state as distinguished from purely local concern, or the authorization or jurisdiction of state bodies or officials, or which for any other cause are appropriate subjects for inclusion in the state development plan as distinguished from the local or regional public plans or programs.

<sup>21</sup> L. D. Hopkins (2001) suggests that plans typically offer one or more of the following: a vision for the future, an agenda of actions, a set of policies, a carefully worked out design, and a set of contingent decisions. The plan signed by Governor O'Malley can best be described as an agenda of actions.

ference call on August 22, 2012, and submitted to the governor on September 23, 2012. As of this writing, that is where things stand. The MDP has created a portal on the PlanMaryland website where local governments can submit planning-area designations, but few have done so.

## **Challenges and Uncertainties**

PlanMaryland has traveled a great distance over a somewhat rocky road. Under a statutory framework first defined in 1959, PlanMaryland became an official state planning document in 2011. That alone is a historically important achievement. If the experience of other states is indicative, the plan will change periodically, and its influence will wax and wane, but it is unlikely that it will go away. Instead, it will likely become an important tool in Maryland's planning toolbox for years to come. But although a new, important planning document now officially exists, PlanMaryland still faces many challenges, including horizontal and vertical integration, institutional foundations, budgeting, and political support.

Horizontal integration is a pervasive planning problem. Urban development involves many individuals, firms, organizations, and government agencies. Getting them all on the same page is virtually impossible; but it is partly what state development plans are designed to do. In the case of PlanMaryland, the challenge of horizontal integration occurs at both state and local levels.

The process that prescribes how PlanMaryland is to evolve makes horizontal integration especially challenging. As described in this chapter, local governments are encouraged to nominate areas for one of six planning-area designations, but few have done so, and it is not clear that all of them will. MACo is encouraging counties to wait until the state implementation strategies have been finalized. Some could well wait until the end of the O'Malley administration. Even if local governments choose to nominate areas for designation, they are not required to nominate all land within their jurisdiction. This raises the possibility that lands designated in PlanMaryland will include only a subset of land from only a subset of cities and counties, at least for some time. In addition, when the Smart Growth Subcabinet reviews proposed designations, it must base its review exclusively on the planning-area guidelines for each particular designation. But because there is not yet an overall spatial strategy for the entire state, the SGC will not be able to assess how the area under consideration fits within a larger spatial strategy. In other words, the incremental process by which the area designations in PlanMaryland will be approved will make horizontal integration across municipal and county boundaries extremely difficult.

For similar reasons, horizontal integration at the state level, that is, inter-agency coordination, will also be challenging. Each state agency has produced preliminary implementation strategies that, when finalized, will link state investment and regulatory decisions to the state-approved planning areas. Again, these strategies will be reviewed by the Smart Growth Coordinating Committee and approved by the Smart Growth Subcabinet. It is through this interagency review and approval process that horizontal integration at the state level is designed to occur, and it may do so. But thus far, some state agencies have taken the implementation strategies far more seriously than others, and several preliminary implementation strategies are not closely tied to the planning areas nor well integrated across agencies.

Vertical integration is also a pervasive planning problem, and one that PlanMaryland is specifically designed to address. The logic of PlanMaryland is based on the presumption that local planning and regulation cannot or will not produce desirable land use patterns, and that targeted state spending can produce more desirable outcomes. Synergies are certainly possible when state agencies coordinate their spending and regulatory decisions in spatially designated areas. But, as described here, state agency strategies are not yet closely linked to local planning areas, perhaps for good reasons. First, it is difficult to tie implementation strategies to planning-area designations in the abstract. For example, without knowing whether a growth area is in a small rural enclave or in downtown Baltimore, it is difficult to prescribe a uniformly appropriate implementation strategy for growth areas. Second, some state implementation strategies, such as those that involve transportation or wastewater networks, are difficult to tie to specific geographic areas because of their inherent network structure. Transportation and wastewater networks include links and nodes that often extend beyond any given planning area and sometimes to multiple counties or states. Finally, there remains considerable uncertainty whether targeted state spending has the ability to change local land use regulations or land development decisions.<sup>22</sup> The experience with priority funding areas, rural legacy areas, neighborhood revitalization areas, and other state land use instruments built on a targeted spending strategy is not encouraging.

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<sup>22</sup> The problem here stems in part from what economists call income and substitution effects. When states subsidize infrastructure investment in PFAs, local governments can take some of the funds they would have invested in PFAs and invest them outside PFAs. Like all intergovernmental grant programs, the magnitude of income and substitution effects depends on the size of the subsidy relative to current levels of expenditures, and on the strength of preferences by the local government for the two alternative investment strategies.

The institutional challenges are also formidable. The state of Maryland has been a pioneer in establishing institutions specifically designed to break government silos and facilitate integrated and coordinated approaches to smart growth. This is the specific mission of the Office of Smart Growth, the Smart Growth Subcabinet, the Smart Growth Coordinating Committee, and the Sustainable Growth Commission. But each of these institutions has significant limitations.

The Office of Smart Growth, which once reported directly to the Governor and was highly influential, is currently vacant, and there are no plans for reoccupation under the current administration. The Smart Growth Coordinating Committee includes staff members from a variety of agencies who work together often, but hesitate to intervene in the programs of other agencies. The Smart Growth Subcabinet includes secretaries of 11 state agencies, many highly experienced and committed to smart growth. But attendance by cabinet secretaries at subcabinet meetings has varied, and cabinet secretaries are even more hesitant to interfere in the programs of other agencies, especially the programs of larger, more powerful agencies than theirs.

The Sustainable Growth Commission is Maryland's newest smart growth institution. It includes four members of the General Assembly, eight representatives of state agencies, four representatives of local governments, eight representatives of land use and environmental stakeholders, nine representatives of Maryland's five regions, and three other members. As a result, many of the same individuals who serve on the Smart Growth Coordinating Committee or who sit for their cabinet secretaries at Smart Growth Subcabinet meetings attend meetings of the commission. Besides developing the state's 12 new visions, the Sustainable Growth Commission (or its task force predecessor) has performed several significant tasks. Workgroups of the commission developed much of the substance of the 2009 Smart, Green, and Growing and the 2010 Sustainable Communities legislation. The commission also served as an effective vehicle for vetting issues and educating the public about WIPs and the Septics Bill. Its charge is purely advisory, however, and since it was reconstituted as a commission, it has adopted a motion or taken a formal vote on only three occasions.

Maryland has established several innovative institutions designed to break silos and integrate the spending and regulatory decisions of state agencies. Although the efficacy of those institutions is limited by their membership, their charge, and their operating culture, horizontal integration within state government is clearly one of Maryland's great institutional strengths. For over a decade, the staffs of Maryland's state agencies

have worked closely together, setting an example emulated by other states and the federal government. Staff members of the MDP also work closely with planning staffs of local governments, but the institutions that embed state interests in the planning and regulatory decisions of local government and engage stakeholders in state policy making are much less developed.<sup>23</sup>

Budgets are always a constraint. A successful targeted spending approach requires expenditures to target. State budgets have not fared well over the past decade and certainly the past half decade. If budgets had been more flush, the targeted spending approach might have had much greater success. The MDP has taken on ever-increasing responsibilities, but has seen its budget repeatedly cut. No new funds were allocated to the MDP for PlanMaryland, and because the agency had never prepared a state plan before, it had very little to build on. Staff members have performed remarkably with the limited resources at their disposal, but several local governments and many metropolitan planning organizations spend much more on plans for much smaller areas. What is more, the prospects for budget increases are dim for the foreseeable future.

The final and perhaps most significant challenge is political. PlanMaryland is 60 years overdue for good reason: it has few champions. Local governments have been less than enthusiastic since the idea was first publicly considered and have stiffened their opposition over time. In response to PlanMaryland, the Septics Bill, and other state land use initiatives, six rural counties have formed a coalition, have hired a lobbyist, and are actively recruiting other partners. Fresh from the success of HB 1201, they are poised to fight any legislation designed to further implementation of the plan. Within the state government, state agencies other than the MDP continue to support PlanMaryland in public, but enthusiasm for the plan among state agency staffs varies widely. The staffs of some state agencies clearly view PlanMaryland as a new opportunity for policy implementation; others see it as a project of the MDP and a distraction from the more important work of their own agencies.

The calendar exacerbates the political problem. Governor O'Malley's second term expires in January 2015 and he cannot be reelected. What will happen to PlanMaryland after O'Malley leaves office is highly uncertain. Because Maryland is a deep blue state, it is likely that its next governor will again be a Democrat. That means that most state political appointees and civil service staff will stay in place. They may carry the plan forward.

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<sup>23</sup> Because the state has standing in local land use decision making proceedings, it has the ability to express its view when land use decisions are made; unlike Oregon and Delaware, however, it does not have the authority to certify or acknowledge local comprehensive plans.

But staff members cannot carry a plan the leadership does not support, and given the political travails of the plan in the O'Malley administration, the next administration may decide that it is just not worth the effort.

Further, although the MDP has conducted numerous listening sessions and workshops, has employed the latest social media tools, and has launched several innovative web applications, most public discussion has been at the conceptual level. Stakeholders have yet to engage in the substantive task of identifying place-specific issues, considering alternative strategies, analyzing their benefits and costs, weighing alternatives, and selecting plans of action.<sup>24</sup> Unless and until external stakeholders become more meaningfully involved, few of them will be committed to assuring that the plan survives beyond the O'Malley administration.

The history of land use planning in Maryland is unusually interesting. The combination of a progressive legislature and powerful local governments has produced contentious state political dynamics, innovative land use policy instruments, and trend-setting state government institutions. Until 1997, land use policy and governance in Maryland evolved much as it did in other states. Planning and zoning were enabled in the late 1920s; state land use commissions were established in the 1930s and 1940s; economic and transportation authorities were established in the 1950s and 1960s; and local governments were required to plan in the 1970s and 1980s. In the late 1990s, however, Maryland pioneered a new policy direction. Instead of leaving local governments to manage urban growth on their own (as in most other states), instead of deeper engagement in the comprehensive planning process (as in Oregon), and instead of delegating responsibility to metropolitan governments (as in California), Maryland sought to shape development patterns by targeted state spending on programs related to growth, redevelopment, and conservation.

Over the past 15 years, the state has refined this approach. The Office of Smart Growth, the Smart Growth Subcabinet, the Smart Growth Coordinating Committee, and the Sustainable Growth Commission have been established to oversee and implement the targeted spending approach. It is doubtful that there is another state with a land use governance structure better suited to facilitate horizontal integration at the state level. The state has also developed award-winning geographic information systems and communication tools to monitor progress and disseminate information. But despite the wealth of data and information, evidence of measurable success has been elusive for three reasons. First, the rural areas of the state have ample infrastructure to accommodate additional growth.

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<sup>24</sup> For a review of public engagement in regional planning, see Knaap and Lewis (2010).



Especially in such a predominantly suburban state, directing expenditures to urban areas is not sufficient to prevent growth from continuing in rural areas. Only strong land use regulations can prevent that from happening. Second, the state pays only a small share of the cost of growth-related infrastructure (unlike Delaware). According to Howland and Sohn (2007), for example, the state pays only 8 percent of the total cost of water and wastewater infrastructure. Finally, the logic of targeted spending is most compelling when the state pays a significant share of growth-related costs and there are few network externalities. For example, targeted spending makes good sense for community revitalization and business development where substantial synergies are possible in small geographic areas; it makes less sense for urban containment when there is ample infrastructure in rural areas;<sup>25</sup> and it makes the least sense for sustaining a statewide transportation system dependent on network connectivity that extends far beyond PFAs and even beyond state borders.

Thus far, PlanMaryland has built on the targeted spending strategy. Local governments are encouraged to identify new designated planning areas, and state agencies are required to align their programs with those newly designated areas. In theory, this has the potential to facilitate horizontal consistency and coordination at the state level and vertical integration between the state and local governments. It will be interesting to observe how well PlanMaryland serves that purpose. But as Bosselman and Callies cautioned over 40 years ago, “A common failing of most of the new state land regulatory systems is that they do not relate in a logical manner to the continuing need for local participation. Most of them tend to bypass the existing system of local regulation and set up completely independent and unrelated systems” (1971, 320). It will be important to prevent that from happening in Maryland.

In accordance with the Maryland tradition, PlanMaryland is focused heavily on principles of smart growth—that is, promoting compact, mixed-use, transit-friendly, and walkable environments with ample affordable housing. These are laudable goals. But a first principle of regional planning is that plans should be made at the scale appropriate to the problems the plan is designed to address. It is appropriate for the state to encourage local governments to plan for mixed-use, compact, and walkable communities, but microscale urban design is not fundamentally an issue that manifests at the state scale. Further, although the plan addresses many issues of environmental conservation, it is nearly silent on the other two Es of sustainability: economic prosperity and social equity (Campbell 1996).

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<sup>25</sup> If the state followed the smart growth prescription of directing growth where there is ample infrastructure, it would actually target growth to rural areas, as well as Baltimore City.

Perhaps these will be addressed in the forthcoming plans for transportation, housing, economic development, and workforce development. Perhaps also, PlanMaryland can serve to integrate the septic layers, the WIPs, and the Climate Action Plan. Combined, these perhaps represent a game-changing package.

In sum, Maryland remains very active in land use and sustainability policy. Over the past six years, the O'Malley administration has extended the targeted spending approach, but it has also pioneered another new approach. The Sustainable Communities Program and PlanMaryland continue to rely on targeted spending, but the Septics Bill, the WIPs, and perhaps the climate plan are embedded in state and federal regulatory authority to protect the environment. This both strengthens their policy influence and creates new opportunities for policy integration.<sup>26</sup> If the Septics Bill and WIPs are able to place new constraints on urban sprawl, and the climate plan is able to stimulate additional efforts to achieve transportation and land use integration, both could enable PlanMaryland to focus on broader issues of sustainability. Such policy integration would open a new chapter in Maryland's storied land use history, one that should make an interesting read.

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Much has happened since this paper was presented in Dublin in 2012. The Maryland Department of Environment released an updated Greenhouse Gas Reduction Plan, the Maryland Department of Transportation released its Maryland Transportation Plan, and the Maryland Department of Housing and Community Development released *Housing Maryland: A Housing Policy Framework for Today and Tomorrow*. Although there are some cross references, it would be a stretch to say the plans are meaningfully integrated. Five PlanMaryland designations by local governments have been endorsed by the State Smart Growth Subcabinet, six are being discussed by the State and local government, and five are in some stage of development. The PlanMaryland designations for the first two, Secretary (population 528) and Church Creek (population 125), were actually prepared by MDP because they are too small to have their own planning staff. As a result, the current PlanMaryland map is essentially a map of areas designated under existing state programs, such as Priority Funding Areas, Rural Legacy Areas, Enterprise Zones, Sustainable Communities, and others.

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<sup>26</sup> The federal backing for WIPs is similar to the federal backing for air quality conformity in metropolitan transportation plans, an interesting parallel because they both affect land use policy. See the chapter by William Fulton in this volume.

Perhaps most significantly, Lieutenant Governor Anthony Brown was defeated by Republican Larry Hogan in the November 2014 gubernatorial election. Although the Governor elect has made no public statements on PlanMaryland, he is a partner in a land development firm and ran on a pro-development, anti-regulation platform. Most of his political support came from the rural areas of the state where opposition to PlanMaryland remains fervent. It will be interesting to see what happens to PlanMaryland under his administration but further development and implementation seems highly unlikely.

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## *Commentary*

RICHARD HALL

**D**r. Knaap discusses Maryland's smart growth issues, research, and history with a focus on PlanMaryland. He explains how these efforts have fared and gives a valuable perspective on the prospects for the near future.

Maryland is well suited to be a smart growth state. It is densely populated, progressive, and diverse in its people, communities, and environment. Many consider the state "America in miniature." Concerns ranging from saving the Chesapeake Bay to revitalizing and repopulating Baltimore City, protecting farmland, and managing fast-growing suburbs make smart growth an important and perennial issue in Maryland. The state and its local governments have a long and rich history of planning as Gerrit-Jan Knaap discusses.

There are approximately 100 smart growth-related programs across various state agencies, some of which have been in place for decades, but Maryland did not create a state development plan until 2011. In a perfect world, the plan would have been developed first, and the programs would have followed. Instead, from the beginning, the plan's focus was to provide a framework and strategy for existing state programs and to work with stakeholders to refine, improve, and further integrate this strategy with efforts of local and regional governments and other stakeholders. Plan supporters also looked to the planning effort to help identify gaps in the state's overall planning program. It is important to emphasize that the plan

was prepared in an extremely difficult political climate. Many of Knaap's criticisms of the plan stem from the need to develop as good a plan as possible under challenging circumstances, and to include a complex conglomeration of programs spread across several state agencies. Given that a state plan was mandated in 1959, but not created until 2011, a strong case can be made for the wisdom of establishing a beachhead with a good plan and building on it. This was truly a case of not letting the perfect be the enemy of the good. Furthermore, the O'Malley administration was simultaneously working on advancing tough legislative initiatives to fill long-known and well-documented holes in the state's overall smart growth effort (e.g., the Sustainable Growth and Agricultural Preservation Act of 2012), which significantly limits subdivisions on farm and forest land. Now that the initial plan is complete and the beachhead has been established, work is being done to develop implementation strategies and build on the plan.

Maryland has had smart growth-related programs in place for decades, ranging from economic development to resource protection to community revitalization (Maryland Department of Planning 2014a). These programs are housed in several state agencies. The hope is that PlanMaryland will help increase the coordination, synergies, and efficiencies of these programs.

## **PlanMaryland**

In all of Maryland's planning history, multitude of programs, and successes, there has never been one strategy that has tied them together and has set forth an approach for gaining efficiencies and synergies, that is, a game plan for moving forward. That strategy is at the core of PlanMaryland. Many have realized the wisdom of doing this, which is why the Maryland General Assembly passed a law in 1959 requiring the agency that later became the Maryland Department of Planning (MDP) to produce a state plan. Yet, it was not until 2007 that Governor Martin O'Malley directed the MDP to work with sister agencies, local governments, and other stakeholders to develop a plan. In December 2011, PlanMaryland was delivered to the governor, who signed an executive order accepting the plan and directing his agencies to implement it (Maryland Department of Planning, 2014b).

### **Plan Development**

Knaap's chapter provides background and commentary on the plan's development. Early in his administration, Governor O'Malley decided that Maryland needed a state development plan to move smart growth forward

in the state because there was no strategy for integrating existing local government plans and state smart growth programs. Knaap indicates that the lack of a requirement for legislative approval was one of the reasons the governor supported the development of PlanMaryland. In fact, the governor had already decided to move forward with a plan well before he knew that legislative approval was not required.

To develop the plan, the MDP worked with sister agencies, local governments, and the Sustainable Growth Commission (and its task force predecessor). As in the development of any plan, there were tough issues, especially since the state had never developed a plan before. However, there was broad agreement that the state should have a plan. Much of the outreach for the plan involved articulating the state's existing programs and how they related to one another. So many programs had been developed over many decades that very few people had a sense of what the overall smart growth landscape looked like in Maryland. Simply outlining this information provided a target for those who opposed the state's existing smart growth efforts. Smart growth advocates, who are often galvanized by proposed new legislation, also found it difficult to be enthusiastic about the plan because it initially focused on better use of existing programs.

### Plan Outreach

The three-year process of developing the plan included extensive outreach and communication through several forums and methods. Citizens were generally supportive of the plan overall, and specific issues were debated. However, the plan was initially meant to be a broad policy document, and the details were to be developed over time. How the plan would relate to existing local plans and zoning was challenging for some at times (Maryland Department of Planning, 2012).

### Initial Spatial Structure of the Plan

Knaap criticizes the plan's lack of a spatial structure. While work was progressing with local governments on a land designation process to bring together the state's and local governments' visions for how specific areas would be planned, the PlanMaryland initiative started off with a very clear spatial structure that remains today: PFAs were identified as development areas, and areas outside the PFAs were for preservation. More specifically, the state outlined subsets of PFAs that would be targeted for infill, redevelopment, and revitalization. These areas have now been folded into the five planning areas in PlanMaryland (Maryland Department of Planning 2014c).



## Moving Maryland Forward with Smart Growth

As demonstrated by these efforts and Knaap's chapter, Maryland has a significant smart growth infrastructure. The O'Malley administration is committed to Maryland's communities (people and the built environment), rural land for resource protection, resource production, protection and rehabilitation of the Chesapeake Bay, and economic development. It would be hard to maintain these priorities without smart growth. The administration is making the best use of existing programs while addressing the key gaps in the state's overall smart growth apparatus. PlanMaryland is intended to strategically orient the state's smart growth efforts, and to help link the overall effort to regional and local planning programs. This administration's approach has been to tie the state's efforts together into a planning program, fill in the key gaps, and develop a game plan. Although there is more work to do, this challenge has been met.

The plan needs to move forward by developing its implementation strategy and land designation process. Content might be added to the plan that more fully addresses housing, transportation, and economic development issues. As Daniel Burnham once said: "Make no little plans."

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## Delaware's Quiet Emergence into Innovative State Planning

REBECCA LEWIS

**A**lthough Delaware has demonstrated an interest in planning at the state level since the 1960s and is often classified as a second-wave growth management state, academic research on state planning in Delaware is limited.<sup>1</sup> In the modern era, Delaware emerged as a growth management state in 1988 by ratifying the Quality of Life Act, which mandated local comprehensive planning. The Shaping Delaware's Future Act of 1995 created the Cabinet Committee on State Planning Issues, and required state review of local comprehensive plans (Bolen et al. 2002). In 1999, the state adopted its first state plan, called Delaware's Strategies for State Policies and Spending, which is now in its third version.

Despite the lack of scholarly attention, Delaware's model of state planning is exceptional and serves as a robust example of a state relying on horizontal and vertical coordination to produce a document and map that state agencies, nonprofits, and local governments generally accept. Still, the Delaware approach is imperfect, and the unique size and financial structure

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<sup>1</sup> John DeGrove describes the evolution of land use policy in the United States in three waves. Beginning in the 1970s, the first wave was rooted in a concern for environmental protection and land preservation and relied on regulatory programs. Beginning in the 1980s, the second wave focused on planning for growth, focusing on the connection between infrastructure and growth. Gaining speed in the 1990s, the third wave (or smart growth) is characterized by growth accommodation and relies on an incentive based approach (DeGrove 1984; DeGrove 1992; DeGrove 2005).

of the state mean that it is difficult to export its approach to other states. However, Delaware serves as a rare example of consensus building, consistent gubernatorial support, and, ultimately, a largely successful exertion of state influence over the spatial location of growth by investing state funding in accordance with the State Strategies Investment Levels map.

Through two revisions under three governors since 1999, the emphasis has shifted from protecting the character of Delaware while restricting state expenditures on infrastructure during the Carper administration to growth control under the Minner administration and to a dual emphasis on community character and economic development under the Markell administration. The plan coordinates land use decisions at the local level through the provision of infrastructure according to the Strategies for State Policies and Spending. This approach has remained intact across three administrations and plan versions. The model has proven adaptable to various economic climates and resistant to shifts during a time when popular planning approaches have been quickly evolving. The backbone of the plan is directing growth to specific spatial areas by using incentives and disincentives related to infrastructure provision, a model prevalent during the economic boom of the 1990s. Using a process that relies on coordination among state agencies and local governments, the approach has functioned well during economic recession and can be adapted to address sustainability and economic development.

## Context

Located on the Eastern Seaboard in the northeastern corner of the Delmarva Peninsula, Delaware is small but dense. At 1,982 square miles, it is the second-smallest state in land area. It ranks forty-sixth in total population, but is the eighth highest in population density. Fewer than one million people live in Delaware (State of Delaware 2011b; U.S. Census 2012a). Delaware is bordered by Pennsylvania, New Jersey, and Maryland, as well as the Delaware Bay and Atlantic Ocean. Only one interstate (I-95) traverses Delaware, providing a critical linkage between the Philadelphia, Washington, DC, Baltimore, and New York metropolitan regions; the state is within a two-hour drive of all of these cities (State of Delaware 2011b).

One of the 13 original colonies and the first to ratify the U.S. Constitution, Delaware is known as the First State. Delaware has only three counties and fifty-seven municipalities, fifty-four of which have land use authority.<sup>2</sup> In the northern tip of the state, adjacent to Pennsylvania and

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<sup>2</sup> Three municipalities in New Castle County—Arden, Ardencroft, and Ardentown—cede land use authority to the county.

New Jersey, New Castle County is the most industrial and largest in population at 541,971 (U.S. Census 2012b). New Castle County is home to Wilmington, the largest city in Delaware, boasting a population of 71,305 (U.S. Census 2012c). Kent and Sussex Counties are predominantly agricultural. With the smallest population (162,310), Kent County is in the center of the state and includes Dover, the state capital. The southernmost county, Sussex (population 200,830), includes increasingly popular vacation destinations along the Atlantic Ocean in Rehoboth Beach and Lewes. All three counties face the Delaware Bay, but only Sussex County fronts the Atlantic Ocean.

Finance, insurance, and real estate are important industries in the Delaware economy, contributing nearly 50 percent of the gross domestic product (U.S. Bureau of Economic Analysis 2011a). Although finance, insurance, and real estate provide a large share of jobs and wages in the state, government is the single largest employer, providing 14 percent of the state's jobs and contributing nearly 15 percent of wages to the state (U.S. Bureau of Economic Analysis 2011b, 2011c). Agriculture is an important industry in Delaware. Livestock, corn, soybeans, and wheat are the major products (Delaware Department of Natural Resources and Environmental Control). Fishing (crabs and clams), manufacturing, and extractive uses are also important. Under the legacy of the DuPont family, chemical and pharmaceutical firms are critical to the Delaware economy (State of Delaware 2011a). Wilmington claims to be the chemical capital of the world, hosting DuPont, Hercules, and AstraZeneca.

The state's annual budget is approximately \$3.5 billion. Delaware does not have a state sales tax; the primary sources of revenue are personal income taxes and corporation franchise taxes, which each constitute approximately one-third of total revenue (Delaware Economic and Financial Advisory Council 2012). A liberal incorporation law, enacted in 1899, has enticed over half of Fortune 500 companies to incorporate in Delaware (Information Innovation and Technology Foundation 2010). The adoption of the Financial Center Development Act in 1981 has led many major banks to maintain credit card operations in Delaware. The liberal incorporation law and the Financial Center Development Act offer a distinctive tax structure at the state level in Delaware and provide a business-friendly climate in the state, allowing the state to forgo a sales tax. Local governments derive the largest share of their revenue from property taxes, but real estate transfer taxes and service charges provide a high share of revenue as well (Kent County 2012; New Castle County 2012; Sussex County 2011).

The state is unusually involved in the provision of infrastructure and services, particularly roads and schools. Although infrastructure funding and provision is typically left to local governments in the United States,

the state of Delaware maintains 90 percent of the roads, provides 70 to 80 percent of school operating funds and from 60 to 100 percent of capital funding for educational facilities, covers 90 percent of school transportation costs, and finances 30 percent of paramedic funding for local governments, in addition to providing paratransit and operating 15 service centers which provide health and social services including emergency services, individual and family services and community services like economic development programs (Delaware Office of State Planning Coordination 2010). A mix of public and private utilities provide water service while cities and counties provide sewer service to homes not relying on septic tanks. The unique infrastructure-funding system in Delaware enhances the state's interest in land use decisions, served as a catalyst for the development of the Strategies for State Policies and Spending, and remains a key justification for state involvement in land use decision making.

Politically, Delaware has been under Democratic gubernatorial leadership since Governor Thomas R. Carper's election in 1993. Both the House and the Senate are currently Democratic, but Republicans controlled the House of Representatives for several years in the 1990s. Of registered voters, 48 percent are Democrats, 28 percent are Republicans, and the rest identify as independents or with other political parties (Delaware Commissioner of Elections 2014). Interest-group politics in Delaware are unique. Although local chapters of large national organizations like the Nature Conservancy and the League of Women Voters take an interest in land use issues, there is no smart growth or planning-specific advocacy group. The League of Local Governments represents local-government interests. Delaware has two metropolitan planning organizations (MPOs), WILMAPCO in Wilmington and the Dover/Kent County MPO, that serve traditional functions of MPOs, but they are not fully integrated into the land use decision-making process. However, WILMAPCO incorporates the state planning framework (for example, the Strategies for State Policies and Spending) into transportation plans at the regional level, including transportation investment areas in its Regional Transportation Plan.

Several features of the history of Delaware provide a foundation for understanding the forces that led to the adoption of a state planning regime in Delaware and the resultant state planning framework. Delaware is small in size and total population, but its geographic location between large metropolitan areas on the Eastern Seaboard enhances its economic importance and intensifies the pressure to absorb new residents. The population of Delaware has doubled since 1960 and grew by 15 percent between 2000 and 2010. The state is expected to add 225,000 more residents by 2040, a number equal to 25 percent of the existing population (Delaware

Office of State Planning Coordination 2012c). The unusual portfolio of revenue sources on which the state and local governments depend affects attitudes on population growth and economic development. Perhaps more distinctive than revenue sources is the provision of infrastructure by the state. Thus, while local governments control development decisions, the state government is primarily responsible for providing much of the infrastructure that serves this development. This peculiar arrangement is important for the structure of state planning in Delaware.

### **Structure of Land Use Governance**

Delaware requires local governments to prepare comprehensive plans that include several specified elements and (since 2011) must be reviewed every five years and updated every ten years. Although land use decisions are ultimately made at the local level, the state plays a critical role in certifying that comprehensive plans are consistent with state land use policies. The state also reviews major land use decisions, such as some types of rezoning and large subdivisions, through a process called the Preliminary Land Use Service (PLUS). Since the mid-1990s, comprehensive planning in Delaware has evolved through several legislative acts that have enhanced the role of consistency and coordination, as well as giving legal status to comprehensive plans. Some of these legislative initiatives have resulted in greater flexibility in adhering to state requirements, respecting differences among local governments of various sizes in Delaware.

#### **County Comprehensive Plans**

Although Delaware was involved in land use planning in the 1960s, the discussion here focuses on the current structure of land use governance in Delaware, beginning with the passage of the Quality of Life Act in 1988 (table 6.1). Focused on county comprehensive plans, this act was enacted to “utilize and strengthen the existing role, processes and powers of county governments in the establishment and implementation of comprehensive planning programs it guide and control future development” (Del. Code tit. 9, §4941). Additionally, “the intent of this subchapter is to encourage and assure cooperation between and among municipalities, counties, and the State” (Del. Code tit. 9, §4941). The Quality of Life Act requires that county comprehensive plans address certain elements including: capital improvement programs, future land use, mobility, water and sewer service, conservation, recreation and open space, housing, intergovernmental coordination, community design, historic preservation, and economic development (Del. Code tit. 9, §4956). The state is responsible for supplying

**TABLE 6.1***Milestones in Delaware Land Use Planning*

1959	Delaware establishes the State Planning Council, which is charged with developing the Preliminary Comprehensive Development Plan, detailing the most desirable pattern of land use, and defining a transportation plan, an open-space plan, and a public facility plan for the state.
1968	The Delaware State Planning Office submits its 1967 Preliminary State Comprehensive Development Plan, which contains a generalized land use map for the entire state.
1976	The Delaware Tomorrow Commission issues its report. Among the commission's goals are to discourage sprawl in new community development, to preserve prime farmland, and to encourage the use of existing unused industrial sites and buildings. Supplement original 1971 Coastal Zone Act to control industrial uses in a defined coastal area, with a comprehensive statewide land use planning act.
1988	The legislature passes the Quality of Life Act, which stems from <i>Shaping Tomorrow's Environment Today</i> . The act requires regular revision of county comprehensive plans.
1994	Governor Thomas R. Carper establishes the Cabinet Committee on State Planning Issues.
1995	Governor Carper establishes the Office of State Planning Coordination and signs <i>Shaping Delaware's Future</i> , an amendment to the Quality of Life Act that requires counties to submit comprehensive plans by December 31, 1996, and every five years thereafter.
1996	Governor Carper amends the Land Use Planning Act to strengthen the state's commenting process on major development proposals.
1998	House Bill 396 contains a new provision that differentiates planning guidelines for small (fewer than 2,000 residents) and large (more than 2,000 residents) municipalities, provides for plans to serve as the basis for development of zoning regulations, gives plans the force of law, and sets timelines for reviews and updates.
1999	The Cabinet Committee on State Planning Issues approves the First Strategies for State Policies and Spending.
2001	House Bill 255 gives plans legal status and requires that zoning must be consistent with future land use recommendations within eighteen months. Plans must be updated every five years. Annexation must be consistent with certified plans. The state must certify plans to ensure that local plans are consistent with the Strategies for State Policies and Spending.
2003	Senate Bill 65 replaces the Land Use Planning Act (LUPA) with the Preliminary Land Use Service (PLUS) process. Under the PLUS process, state agencies meet monthly to review and comment on local comprehensive plans and large development proposals.
2004	Senate Bill 305 requires that school siting occur in consistency with the Strategies for State Policies and Spending. The Cabinet Committee on State Planning Issues approves the Second Strategies for State Policies and Spending.

**TABLE 6.1** (*continued*)

2010	The Cabinet Committee on State Planning Issues approves the Third Strategies for State Policies and Spending.
2011	Senate Bill 126 clarifies the review and certification process for county and municipal comprehensive plans, eliminates the Governor's Advisory Council on Planning Coordination, and transfers its responsibilities to the Cabinet Committee on State Planning Issues and the Office of State Planning Coordination. Senate Bill 138 increases the maximum time between county comprehensive plan updates from five to ten years.

SOURCES: Timeline adapted from the Delaware Cabinet Committee on State Planning Issues (2011); Delaware Office of State Planning Coordination (2010).

data and information that might influence future land use decisions, including state goals and policies, regulations, financial capability, the state Capital Improvements Budget and Plan, state facility location plans, estimates of natural resources, and economic development strategies (Del. Code tit. 9, §4957). The state also provides long-range plans, performance standards, land development policies, facility-siting criteria, and infrastructure impact assessment standards for use in preparation of comprehensive plans (Del. Code tit. 9, §4957). Counties and the state government jointly establish guidelines for the location and arrangement of public facilities.

Upon adoption, the land use map has the force of law. No development can be permitted except in accordance with the land use map (Del. Code tit. 9, §4959). Subdivision regulations and zoning must be consistent with the plan within one year and eighteen months, respectively (Del. Code tit. 9, §4959).

### Municipal Comprehensive Plans

Under state statute, comprehensive planning requirements for counties and municipalities differ. Further, since 1998, local governments with a population less than 2,000 have been required to address fewer elements than larger municipalities. All municipal comprehensive plans must include a development strategy that states the municipality's position on population and housing growth, boundary expansion, development of adjacent areas, redevelopment potential, community character, general land use, and infrastructure issues (Del. Code tit. 22, §702). As described in House Bill 396 (1998), municipalities with a population of 2,000 and over must also describe physical, demographic, and economic conditions, as well as land use, transportation, economic development, affordable housing, community facilities, open space and recreation, protection of sensitive



areas, community design, adequate water and wastewater systems, historic and cultural resources, and annexation (Del. Code tit. 22, §702). Like county plans, municipal plans have the force of law; zoning regulations must be consistent with the local plan with eighteen months of adoption; and local plans must be reviewed at least every five years and updated every ten years (Del. Code tit. 22, §702).<sup>3</sup>

All local governments report annually on implementation to the Office of State Planning Coordination. Specifically, local governments answer a questionnaire that addresses how they are implementing the comprehensive plan, what they have accomplished in the past year, and how the Office of State Planning Coordination can help by providing technical assistance.

### **State-Level Organizations**

The state-level organizations most prominent in the state planning process in Delaware include the Office of State Planning Coordination (OSPC) and the Cabinet Committee on State Planning Issues (table 6.2). The OSPC, which reports to the Governor's Office, is the agency primarily responsible for developing and implementing the plan (Delaware Office of State Planning Coordination 2010). The OSPC is not a cabinet-level agency, but the governor appoints the State Planning Director. The office is tasked with assisting in statewide planning matters and serving an advisory, consultative, and coordinating role (Del. Code tit. 29, §9101). Essentially, the office provides coordination and technical assistance while staffing the Cabinet Committee on State Planning Issues. The office currently has eight staff members, including three circuit-rider planners for each of the three counties. As Boyer (2000) notes, the OSPC was not given any enforcement authority when Governor Carper created it. Boyer asserts that the agency lacked the resources and staff to reach out to the public, provide technical support to local governments, and perform necessary cost-benefit analyses. Despite the challenges, the OSPC became increasingly active during Carper's term and has continued this trend under subsequent governors.

The Cabinet Committee on State Planning Issues (Cabinet Committee) advises the governor on land use planning, growth, and infrastructure investment policy issues. Governor Carper convened the Cabinet Committee in 1994, one year before he established the OSPC. Like the OSPC, the Cabinet Committee was not given explicit enforcement author-

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<sup>3</sup> The maximum time between updates of county and municipal comprehensive plans was increased from five to ten years in the 2011 session of the legislature.

**TABLE 6.2***Institutions, Agencies, and Organizations Active in Land Use Planning in Delaware*

**Cabinet Committee on State Planning Issues:** The Cabinet Committee on State Planning Issues is charged with recommending the most desirable land use patterns, advising on transportation issues, providing guidance to direct the location of public and private works facilities like sewage treatment plants, and counseling on land use planning that is subject to review. It is composed of leaders of major state agencies who interact with land use planning and reports annually to the governor and the General Assembly. It advises the governor on land use planning, growth, and infrastructure investment policy issues.

**Counties:** Each of Delaware's three counties prepares a comprehensive plan. Plans must be reviewed every five years by the Cabinet Committee on State Planning Issues and updated every ten years. County governments also report annually to the state on progress in implementing their comprehensive plans.

**Governor's Advisory Council on Planning Coordination:** The Governor's Advisory Council on Planning Coordination was established during Governor Minner's administration. It advised the Office of State Planning Coordination on development of the Delaware Strategies for State Policies and Spending in 2004 and was dissolved after the Minner administration.

**Metropolitan Planning Organizations:** Delaware's two MPOs, WILMAPCO (Wilmington Area) and Dover/Kent County, do not play a major role in land use planning.

**Municipalities:** Each of Delaware's 57 municipalities must prepare, adopt, and implement a comprehensive plan. Plans must be reviewed by the Cabinet Committee on State Planning Issues every five years and updated every ten years. Municipal governments also report annually to the state on progress in implementing the comprehensive plan.

**Office of State Planning Coordination (OSPC):** The Office of State Planning Coordination coordinates the land use decisions of the state, counties, and municipalities. It reviews major land use proposals, conducts research on land use planning in the state, and reports to the governor and the Cabinet Committee. It is also responsible for developing and implementing the Delaware Strategies for State Policies and Spending.

**Interest Groups:** Interest groups active in land use politics in Delaware include the League of Women Voters and the Nature Conservancy.

ity. According to statute, the Cabinet Committee is tasked with considering "matters related to orderly growth and development of the State," recommending "the most desirable general pattern of land use within the State," advising on transportation issues, recommending locations for public and private facilities, and providing comments on land use planning actions considered through the Preliminary Land Use Service process,

described later in this chapter (Del. Code tit. 29, §9101). The composition of the Cabinet Committee has changed slightly over time, but currently it consists of agency heads from the following offices or departments: State Planning Coordination, Management and Budget, Transportation, Finance, Agriculture, Education, Natural Resources and Environmental Control, Safety and Homeland Security, Health and Social Services, the Economic Development Office, and the State Housing Authority.

During Governor Ruth Ann Minner's administration, the Governor's Advisory Council on Planning Coordination (also called the Livable Delaware Advisory Council) was created by statute in 2001 and advised the Office of State Planning Coordination throughout the development of the 2004 version of the state plan. The following persons were members of the council:

- A chair appointed by the governor.
- The chair of the Cabinet Committee on State Planning Issues.
- A county administrator or county executive for each county.
- The president or designee of the Delaware League of Local Governments.
- The cochair of the Joint Bond Bill Committee.
- Eight members appointed by the governor and representing agriculture, home builders, business, real estate and development, environmental interests, community development, historic preservation, and civic associations.
- The secretaries of transportation, natural resources and environmental control, and agriculture and the director of economic development.

The council was eliminated by statute in 2011, and the Cabinet Committee assumed its responsibilities.

### Statutory Context of the State Plan

The statutory authority for Delaware's state plan lies in the Delaware Statutes, Title 29, Chapter 91. The Cabinet Committee on State Planning Issues is charged with preparation of the Strategies for State Policies and Spending document and map, which "serves as the primary policy guide that summarizes the State's land use goals, policies and strategies into investment levels that support the most efficient use of state resources" (Del. Code tit. 29, §9101). The statutes explicitly state that local governments maintain autonomy regarding land use designations in comprehensive

plans. They require that the state strategies be updated every five years. The state has published three plans according to these statutes, each under a different governor: in 1999, 2004, and 2010.

### State Review of Local Comprehensive Plans and Local Projects

Since the adoption of House Bill 255 in 2001, the Cabinet Committee has reviewed local plans for consistency with criteria outlined in Title 29. The OSPC and other agencies review these plans for consistency with the Strategies for State Policies and Spending, and the governor ultimately certifies them. Certification by the state is based on state land use policies and the state's responsibility to provide infrastructure. The state is not obligated to provide funding or infrastructure to support development if an adopted local comprehensive plan is inconsistent with state policies (Del. Code tit. 9, §4958). However, nothing prevents the state from providing infrastructure funding in reaction to growth if development proceeds in areas that are inconsistent with state policies.

Since 2003, the state has relied on a process called the Preliminary Land Use Service (PLUS) to assess the regional impact of major development, large subdivision proposals and land use proposals including comprehensive plans, comprehensive plan amendments, some rezoning decisions, and annexations inconsistent with local comprehensive plans. In a process facilitated by the OSPC, state agencies review these projects at the beginning for consistency with local and state plans. PLUS is intended to mitigate impacts of development beyond local boundaries, fully integrate state and local plans, and bring agency staff, developers, and local officials together early in the process to illuminate potential issues before a developer invests in a project (Delaware Cabinet Committee on State Planning Issues 2011).

The PLUS process replaced the Land Use Planning Act (LUPA) process which coordinated the state response to proposed land use changes from 1996 to 2004 (Delaware Office of State Planning Coordination 2012b). LUPA was criticized for lacking timely decision making, consistency, alternatives, and information exchange. The PLUS process was designed to address these issues (Delaware Cabinet Committee on State Planning Issues 2011; Delaware Office of State Planning Coordination 2012a).

### **An Evolving Framework Under Three Progressive Governors**

Although Delaware engaged in state planning in the late 1950s and the 1960s through the State Planning Council, the well-staffed State Planning Office, and a state comprehensive plan including a generalized land use

map, planning milestones in the 1970s and 1980s were less noteworthy (see table 6.1). Not until the Quality of Life Act in 1988 did Delaware begin to take planning seriously again. In 1994, Governor Thomas Carper, the first Democratic governor in nearly 20 years, ushered in the contemporary era of state planning in Delaware. Subsequent governors have continued and enhanced the model that Carper initiated.

During Governor Carper's first administration, a visioning exercise called *Shaping Delaware's Future* set the stage for reforms in land use decision making in the state. The Cabinet Committee on State Planning Issues and the OSPC were created. In 1999, the first state plan, the *Strategies for State Policies and Spending*, was adopted. The governor adopted 10 *Shaping Delaware's Future* goals and guiding principles. Beyond producing the first state plan and providing the scaffolding of state planning institutions, Carper signed several bills altering the composition of local planning in Delaware. Legislation established dates by which local governments must submit plans, added requirements for updating plans, and endorsed transfer of developments rights programs. Additionally, an amendment to the Land Use Planning Act enhanced the state's role in commenting on development proposals. This newfound emphasis on intergovernmental coordination provided a new framework for land use policy in Delaware.

Governor Minner ran for office on a platform of controlling growth. During her eight years in office, she coupled the state plan with the *Livable Delaware Agenda*, a statewide executive initiative seeking "to curb sprawl and direct growth to areas where the state, counties, and local governments are most prepared for it in terms of infrastructure investment and thoughtful planning" (Delaware Department of Natural Resources and Environmental Control, n.d.) A suite of executive orders and legislative bills furthered the *Livable Delaware Agenda*. Key to this agenda was the passage of House Bill 255 in 2001, which elevated the importance of comprehensive planning in Delaware. House Bill 255 led to sweeping changes in comprehensive planning by giving plans legal status; requiring that zoning reflect plans within 18 months of plan adoption; and mandating that plans be revisited every five years and updated every ten years, that annexations be consistent with plans, and, finally, that plans be certified as consistent with the growth goals and objectives of the state plan. To complement the provisions of HB 255, Executive Order 14 (2001) required state agencies to implement the *Strategies for State Policies and Spending* through reviewing budgets, programs, and policies and aligning them with the five *Livable Delaware* principles:

1. Invest taxpayers' dollars efficiently while slowing sprawl.
2. Preserve farmland and open space.

3. Encourage infill and redevelopment that avoids greenfields.
4. Facilitate attractive affordable housing.
5. Preserve our quality of life through sustainable development.  
(Office of State Planning Coordination 2004, 5)

Several additional Livable Delaware–related bills enacted between 2001 and 2003 addressed local comprehensive planning, open-space acquisition, state agency review of developments of significant impact, and brownfields cleanup.

Governor Jack Markell took office in 2009 and has begun to make his mark on the construct of state planning as well. Governor Markell is seeking to “make government more efficient, promote economic development, and in general, improve the quality of life for Delaware citizens” (Delaware Cabinet Committee on State Planning Issues 2011, 11). The Livable Delaware principles, terminology, and agenda have been eliminated. The third version of the Strategies for State Policies and Spending was written in 2010 and approved by the governor in 2011 under Executive Order 26 (Del. Exec. Order No. 26, 2011). In the 2011 legislative session, two land use bills emerging from the state senate were signed into law. Senate Bill 126 clarified the process for review and certification of local plans and formally eliminated the Advisory Council on Planning Coordination. Senate Bill 138 changed the update schedule for local plans. Now, counties must review their plans every five years, but are required to update only every ten years.

Each governor provided a unique emphasis within statewide planning, but none have sought to dismantle prior programs. Consistency in leadership within the OSPC has accompanied progressive leadership in the Governor’s Office. Relying on the expertise provided by the OSPC, three gubernatorial administrations have refined and clarified core components, rather than dismantling or weakening the state program. Some initiatives have strengthened the role of the state, while others have made the law more flexible for local governments.

### Creating the Strategies for State Policies and Spending

The first version of the Delaware plan was approved in 1999, the second version was approved in 2004, and the third version was written in 2010 and signed by executive order in 2011. The process for creating and adopting the state plan has changed slightly in each version. The 2004 plan incorporated local input by relying on state-certified local comprehensive plans. The 2010 plan and map built on the foundation of the 2004 plan. The 2010 plan is organized slightly differently but generally relies on the same mechanisms, both horizontally and vertically.

The statutes direct the Cabinet Committee on Planning Issues to prepare the strategies, but the OSPC ultimately constructed the 2010 update. The OSPC first produced a draft document and circulated it for review by other state agencies, local governments, and interest groups, which provided written comments that the OSPC sought to address in the final version. The OSPC also held six public events (two per county) after the draft was prepared. In these events, citizens were encouraged to comment on the draft maps. Agency staff noted that the events attracted 10 to 40 people. Interestingly, the plan includes a section on citizen involvement and essentially encourages citizens to participate in planning processes and comprehensive plan development at the local level, since the certified local plans are ultimately reflected in the state investment maps. Specifically, the strategies state: “Most of these (local) bodies hold public hearings or workshops about land-use issues. As a citizen, this is your best opportunity to be involved with the land use decision-making process in your area” (Delaware Office of State Planning Coordination 2010, 34). This delegation of public engagement to the local level is an interesting approach and reflects the distinctive roles of the state plan and local plans within Delaware.

#### Elements of the State Plan

The purpose of the plan, stated prominently on the first page of the document, is “to coordinate land-use decision-making with the provision of infrastructure and services in a manner that makes the best use of natural and fiscal resources” (Delaware Office of State Planning Coordination 2010, 3). This is identical to the statement in 2004 and represents continuity in the approach over time. The text of the plan explicitly focuses on intergovernmental coordination and relates the state plan to local planning processes. In contrast to local plans, the 2010 state plan is remarkably short, only 50 pages. Unlike local plans, the state plan is not organized by element or function. Two sections are critical to the document and reflect the core elements of the approach to planning: (1) investment area maps, strategies, and principles for each of four tiers of investment; and (2) a set of goals and objectives centered on themes including collaborative initiatives, agriculture, economic development, education, housing, natural resources and the environment, transportation, and state facilities and investments. A matrix of policy by agency and by investment area wedges these two core elements and provides a clear mechanism for implementation (table 6.3). The investment tiers map is used to direct state investments and review comprehensive plans and projects in the PLUS process.

**TABLE 6.3***Select Strategies for State Policies and Spending in Investment Levels*

State Agency	Level 1 Investment Areas	Level 2 Investment Areas	Level 3 Investment Areas	Level 4 Investment Areas
All agencies— new facility location	Highest priority for new facilities, especially those serving the public.	Very high priority for new facilities, especially those serving the public.	Future considerations primarily tied to anticipation of growth in these areas and based on actual needs.	Facilities discouraged unless tied to particular needs and agreed to by appropriate governmental entities.
Agriculture	Highest priority for community and urban forestry projects, farmers' markets, marketing and promotion of agricultural products to the urban community, and fostering agricultural literacy.	Community and urban forestry, marketing and promotion of agricultural products to urban and suburban populations, and fostering agricultural literacy.	Targeted agriculture preservation and community forestry, farm markets, identification and development of agricultural support businesses, and fostering agricultural literacy.	Highest priority for farmland preservation and support of the agricultural infrastructure, and fostering agricultural literacy.

SOURCE: Delaware Office of State Planning Coordination (2010).

## Plan Implementation Tools and Processes

### Vertical Implementation

Delaware relies on a bidirectional mechanism to address vertical implementation of the Delaware Strategies for State Policies and Spending. The state uses the policies embedded in the Strategies for State Policies and Spending document to review and certify local comprehensive plans and major projects through the PLUS process. Local policies are reflected in the investment areas map, which is designed to reflect the combination of state and local land use policies. Local governments are required to submit local plans to the state for certification. The state is not obligated to provide funding or infrastructure to support local land use decisions if the



county's comprehensive plan or development approvals are "substantially inconsistent with state development policies" (Del. Code tit. 9, §4958). In a state that provides a major portion of the infrastructure, this disincentive is powerful. As of 2012, all three counties and fifty-one out of fifty-four municipalities with planning authority had certified comprehensive plans.<sup>4</sup> The state offers technical assistance and, when funding is available, grants to assist local governments in developing and updating comprehensive plans. Additionally, the University of Delaware Institute for Public Administration provides planning assistance to local governments. To date, the institute has provided assistance to at least 20 local plans. At the regional level, WILMAPCO voluntarily uses the investment tiers in designating transportation investment areas in its Regional Transportation Plan. Location within level 1 or 2 earns projects additional points in the prioritization of transportation projects.

### Horizontal Implementation

Although vertical structures have been relatively stable over time, the framework of horizontal implementation has varied across gubernatorial administrations. Under the Minner administration, state agencies were required to produce Livable Delaware Implementation Plans that showed how their missions could be carried out while fulfilling the Livable Delaware strategies, and to identify impediments to reaching goals. These plans were submitted to the OSPC. State agencies were also required to show how budget planning could be used with the statewide strategies. These mechanisms were removed when the Markell administration abandoned Livable Delaware. According to Executive Order 26, issued by Markell in 2011, state agencies are now required to use the strategies document and map as a guide in policy making, infrastructure investment, and resource management (Del. Exec. Order No. 26, 2011). The Office of Management and Budget is required to use the strategies document and map as a guide for developing and reviewing state agency spending plans. Unlike vertical implementation procedures, however, the mandates for state agencies lie in executive order rather than statute, and the executive order does not outline an enforcement agency or mechanism to ensure that state agencies comply with these mandates.

State agencies have input into the strategies before OSPC publishes the final document. Before the OSPC drafted the third update of the plan in 2010, OSPC staff met with state agencies over 18 months to gather sig-

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<sup>4</sup> Three small jurisdictions in Kent County do not have plans: Hartly, Kenton, and Woodside. Three jurisdictions in New Castle County do not have planning authority.

nificant contributions to the plan. Specifically, the OSPC sought information about new laws and regulations and updated data layers. State agencies reviewed the final draft of the plan before it was submitted to the Cabinet Committee and the governor.

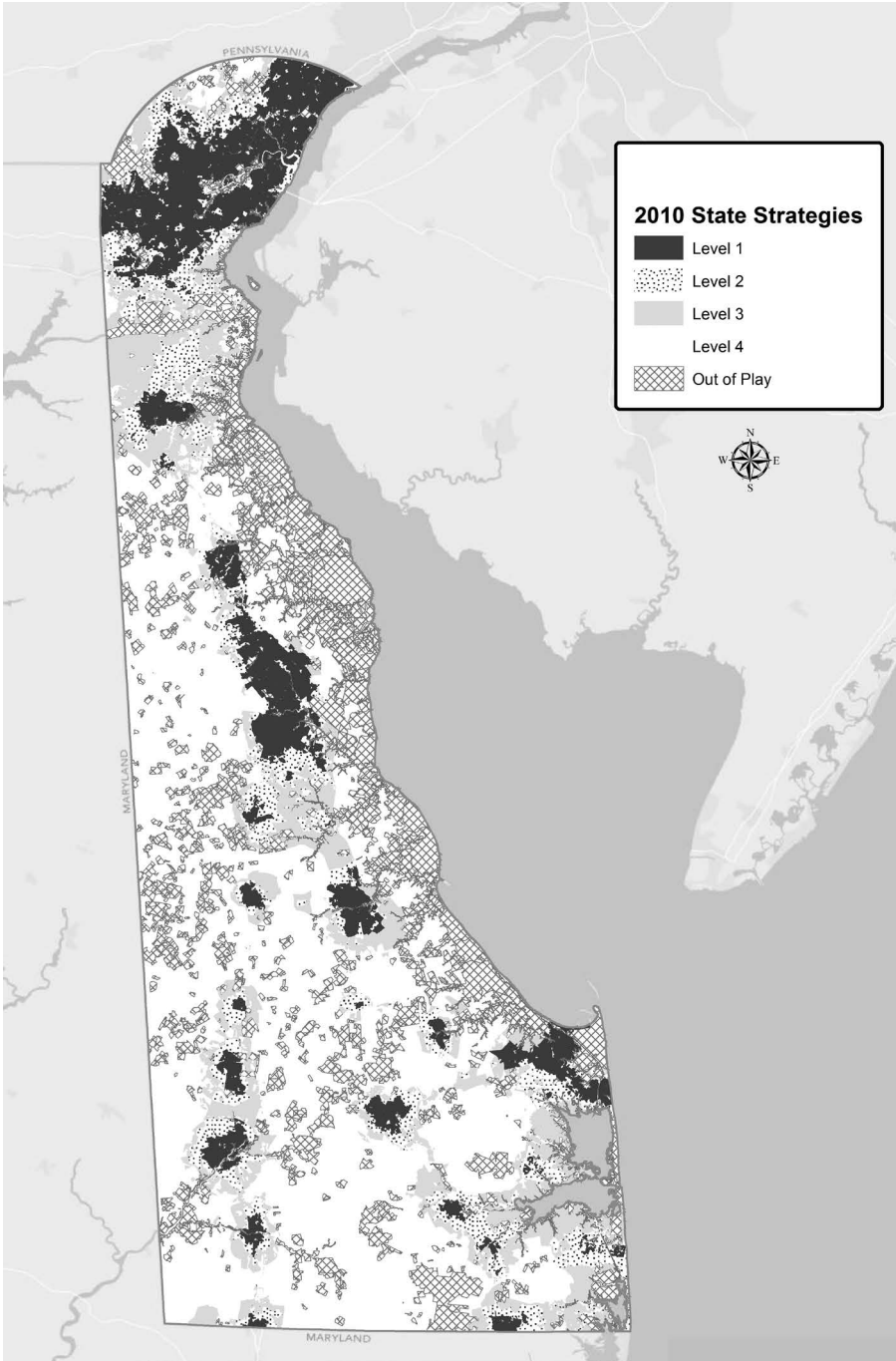
Heads of state agencies sit on the Cabinet Committee, which approves the plan before it is enacted by the governor. The committee considers other planning-related issues as well. Agencies also work together to review projects through the PLUS process. In practice, the strategies are reflected in the state housing and transportation plans, indicative of horizontal integration. The state has not updated its climate action plan since 2000, but it is currently working on a revision. The state does not have a sustainability plan, but the institutional structure of horizontal coordination should be easily adaptable to ensuring an integrated approach.

State agencies provide evaluations of each program to determine where it should be altered to better reflect the Strategies for State Policies and Spending. Similarly, agencies refrain from constraining spending spatially when restricting funds might result in inequitable impacts, as in the case of loans for new homeowners.

### Investment Area Map

The plan map features four tiers of investment that serve as the organizing principles of the map (figure 6.1). The investment strategy levels are derived from spatial analysis of data from state, county, and local agencies and reflect various aspects of land use policies and land use. Specifically, the map was constructed through an analysis of development suitability, as determined by a number of data sets. Areas were first divided into three parts: (1) lands that are out of play (not available for development or redevelopment); (2) lands where state and local policies do not favor growth; and (3) lands where state and local policies do favor growth. These areas were then ranked by suitability for preservation and for development. High negative scores (level 4 on the map) indicate high suitability for policies that encourage conservation; high positive areas (level 1 on the map) indicate a high suitability for policies that encourage development. Out-of-play areas are state-owned lands and easements, parks, private and public preserved lands, lands for which development rights have been purchased, and tidal wetlands (Delaware Office of State Planning Coordination 2010, 46).

These investment areas are intentionally labeled with level numbers rather than names to avoid misinterpretation. In out-of-play areas, development cannot happen regardless of ownership. On Delaware's map, investment levels are not prioritized by numerical order, but certain types



**Figure 6.1** State Strategies for Policies and Spending in Delaware, 2010  
*Source: Delaware Office of State Planning Coordination (2010).*

of projects are favored in different levels. The strategies document includes an overarching strategy, as well as various principles organized by subject matter that guide investment decisions in each area. The general level 1 strategy states: “state investments and policies should support and encourage a wide range of uses and densities, promote other transportation options, foster efficient use of existing public and private investments and enhance community identity and integrity” (Delaware Office of State Planning Coordination 2010, 19). The general level 4 policy is that “the state’s investments and policies should retain the rural landscape and preserve open spaces and farmlands, support farmland-related industries, and establish defined edges to more concentrated development” (26). Different programs and principles are organized in accordance with these overarching strategies to guide state spending that influences land use and development patterns.

### **Key Outcomes and Lessons**

Mention of Delaware’s state plan in the descriptive literature is rare, and academic research on the outcomes of Delaware’s approach is practically nonexistent. The effectiveness of an incentive-based strategy centered on state-level targeting can be measured by examining development patterns in investment tiers, state funding in investment tiers, and data on certification of comprehensive plans and review of PLUS projects. Ideally, it would be useful to compare these data before and after the adoption of the investment tiers map and the plan certification and PLUS processes. The OSPC publishes data that allow insights into the effectiveness of the Delaware approach. Unfortunately, the state did not begin publishing data until 2008. The state provides basic data on state funding for infrastructure and the total number of plans and PLUS projects reviewed, but the raw data do not provide sufficient information for a rich analysis of the effectiveness of the Delaware approach. Stakeholder interviews reveal anecdotal evidence on its impacts.

The Cabinet Committee prepares an annual report for the legislature that includes residential and nonresidential development trends by investment area. Specifically, the OSPC reports aggregate data on building permits and development approvals by investment tier. From 2008 to 2011, 80 percent of residential permits were approved in investment levels 1, 2, and 3. The trends varied statewide. In Kent and New Castle Counties, over 97 percent of the development was located in investment levels 1, 2, and 3, but in Sussex County, only 50 percent of residential development was located in investment levels 1, 2, and 3. Between 2008 and 2011, 92 percent of nonresidential development was located in investment levels 1, 2, and 3

(Delaware Cabinet Committee on State Planning Issues 2012). The report does not provide information regarding development in levels 1 and 2 alone, where the state intends to grow during the planning period. According to the Delaware State Strategies for Policies and Spending, “The state will consider investing in these types of infrastructure in Investment Level 3 Areas once the Investment Level 1 and 2 Areas are substantially built out” (Delaware Office of State Planning Coordination 2010, 23). Because the annual report aggregates levels 1, 2, and 3, it is difficult to assess whether the state is giving priority to infrastructure spending in levels 1 and 2. Disaggregated data are necessary to fully assess the effectiveness of the Delaware approach to state planning.

The annual report also provides five years of data on state funding for public education, transportation, wastewater and water systems, public safety, land preservation, and housing (Delaware Cabinet Committee on State Planning Issues 2012). The OSPC staff reports that funding for roads and schools has not occurred in level 4 since 2003. It is important to note that although development-related funds of the state are constrained, it does provide funding in level 4 for health and safety and activities that support open-space and farmland preservation. The spatial data provided do not permit an assessment of whether other types of development-related state spending have occurred in level 4 or of the share of funding in levels 1, 2, and 3. Although these aggregate data provided in the annual report are useful for getting a sense of the state’s role in infrastructure provision, it would be beneficial to tabulate funding by investment tier to examine whether state spending occurs in accordance with the map. As the Maryland case illustrates, embedding a spatial element into the allocation of state funds is difficult (Knaap and Lewis 2007). If a state’s primary state plan strategy entails spending state funding in designated spatial areas, it is difficult to assess whether the program is having an impact without these data. The OSPC just began working with the University of Delaware to develop a spatially specific fiscal component, which will provide valuable information to annual reports.

The annual report also includes aggregate data on the number of PLUS projects reviewed, as well as a table listing the most recent date of comprehensive plan update or adoption for each jurisdiction. Between October 2010 and September 2012, the state reviewed over 100 PLUS projects (Delaware Cabinet Committee on State Planning Issues 2011, 2012). As of October 2010, out of fifty-one jurisdictions with planning authority, only three very small jurisdictions lacked a comprehensive plan. Between October 2010 and October 2011, plans for eight municipalities were updated or adopted and certified by the governor. Although these data provide a sense of the role of PLUS and comprehensive plan certification, the

state does not provide data on the number of PLUS projects or comprehensive plans receiving substantial state feedback, or the instances of PLUS projects adapting initial proposals in response to state feedback. Such data would permit greater insights into whether the vertical mechanisms of Delaware's strategy are effective. It would also be beneficial to illustrate and explain how development proceeds in level 4 without state investment and to provide information regarding whether local governments ignore the PLUS process.

Interviews of more than a dozen stakeholders, including representatives from state agencies, local governments, nonprofit interest groups, higher education, and consulting firms, attempted to gauge their perceptions of the state plan. These interviews revealed fairly strong support of the plan but also provided suggestions regarding improvements to the procedural aspects of the Delaware strategy. Although silos still exist within state government, stakeholders relayed stories of coordination among state agencies that would not have occurred before state strategies were enunciated. Further, many long-term state agency staff indicated that horizontal coordination has evolved and improved because of the state strategies and the Cabinet Committee. Specifically, many stakeholders noted examples of collaboration with other agencies to attract large employers, and of working with developers and local governments to facilitate agreements on the location of infrastructure. Also, after the plan went into effect, growth was directed into transportation corridors where infrastructure already existed. The largest MPO in the state, WILMAPCO, altered the prioritization process within its Regional Transportation Plan to reflect the state strategies.

Some stakeholders provided examples of initial disputes over certification of comprehensive plans and PLUS projects that were later resolved. Across the board, agency representatives considered the Cabinet Committee a useful forum for discussing planning issues, but noted that the body should use its authority to deny projects more frequently. Others thought that the body used its authority appropriately, but felt that it was important that it have the authority to scrutinize projects and plans and withhold funding for them. The committee's abilities to withhold funds and refuse plan certification are powerful cards that the state could employ as necessary. Stakeholders outside the government preferred the more inclusive Advisory Council, which gave them a say in planning issues. Overall, stakeholders were appreciative of the opportunity to provide feedback on the plan, maps, and projects. They conveyed consistent praise for the leadership of the OSPC and illustrated examples of coordination and consensus seeking across many issues. When they were asked about suggestions for improving the model of state planning in Delaware, some stakeholders

recommended strengthening both the role of the state in relation to local governments and the role of the OSPC among state agencies. Several stakeholders called for a stronger state planning agency with more resources that would interact more extensively with locals, provide model ordinances and codes, and conduct more outreach. Additionally, several stakeholders within state and local governments preferred giving the OSPC and the PLUS process more authority and oversight.

Some stakeholders indicated that state infrastructure provision in level 4 is often reactive. Although the state refuses to fund infrastructure to support development, health and safety concerns often require that the state provide funding for infrastructure after development has occurred. Interestingly, many stakeholders suggested shifting the provision of infrastructure from the state level to the local level in order to resolve the issue of disjointed provision of infrastructure and control of land use. Some stakeholders believed that the solution to preventing sprawl lies in financing land preservation programs (an outside approach) rather than restricting infrastructure investment in rural areas.

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The stated purpose of the Delaware model is to allocate resources and focus programs effectively to make wise public investments and manage taxpayer resources. While respecting local control of land use, Delaware seeks to guide state investment to protect fiscal and natural resources. Delaware relies on an approach that addresses both local planning and state planning by focusing on strengthening local comprehensive plans and ensuring state agency cooperation through the PLUS process and plan certification. As the name of the OSPC suggests, the centerpiece of the Delaware approach is coordination. By focusing on complementary horizontal and vertical elements and consistently emphasizing collaboration, coordination, and consensus, Delaware has developed a state planning process that is well accepted by various stakeholders and has produced largely desirable outcomes. Rather than rolling back local planning requirements throughout the varying waves of growth management, the state has clarified and enhanced local planning over time. Many groups advocate a stronger state role that moves beyond coordination alone, while others suggest an alternative system of infrastructure financing and some emphasis on the importance of land preservation programs. Regardless, interviewed stakeholders were generally positive about the state's approach, and none suggested abolishing the state program. Some suggested that the approach has not been fully tested in a robust economy, because the framework was relatively young before the Great Recession, which has affected the rate of development in Delaware and elsewhere.

The Delaware approach has been resilient in the face of shifts in gubernatorial leadership and has avoided jumping on the latest bandwagon in terminology and concepts. Although the plan includes components of the second and third waves of growth management, the plan has never been named “growth management” or “smart growth.” The 2010 plan promotes sustainable economic development, but the state has resisted overhauling the entire model for the sake of embracing the next big thing in planning.

Several unique conditions provide the foundation of the particular type of approach used by Delaware and offer insights into the reasons for its relative success. Delaware is a very small state with a relatively uncomplicated institutional structure. Stakeholders are collegial and collaborative as a result of the institutionalized process and the size and nature of the state. Since Delaware began taking state planning seriously in the early 1990s, three progressive governors have consistently supported the approach. Although each governor has framed the issues slightly differently and has overseen the enactment of new legislation, the overall framework of state and local planning in Delaware has remained intact. Local governments and private companies provide water and sewer services, but Delaware is unique in paying the bulk of the infrastructure and service costs for the entire state. This means that the state has a great deal at stake in land use decisions and can threaten to withhold funding for infrastructure. This mechanism has been exercised only once, but the threat seems to encourage compliance with state strategies. When development occurs in areas inconsistent with the state plan, nothing prevents the state from providing infrastructure to respond to growth.

The state plan has some shortcomings. It does not explicitly consider climate change, an issue that has been moving to the forefront of other state models. The discussion of equity is limited mainly to affordable housing. Public participation overall has been weak, although the state is working to improve involvement. Hundreds of citizens did participate in the state's six sessions on updating the 2010 plan, but the Strategies for State Policies and Spending document aptly suggests that citizens wishing to affect land use decisions should get involved at the local level. Because the model of state planning in Delaware relies on a complementary state-local approach, this suggestion has resonance.

The complementary model is not perfect. Because the approach is based on incentives (or disincentives), development still occurs in undesirable areas (primarily in one county), but developers and local governments pay the bill for infrastructure in these areas. The state may ultimately pay for infrastructure in reaction to, rather than in anticipation of, development. As Boyer states, “Seldom have developers failed to achieve what they



wanted” (2000, 159). While the state does not fund infrastructure in level 4 areas except for health and safety reasons or to support land and farmland preservation, it is difficult to tell how much and what types of funding the state directs into each area because of the lack of spatial data on state expenditures. This issue also plagues other states that rely on an incentive-based approach, as previous studies suggest (Knaap and Lewis 2007; Lewis, Knaap, and Sohn 2009). The OSPC is partnering with the University of Delaware to develop a spatial fiscal component of annual reports. The state has not extensively exercised its power to withhold funds and to refuse to certify comprehensive plans. However plausible it may be that a vast majority of the plans and projects reviewed by the state are completely consistent with state strategies and promote smart planning, the continuation of development in level 3 and level 4 areas suggests that local plans and projects are not uniformly consistent with state strategies. Issues of compliance and resistance to the state’s role are geographically specific; Sussex County permits a large share of development in level 4. As some stakeholders suggest, perhaps the state should use a heavier hand in reviewing and commenting on plans and projects. However, the state has relied on a collaborative, consensus-building approach and has chosen to pick its battles wisely, rather than risk straining the state-local relationship. Whether a stronger state response is necessary or politically feasible is unclear.

Along horizontal dimensions, the authority granted to the OSPC has never been strong. Inadequate funding constrains its ability to use incentives to encourage local planning and limits the sophistication of outreach techniques. As an office rather than an agency and operating with a small staff, the OSPC is not on the same playing field as larger, more established state agencies. However, the agency is most closely linked to the state strategies and, through its service to the Cabinet Committee on State Planning Issues, is responsible for ensuring horizontal consistency in decision making. This relationship can be awkward. Other agencies regularly commend the OSPC for its role in encouraging coordination among other agencies; consistent leadership has bolstered this approach. Outsiders see the plan as the state plan, not an OSPC-specific plan. But an OSPC with more authority (perhaps as a cabinet-level agency) might be able to ensure horizontal consistency more effectively. Horizontal mechanisms have changed more frequently than vertical mechanisms across gubernatorial administrations. Operating within a predictable, consistent framework is important for the success of state planning.

Since Governor Carper initiated sweeping changes that overhauled the traditional approach to state and local planning in Delaware in the early 1990s, three versions of the state strategies have been approved, and fifty-

four local plans have been certified. State agencies have jointly reviewed hundreds of projects through the PLUS process. The state refrains from spending money on roads and schools in level 4 areas. Between 2008 and 2011, 80 percent of residential development and 92 percent of commercial development occurred in levels targeted for growth.

Although a stronger state role might prevent further development in pristine areas, and a stronger state planning office could ensure greater consistency among state agencies, Delaware has quietly created a sophisticated, progressive, coordinated system that addresses land use and infrastructure issues. The model would be difficult to emulate elsewhere because of unique characteristics of the state, but the Delaware case provides valuable lessons about coordinating state and local levels in a manner that is generally accepted and effective.

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## *Commentary*

CONSTANCE C. HOLLAND

Rebecca Lewis's chapter outlines some of the unique or unusual characteristics of the state and fairly portrays Delaware's planning program. Although planning at the state level in Delaware has been less turbulent than in other states, it has not been easy. Lewis examines possible explanations for Delaware's success, some of which may be transferable to other states.

First, Delaware's plan has had support from the last three governors, dating back to 1994. The importance of gubernatorial support for planning cannot be overstated. Second, Delaware is a small state. Quite simply, it is easier to get all the stakeholders in the room to discuss planning issues and programs. Lewis also points out that Delaware has a unique functional relationship with local governments in that the state funds or directly provides major infrastructure and services. Stakeholders are bound by mutual self-interest to develop workable solutions to planning issues. Delaware's size and unique functional relationships are not easily transferable, but must be mentioned.

It is said that Delaware is a state of neighbors. The close relationships that are part of being a small state influence how the Office of State Planning Coordination (OSPC) interacts with other levels of government. The OSPC treats other state agencies and local governments as partners and focuses on outreach and coordination. It is very much an on-the-ground organization, and its staff members spend much of their time in

the local communities. The office is organized around circuit-rider planners whose job is to interact with towns and their citizens on issues related to planning coordination. These planners serve as resources for towns, assisting them with advice on planning issues and coordinating with state agencies on their behalf. The connections they make and the services they provide to local governments enable a level of trust and respect that makes the planning process effective.

The OSPC's approach to planning is perhaps best demonstrated by the state plan, the Strategies for State Policies and Spending (also known as the State Strategies). This is not a plan that the state developed and imposed on local governments. In order to develop the State Strategies, the OSPC starts with the certified local-government comprehensive plans as a base data layer. The OSPC has worked with each local government in the development of these plans, and they have been thoroughly reviewed by state agencies and certified by the governor. The local governments appreciate the OSPC's acknowledgment of their work and their vision for their communities. Then the OSPC adds state data layers, policies, and priorities to develop a composite that becomes the State Strategies.

Some aspects of Delaware's planning approach may be transferrable to other states. A state does not have to be small to treat local governments as partners or to encourage mutual respect for one another. Visiting local communities and working directly with citizens and elected leaders on their plans and policies may be harder for larger states, but it is important nonetheless. Finally, it is essential to respect the roles and responsibilities of the state government and the local governments as enabled in the State Statutes. It is important for the state to acknowledge and respect local government's role continually as a way to empower local governments to meet their responsibilities to plan for the future. Of course, support from the governor's office certainly helps and need not be limited to small states.

Some elements of the chapter require response. Lewis states that public participation has been weak. In the short time in which she was in Delaware, it would have been difficult for her to fully appreciate the nature of public participation at the state and local levels. Earlier in the chapter, the author says that directing citizens to comment through local government planning processes is an interesting approach. This framework is designed to educate citizens about how their voices can be heard in the local government planning process. It is also an accurate reflection of how the State Statutes direct planning reviews in Delaware. As in most states, local governments are vested with the power (and responsibility) to prepare comprehensive plans and to implement those plans through land use regulations. The creation of those plans and related land use regulations involves public meetings and many opportunities for public comment. This is where

citizens can have the most to say about the future of their communities. The OSPC's acknowledgment of the local governments' roles leads to respect and a sense of partnership.

When the OSPC develops the State Strategies updates, it provides many opportunities for public comment. For the most recent update in 2010–2011, it held six public meetings, two per county. Notices for all meetings were published in local newspapers, as required by the state's Freedom of Information Act, but the OSPC did not stop there. It provided the draft document and maps for review on its website and took comments via email. It scheduled individual meetings with all local governments and interested stakeholders. The press and blogs on the Internet covered the State Strategies update and the public meetings. The period for public comment extended for 30 days after the meetings were concluded to be sure that all interested parties had a chance to be heard. The OSPC responded to each comment, and those that were relevant to the document or the maps were considered and included, as applicable. During these meetings, the OSPC not only heard many comments that were highly relevant to the State Strategies, but also comments more pertinent to local governments' comprehensive plans and land use regulations. Staff members were happy to direct citizens to the appropriate level of government so that their concerns could be addressed. The OSPC is open to suggestions on how the process for future updates can be more transparent and inclusive.

Lewis correctly notes that the state does not have a sustainability plan. Planning for climate change and sustainability go hand in hand in Delaware. As a low-lying coastal state, this planning process began by addressing sea-level rise, an immediate concern for Delaware's citizens because parts of the state are already feeling its effects. The Department of Natural Resources and Environmental Control led that planning process. There were three years of meetings between 2010 and 2013 with a diverse group of stakeholders and the public. The resulting documents provided accurate, scientifically based data that can be used to guide both state actions and the comprehensive plans of local governments. Governor Markell followed up on this effort when he issued and signed Executive Order 41 in September 2013 to address climate change in a more comprehensive manner across all state agencies. The multi-agency team will be concluding their work in December of 2014, and the resulting documents will include recommendations and guidelines for all state agencies and local governments. The OSPC intends to implement EO41 by including climate change and sea-level rise within the next update of the State Strategies, due to begin early in 2015. The OSPC is also providing assistance to local governments who wish to include climate change and sea level rise adaptation into their comprehensive plans.

Lewis raises a general concern about the lack of data and performance measures to track progress on state planning goals and policies. This is a valid criticism. The OSPC would prefer to have more and better data about progress as well. However, it functions with a minimum of staff to perform its coordination roles, as well as statewide planning. It does not have staff dedicated to data collection or analysis. Even so, it continually seeks to collect more and better data. Its development trends data project began in 2008 and is yielding some rich analysis. Preliminary attempts to map the budget have shown that doing so is easier said than done. Mapping the capital budget should not be a problem, since each expenditure is tied to a project that has a physical location. The operating budget is more of a challenge. The budget is organized so that expenditures are tied to programs. The various government programs manage how and where the money is spent. Often the funding supports employees or services that cannot easily be tied to a physical location. Providing an accurate accounting of where, physically, the operating budget is spent will require a great deal of research that the OSPC is not funded to undertake at this time.

Lewis also points out that the OSPC's annual reports do not report development applications or permits in investment level 3. The OSPC's reports combine these permits with those in levels 1 and 2. From a policy perspective, the level 3 areas are identified for future development, so they are considered to be in compliance. Lewis does have a point, though, because from a timing and phasing standpoint, the level 3 areas are identified for growth and infrastructure investment in the longer-term future. OSPC data are collected using a geographic information system (GIS), so the office can perform any analysis that is desired. In response to Lewis's chapter, the OSPC has analyzed level 3 permits. From January 2008 through December 2013, 69 percent of residential building permits statewide were in levels 1 and 2. Residential permits in level 3 accounted for 15 percent. A review of nonresidential building square footage found that 89 percent of the square footage was located in levels 1 and 2, and only 5 percent was in level 3. Although a notable amount of development activity is still occurring in level 3, where infrastructure is less likely to be in place, this analysis shows that the vast majority of development activity is occurring in levels 1 and 2. The OSPC Annual Reports for 2013 and 2014 have included the analysis of level 3 permits.

Lewis's chapter does not describe the OSPC's leadership in the coordination of GIS data. Currently, each state agency, each local government, and private entities such as utility companies create and manage their own GIS data. However, all entities need to share data created by other entities even though the data are not kept in a centralized location. This has led to a chaotic web of interrelated information that is rarely up to date



and contains inaccuracies and redundancies. The OSPC has joined the Cabinet Committee on State Planning Issues in working toward a solution to this issue. The Cabinet Committee and GIS stakeholders have agreed on a course of action that involves centralized storage of key, shared data layers, along with strategies to allow all parties to access and use these data. Here, it is important to note that consolidation and improved accuracy of GIS data are expected to improve statewide data analysis capabilities and may also lead to the creation of more accurate performance measures to track planning progress.

Lewis's chapter reports on perceptions of state planning in Delaware collected from stakeholder interviews. Many of the stakeholders interviewed expressed the desire that the OSPC have a stronger role, more authority, and the ability to approve or deny projects. In some ways, it is nice to hear that others have enough respect for, and confidence in, the OSPC to consider bestowing this type of authority on it. Yet, Delaware's state planning framework is effective because of partnerships, collaboration, and coordination. The OSPC works in concert with local governments and state agencies to develop responses to policy issues that are acceptable to all. It has been effective because its partners do not see it as a top-down organization. Bestowing approval authority on this office may erode the trust that has been developed, and that continues to guide its work. All the most workable solutions are compromises, and compromises are seldom intellectually pure textbook examples of solutions to planning problems. Even so, the solutions the OSPC has developed have lasting value and are effective because the stakeholders believe in them and have had input.



## The European Union Context of National Planning

ANDREAS FALUDI

**N**otions of European citizenship, spatial development concepts, visionary cartography, regional policy doctrine, and new governance paradigms . . . have been woven together within Europeanising discourses that extoll the virtues of co-operation, networking, social capital and . . . general values” (Scott 2002, 155).

This quotation characterizes attempts over the years to involve, albeit indirectly, the European Union (EU) in national planning. These efforts inevitably have raised governance and identity issues that have not escaped attention in the United States. The National Intelligence Council (2012, 79) paints a scenario in which the Eurozone, and perhaps even the EU itself, will collapse unless there is a “federalist leap” with more joint governance presupposing a more common identity. Maybe so, but this is unlikely to take the form of a United States of Europe, the postwar scenario pursued by early integration enthusiasts. In the early years of the 21st century, a kind of federal Europe was once more considered when former French president Valéry Giscard d’Estaing, in his capacity as president of the Convention on the Future of Europe, studied U.S. federalism at the Library of Congress (Norman 2003). He described the convention he presided over as if it was the same as the Philadelphia Convention. However, French and Dutch voters defeated the proposed constitutional treaty. Rather than a federation in the making, the EU appears to be, as a former

famous president of the European Commission, Jacques Delors, is reported to have said, an unknown political object (Ross 1995).

The uncertainty which Delors refers to about what the EU is complicates the exploration of the EU context of national planning. Planning in EU nation-states differs more widely than that in U.S. states, where, as Patricia Salkin reports in this volume, the Standard State Zoning Enabling Act and the Standard City Planning Enabling Act provided blueprints that most U.S. states followed. Together with the unsettled state of the EU, the differences as outlined make cross-Atlantic comparison difficult.

Not surprisingly, the EU's structure is very different from that of the U.S. government. A U.S. governance system structured like that of the EU would be a strange animal. If there were such a system, there would be commissioners, one each from the fifty U.S. states with one appointed as its president, which is how the 28-member European Commission comes into being: by agreement of the governments of the member countries. Upon being appointed, however, commissioners are sworn to pursue the common European interest, rather than national or individual, interests. The U.S. equivalent of the European Commission thus formed would have the exclusive right to propose federal legislation for adoption by a council representing state governments. In the EU this is the Council of the European Union, commonly referred to as the Council of Ministers. So U.S. environmental policy would be decided by some members of state governments with responsibility for the environment, and issues affecting interstate trade would be dealt with by others with responsibility for trade, and so with many other areas of policy.

Understanding the institutional structure of the EU casts light on governance issues which, going by the National Intelligence Council's 2012 report mentioned above, also concern the U.S. National Security Council. There is more. Under the assumption of a United States governed on similar lines as the EU, a council of state governors would give overall direction to U.S. policy; its EU equivalent is the European Council of Heads of State and Government. Decisions, including those about the budget, would need the approval of an elected assembly, but one without the right to initiate legislation, the latter as indicated the prerogative of the appointed commission. Again, this is what the situation in the EU is like; the European Parliament, although popularly elected, merely has the mandate to approve or disapprove what the European Commission and the Council of Ministers come up with. This is one reason why the EU is said to be suffering from what is called a democratic deficit.

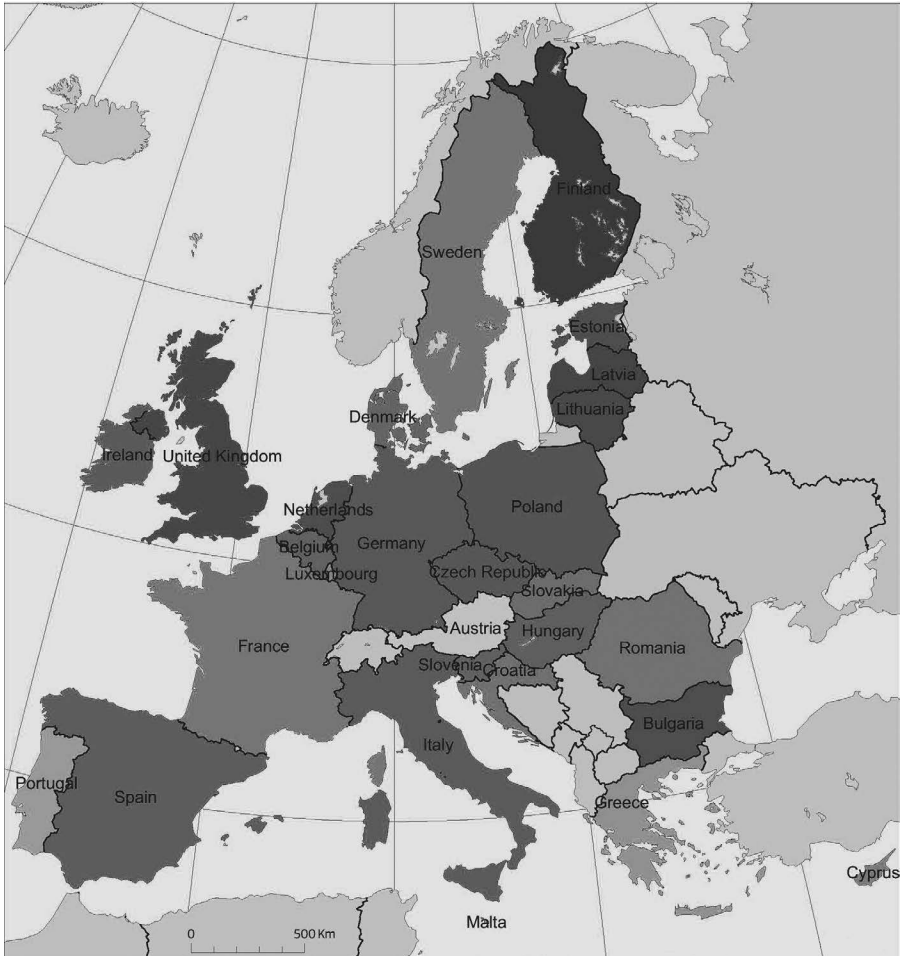
If fifty U.S. states bargained over commission proposals as the members of the EU do, U.S. politics and outcomes would be vastly different

from what they are now. Each state would have to be persuaded to consider not only its own interests but also those of the country in facing global competition, global warming, foreign aid, and immigration issues, to name a few. A United States thus constituted would have to pursue such policies on a budget of barely 1 percent of overall gross domestic product (GDP), the size of the EU budget. As with the common policies pursued by the EU (mentioned above), defense policy and procurement would be a matter for the individual U.S. states, each of which would pursue its own geopolitical interests, forming ad-hoc alliances and/or defense organizations much like some (but not all) EU members belonging to NATO. However, a sizable proportion of the puny common budget, amounting altogether to much more than what the present U.S. federal government spends to support regional initiatives, would be allocated to poorer regions in ways reminiscent of the New Deal. Otherwise, the focus would be on regulating interstate trade, seeing to it that neither environmental nor workplace regulations pose nontariff barriers, and so forth. External tariffs would be administered by the commission.

Each nation-state in the EU also assesses each and every proposal for formulating joint policies, estimating the potential impact and trying to optimize any benefits, such as grants, and minimize adaptation costs. This is why conflicts arise between EU members, nation-states in their own right with governments responsive to their electorates.

This is, of course, also true for the planners and for planning in the nation-states. What would it mean for the EU to adopt relevant regulations, as it does with environmental protection, for instance, in an attempt to manage EU space overall? What would the attitude of the nation-states be if the EU were to produce some overall planning scheme?

Answering such questions is complicated because EU space itself is unsettled. In the first instance, the EU is the combined territory of countries from all over Europe. It has had 28 members since the accession of Croatia in mid-2013 (figure 7.1), and additional applicants in the queue. Is it the EU's manifest destiny to encompass all of Europe? If so, since Europe is a mere peninsula of Eurasia (Davies 1996), where does one draw the line? Another organization, older and more encompassing than the EU, but lacking executive authority, is the Council of Europe, which includes the entire Russian Federation among its members. Europe so defined is a near neighbor of the United States across the Bering Strait. Russia has no ambition to join the EU, but another Council of Europe member, Turkey, is an EU candidate. However, EU members now doubt whether Turkey is European. Most of its territory is in Asia Minor, and it is predominantly Islamic, while in EU discourse (rightly or wrongly), Europe is considered Christian by many. Part of the Byzantine Empire in



**Figure 7.1** European Union, 2014

Source: European Commission, DG Regional and Urban Policy (2014). © EuroGeographics Association for the Administrative Boundaries.

historic times, of course, Turkey was also Christian, which only goes to show the fluidity of Europeanness, however defined.

Despite the subtleties of the concept of Europe, it is common to identify the EU with Europe. Thus, European spatial planning stands for the planning of and by the EU. The document resulting from the most sustained attempt at planning is the *European Spatial Development Perspective (ESDP)* (CEC 1999e), although it refers only to the 15 members of the EU at the time of its adoption. To further complicate matters, the *ESDP* concerns a joint planning exercise of EU members, not the EU itself, because national planners denied the EU as such a role in matters of spatial plan-

ning. The *ESDP* and the moves and countermoves that preceded and followed it give evidence of the ambiguities of the ideas underlying and the practices accompanying European integration. They also demonstrate the importance of shared learning among the professional community. This chapter discusses these two aspects of European planning: the role it may play in European integration, and the growth through learning of a European planning community. Making the distinction between the role of planning in European integration and its learning effect helps also in assessing future contingencies. A modestly hopeful estimate is that, despite the lack so far of any agreement on an EU role in planning, shared learning has brought planning to a point where a return to inward-looking national planning is inconceivable. Planners in Europe can no longer operate within state boundaries that separate them from a terra incognita outside. Barring a breakdown of the EU, this recognition may lead some day to planning becoming part of the project which is the EU, but the form of that planning remains unclear (Faludi 2014).

### **National Planning in EU Nation-States**

National planning is not a concept commonly used in Europe to describe national government involvement in planning, which occurs mostly through legislation and setting the context and perhaps the general guidelines within which lower administrative levels operate the planning systems. Generally speaking, the EU abstains from interfering directly in the operation of national law and national administrative systems, and this is particularly true for land use planning, such as zoning, which is not within the EU mandate anyhow. Nothing like the U.S. enabling acts discussed in Patricia Salkin's chapter exists. As a consequence, planning systems of EU members differ, although all of them are bound by relevant EU legislation, for instance, in the environmental field.

Nevertheless, the EU has developed a so-called cohesion policy, an umbrella term under which EU regional and social policy (and in parts, also its agricultural policy) falls. The cohesion policy has no obvious U.S. equivalent. Even the term itself sounds outlandish to the ears of English-speakers. If not directly on national spatial planning, cohesion policy nonetheless has much influence on national regional policy. It promotes balanced development, regional competitiveness, sustainability, and policy coherence, which is where, arguably, a kind of spatial planning, seeking to integrate forms of spatial development, comes in by the back door (Faludi 2010). The cohesion policy helps legitimize the EU, its institutions, and its identity, which is why it is controversial in the eyes of those suspicious of integration in the first place.

There is much interest in getting a grasp of the variety of European planning systems and their roots in different models of society because of their potential effect on the way in which the cohesion policy works out. With Esping-Andersen (1990), Stead and Nadin (2009) distinguish a social-democratic, an Anglo-Saxon, and a conservative, corporatist model. Newer research since Esping-Andersen's seminal study takes account of countries in Central and Eastern Europe that are not discussed in this volume. Overall, there is always a Nordic category with (among the countries discussed in this volume) Denmark in it, an Anglo-Saxon one with the United Kingdom and Ireland, and a continental, corporatist one with France and Germany (Germany is included here because its role in European planning makes it essential to discuss it). The Netherlands, finally, can sometimes be found in the Nordic group, similarly to Denmark, and sometimes in the corporatist group. Presently, The Netherlands is moving toward the market-liberal Anglo-Saxon model. Among the countries subscribing to the Anglo-Saxon model, the United Kingdom is considered, especially but not exclusively by the French, an extreme example and a European outpost of U.S. capitalism.

The sometimes radical changes to national planning are discussed in the relevant chapters of this work. In this chapter, the focus is on a number of archetypes, for two reasons. One is that they have been identified in a now-classic study. The other is that, although planning may have changed since, the archetypes described existed when the *ESDP* was being prepared. Therefore, in explaining European planning, it is these archetypes that are relevant.

*The EU Compendium of Planning Systems and Policies* (CEC 1997) distinguishes four such archetypes: comprehensive-integrated planning, land use management, regional-economic planning, and urbanism (the last is not represented in this volume). Comprehensive-integrated planning involves a very systematic and formal hierarchy of plans that not only control land use, but also coordinate public sector activity. It requires mature systems and public sector investment to promote plan implementation. Land use management is associated with the narrower task of land use control by local authorities under central-government supervision. Regional-economic planning, which is furthest removed from state planning in the United States, but has been the most influential on the EU cohesion policy, concerns the pursuit of social and economic objectives, with a dominant role for the central government.

The *Compendium* includes volumes in English on each and every planning system and key planning policies in all 15 member states of the EU at the time it was published. Published in the late 1990s and early 2000s (and thus outdated), they are discussed here because they describe the

starting point from which member states participated in the *ESDP* process. Thus, the volume on The Netherlands (CEC 1999d) points out the concern of the Dutch with their spatial environment and the resulting high demand for public intervention, the standard view of the country having “a weak spot for planning,” as referred to in the title of Faludi (2005). In discussing the EU, the country report details Dutch benefits from the EU cohesion policy, including its support for cross-border and transnational planning and the importance of the Trans-European Networks—another important EU policy, alongside the cohesion policy, promoting the creation of infrastructure networks spanning EU space.

The Denmark volume (CEC 1999a) starts less eloquently by describing responsibility for spatial planning as being shared among all three levels of government. The lower levels work with comprehensive plans, and the Ministry of the Environment publishes planning reports and national perspectives. At the time, Denmark was hailed as a key representative, next to The Netherlands, of comprehensive-integrated planning in Europe.

Germany is another example of comprehensive-integrated planning, but there, the *Länder* (federal states), rather than the federal government, are responsible for planning, as the Germany volume (CEC 1999e) states at the beginning. Germany also practices regional-economic planning, but the volume hardly mentions it because it is not what planners do. The tenuous relations between the two systems shape German attitudes toward European planning.

The United Kingdom volume describes town and country planning as mature and rigorous without emphasizing its restricted interpretation under the then Conservative government, which disallowed economic and social considerations in planning. In line with its case-law tradition of deciding cases on their merits rather than by the observance of preconceived plans and regulations, the system is also discretionary, unlike U.S. zoning, which is more influenced by German examples. The volume says that, “whilst the impact of EU policy can be described as being very disparate, there is a growing realization of the importance of the EU for land use planning, reflecting the growing number of offices within local authorities with a specific European remit” (CEC 2000b, 27). Indeed, sub-national administrations in the United Kingdom are often more enthusiastic about integration than the national government is.

Another country where land use control prevails is Ireland, where it is called physical planning, rather than the U.K. term, town and country planning. Planning is primarily a local-government activity (CEC 1999c). Ireland has benefited from EU accession and has been more enthusiastic about it than either the United Kingdom or Denmark, which joined at the same time (1973). The report points out the EU influence in almost



all sections of Irish society and the impact of funds and policy directives on spatial planning. It then describes the National Development Plan, which is not a spatial plan, as a basis for negotiating EU funding. The Irish case shows most clearly why national planning in the EU is different from state planning in the United States: the concerns can be much broader than just land use.

France, with its regional-economic planning approach, is the country that has taken the EU and its planning most seriously. There is a recognition that “European integration requires a consolidation of national planning policies with a view to reinforcing national cohesion and to prevent the disintegrating effects which could result from the mechanisms of the single market alone” (CEC 2000a, 23). A major concern shared by other EU members is that, embracing liberalization as it does, the EU challenges equitable provision of state-run services throughout the French territory and therefore threatens national cohesion. At times, the French national leadership has devoted much attention to national regional development (Burnham 2009). In the French model, the EU cohesion policy is seen as the antidote to the Anglo-Saxon free-market ideology, so, albeit under a different name, France has godfathered regional-economic planning, which it calls *aménagement du territoire*, at the level of the EU. The contractual approach in the cohesion policy, in which funding is contingent on the participation of national, regional, and local public and, preferably, also private stakeholders specified in multiannual agreements, is also of French origin.

Stead and Nadin (2009) signal a general trend in which national planning systems adapt to pressures while remaining fundamentally the same. Thus, “Significant reforms are taking place to systems across Europe but outcomes are variable and strongly influenced by the prevalent planning culture and social model” (Burnham 2009, 296). Where there is change, as in The Netherlands and Denmark, it is the outcome of the victory of market liberals in hegemonic struggles.

### **European Integration and Shared Learning**

European affinities are older than recent manifestations of Europeanness focusing on the EU, say Clark and Jones (2008). Indeed, “While the integration narrative and Europeanisation’s underlying processes have tended to be conflated, importantly they are not the same” (Clark and Jones 2008, 303). The integration of Europe that culminated in the EU as we know it was the outcome of a long, drawn-out process. Putting EU policies in place has led to even more intensive exchanges of information. There are EU programs, such as student and trainee exchanges, and awards, such as the

annual designation of two European capitals of culture, that are explicitly aimed at stimulating shared learning. Such learning is not confined to the EU. The EU is attractive to those outside its borders, which are themselves constantly in the process of being renegotiated. Thus, the EU seems like an empire (Zielonka 2006) that is assimilating territory, but not by the power of arms. The theme here is how governments have been involved in configuring Europeanness. Referring to what is sometimes called the European Civil War, which ended in the mid-20th century, Clark and Jones point out that political elites

were aware of the potency of Europeanisation's shared transnational understandings, and devised the integration narrative to harness these processes. . . . Crucially this narrative has given contemporary Europeanisation's learning and socialisation a renewed direction and purpose, focused since 1957 [the year of the signing of the Treaties of Rome, which established, among others, the European Economic Community, forerunner of the EU] upon state institutional governance change. (Clark and Jones 2008, 303)

#### Europeanization as here conceived

is reproduced as much through exchange of specialised codified knowledge peculiar to "EUrope" as it is through the tacit micro-geographies of everyday life. . . . We argue, therefore, that Europeanisation proceeds independently of European integration although over the last 50 years the integration narrative has been critically important in shaping the focus of Europeanisation's coordinative . . . processes. (Clark and Jones 2008, 304)

Clark and Jones's statement is the justification for looking at shared learning and European integration as separate, but nonetheless related, processes. Shared learning refers to the diffusion of knowledge through the exchange of best practices and through imitation and the rescaling of national identities and interests. European integration means the emergence of supranational forms of governance converging on common norms, the reconfiguration of the territorial bases of authority, the multi-directional transformation of statehood through state actors assimilating EU policy, and common responses to global change that lead to adjustments in spatial frames of thought. Integration implies multidirectional social transformations through interpenetration and exchanges and also the projection, by means of soft power, of a hegemonic EU identity.

Clark and Jones also point out the entanglement of local, regional, national, and global processes in European integration and the importance

of underpinning processes of socialization and learning. Summarizing, they identify Europeanization as a process

springing from territorial propinquity, comprising myriad socialisation and learning processes that have been configured over centuries by distinctive patterns of European government and power. Suppression and/or control of these continent-wide processes has been integral to nation-state building, and the inherent tension between states and the supranational political project of building “EUrope” arises precisely because Europeanisation processes are both supportive of yet transcend national territory-government power bases. (Clark and Jones 2008, 313)

Transcending national power bases is central to the narrative of European planning.

### **European and National Planning**

Shared learning in planning has been part of international exchanges, including exchanges across the Atlantic, since before World War I. When European integration appeared on the horizon after World War II, planners, on the basis of their shared understanding, campaigned to get a share in this project. If nothing else, this led to more shared learning.

#### **Planners on the Road**

German zoning under police powers reached The Netherlands and the United Kingdom, where the Vienna Green Belt (as the name suggests, a belt of land to be left free from development around the built-up area of the city of Vienna) was also discussed in the first issues of the *Town Planning Review* in 1910. As a practical ideal, Ebenezer Howard’s *Garden Cities of Tomorrow* (1902) conquered the world, including the United States, as did Patrick Geddes’s ongoing advocacy and demonstrations of conducting thorough surveys before starting to plan. Less well known outside The Netherlands, Joël de Casseres studied in Dresden and at the Paris Beaux Arts and took the external examination of the Town Planning Institute, now the Royal Town Planning Institute, which made him lecture his more senior Dutch compatriots. At the same occasion, an international congress at Amsterdam in 1924, the example of the project of formulating a *Regional Plan for New York and Its Environs* inspired Dutch planners to propagate regional and eventually national planning. Drawing on his travels to the United States, De Casseres subsequently also brought the *New Deal* and the *Tennessee Valley Authority* to their attention.

Representatives of what the *EU Compendium* would describe as “urbanisme” attended one of a succession of meetings of the Congrès International de l’Architecture Moderne sailing from Marseille to Athens. An Austrian, Otto Neurath, presented his method for visualizing survey results. Through conferences and exchanges, planners also learned about spatial planning in the Third Reich, the sinister aspects of which were not yet wholly apparent.

Through their travels, spatial planners acquired an international orientation, but the real impetus for European integration came from economic necessity. There was early interest in economic planning. Amsterdam hosted the World Social Economic Congress in 1930, which discussed, among other things, the Soviet Five-Year Plan. Like World War I, World War II led to extraordinary resource mobilization, and there were arguments for economic planning to continue thereafter. These arguments were anathema to Karl Popper (1966) and Friedrich Hayek (1962), and such planning was soon tainted by its association with Soviet-style regimes. However, the French Commissariat Général au Plan, headed by Jean Monnet, who had had wide international experience before and during the war, including experience in managing the joint Allied war effort, practiced indicative planning by industrial sector, known as *planification*, as the antithesis to Soviet-style planning. It was the learning effect of this kind of cooperation, somewhat remote from land use planning, that was more germane to European integration.

The first postwar steps would not have happened without prompting from the United States, which was concerned that an impoverished and divided Western Europe might fall prey to the Communists, who had strong electoral support, especially in Italy and France. Thus, from 1947, the Marshall Plan, officially the European Recovery Plan, helped European economies reconstruct themselves. A clearinghouse, the Organization for European Economic Cooperation (which later became the Organization for Economic Cooperation and Development), propagated planning. Its director, the U.S.-educated Frenchman Robert Marjolein, held up the New Deal as an example.

Later, while still heading the Commissariat Général au Plan, Jean Monnet advised the Luxembourg-born and German-educated French minister of foreign affairs, Robert Schuman, on his European initiatives. Credited with being one of the fathers of European integration, Schuman announced on May 9, 1950, his government’s intention of creating the European Coal and Steel Community. This date is still celebrated as Europe Day. The community concerned two industrial sectors basic for recovery in which, for reasons of mutual dependence, particularly of the relevant German and French industries, cooperation was essential.

This pioneering effort was followed by the creation of the much more comprehensive European Economic Community (EEC) and the European Atomic Energy Community, better known as Euratom, aiming to develop a peaceful joint European nuclear sector, through the 1957 Treaties of Rome. Both treaties were signed by the six original members of the European Coal and Steel Community: France, Germany, Italy, and the three Benelux members (Belgium, The Netherlands, and Luxembourg, which had been united in an economic union since 1944). The EEC came into operation in 1958 and went through several permutations before the EU came into being in November 1993. The important institutional innovation was that all these successive organizations held supranational powers in areas specified in the respective treaties, the latest of which is the so-called Treaty of Lisbon that came into operation in December 2009. The need for supranational powers was the chief lesson that Monnet, according to his memoirs (Monnet 1976), had learned from previous involvement in international cooperation.

Albeit indirectly, the arrangement to formulate the relevant powers has already been alluded to when painting the fanciful scenario of a U.S. run along EU lines. Thus, an appointed independent European Commission has the exclusive right to initiate a legislative process based on the mandates given by the relevant treaties. Proposals go to the Council of Ministers, which represents member-state governments, and to the directly elected European Parliament, which represents the people. Member states are required to implement EU legislation in a process called transposition that gives them some leeway to adapt to national circumstances.

The reality, of course, is vastly more complicated, but the basic design has not changed since its beginning in the early 1950s. Despite its supranational powers, the EU is not a federation; it cannot amend or renegotiate the treaties on which it rests. The member states come together to make treaties in so-called intergovernmental conferences, and treaties have to be ratified by each state according to widely different procedures. For example, under their constitutions, Ireland and Denmark hold treaty referenda. Predictably, they have insisted on and received privileges.

What has not changed is a bias toward the formation of a single market, which is why customs barriers were the first to be eliminated in the EEC. The aim is free movement of people, goods, services, and capital, among other things, by bringing down both tariff and so-called nontariff barriers. Inventiveness in identifying nontariff barriers has been great. For instance, minimum environmental and workplace-related health standards have prevented unfair competition between countries. German planners have unsuccessfully mooted minimum levels of planning control (Ritter

et al. 2003), which shows that, like social and other policies, planning could come into the equation by the back door.

### European Planning on the Horizon

The planning elite viewed integration positively, in part because being given a share in European planning would strengthen their sometimes tenuous national position (table 7.1). An immediate issue arose from rekindling the coal and steel industry in the industrial basin straddling the borders between Germany, Belgium, Luxembourg, France, and The

**TABLE 7.1**

*Milestones in European Spatial Planning*

1946	Winston Churchill delivers “United States of Europe” speech in Zurich.
1947	The Marshall Plan for rebuilding Europe is put into operation.
1949	The Council of Europe is established.
1950	The Schuman Declaration leads to the formation of the European Coal and Steel Community.
1956	The Spaak Report proposes creation of European Economic Community regional policy.
1957	The Treaty of Rome is signed; it contains no provisions on regional policy or planning.
1958	France, Germany, Italy, and the Benelux countries form the European Economic Community. The Conference of Regions of North West Europe is set up.
1963	The European Commission organizes the “Conference on Regional Economies.”
1965	The “empty-chair crisis” leads to “Euro-sclerosis.”
1973	The United Kingdom, Ireland, and Denmark join the European Economic Community.
1975	The European Economic Community adopts regional policy, but no planning.
1981	Greece joins the European Economic Community.
1983	The Council of Europe adopts the Torremolinos Charter. The European Parliament asks for a European regional planning commissioner.
1985	Jacques Delors introduces a revamped regional or cohesion policy.
1986	Spain and Portugal join the European Economic Community.
1989	The French convene an informal meeting to consider an EU spatial framework.

*(continued)*

TABLE 7.1 (continued)

1993	The European Union comes into operation, creating unease about an “elite project.” An informal ministerial meeting decides to work on an intergovernmental European spatial development perspective.
1995	Austria, Finland, and Sweden join the European Union. The European Commission is disappointed at being marginalized.
1996	Transnational strand II C is added to the INTERREG Community Initiative, under which the European Commission has supported cross-border cooperation since 1990.
1999	An informal meeting under German presidency adopts the <i>European Spatial Development Perspective (ESDP)</i> . Under a new French commissioner, the commission ceases its support.
2004	The Treaty establishing a Constitution for Europe refers to territorial cohesion.
2004	Ten Central and Eastern European states, Cyprus, and Malta join the European Union. A ministerial meeting under Dutch presidency considers implications of a possible EU territorial cohesion policy.
2005	Work on “Territorial Agenda of the European Union” begins. French and Dutch voters reject the proposed constitution in separate referenda.
2007	The “Territorial Agenda” is adopted under German presidency. The Treaty of Lisbon is signed in lieu of the constitution.
2008	The European Commission publishes “Green Paper on Territorial Cohesion.”
2009	The Barca Report recommends integrated territorial development policies. The Treaty of Lisbon is ratified; territorial cohesion is now a competence shared between the Union and the member states.
2010	“Europe 2020” addresses competitiveness and gives marginal attention to territory.
2011	“Territorial Agenda of the European Union 2020” is adopted under Hungarian presidency of the European Commission. The Polish presidency of the commission links territory to “Europe 2020.”
2013	Financial Framework 2014–2020 with lower budget is nearly finished. Croatia joins the European Union as the 28th member.
2014	Financial Framework 2014–2020 comes into operation.

Netherlands. Bringing more miners into the German Ruhr area so the country could pay its indemnities after the Great War had been the occasion for a successful regional planning initiative in the 1920s. Now, the top of the planning establishments considered a joint approach that would be commensurate with the transnational scale of the problem. In the process, they allowed their German colleagues to escape from their pariah status. Soon, the focus of the planners’ attention became the EEC in the

making. In his capacity as a high-level civil servant, a member of the Dutch planning elite participated in the negotiations. The 1957 Treaty of Rome on the European Economic Community bears his signature as one of the two Dutch representatives. He lobbied unsuccessfully that planning be included among the responsibilities of the EEC.

The proponents of regional policies fared little better. During post-war reconstruction, most nation-states engaged in such a policy. Under the Belgian foreign minister, Paul-Henri Spaak, a commission preparing the European Economic Community proposed coordinating these national efforts with any future policies of the community. It also suggested a regional fund for what it called European projects and for distressed regions. However, national governments negotiating the treaty text paid only lip service to the “harmonious development of the Community territory,” a phrase included in the Preamble of the Treaty of Rome but without entailing concrete measures.

Planners formed the Conference of Regions of North West Europe under the presidency of the Dutch planning director. In The Netherlands, as elsewhere, short-term activity drove out long-term activity after the war. National planning was dwarfed by the Reconstruction Service, another Dutch government agency which was bent on building, no matter where. The Netherlands also embarked on a regional policy promoting industrial development that accorded limited influence to the planners. However, at least there was a confluence of opinion to deflect this development away from the core of the country, the Randstad. This would become a defining element of Dutch planning doctrine (Faludi and Van der Valk 1994). Planners formed a coherent mental map of their country and its development. The idea behind the Conference of Regions of North West Europe was to do the same on a larger scale. The conference identified urban development as forming a corridor from southeast England to northern Italy. This was the European counterpart of the East Coast megalopolis in the United States (Gottman 1961). In seeking a European mandate, planners often invoke the existence of transnational corridors (Dühr and Zonneveld 2012).

The prospect of the Channel Tunnel linking northwestern France with southeastern England provided another argument for transcending borders. A German chief planner produced a sketch plan for the Conference of Regions of North West Europe. The message was that the EEC should take on such challenges, but institutionalization is always a slow process. In the absence of any progress in this direction, The Netherlands and Germany concluded a bilateral treaty on cross-border planning, and Benelux, a kind of mini-EU, likewise attended to it. This corner of Europe forms fertile ground for planning cooperation.



Still, planning had no foothold in the EEC, but the Parliamentary Assembly, the predecessor of the European Parliament, argued for supporting distressed regions. An activist European Commission—promoting integration is its purpose—organized the *Conference on Regional Economies* in 1963. Commission president Walter Hallstein in person gave an opening speech, and Robert Marjolein, then its vice president, developed the idea. There was talk about *européen* (English was not yet a community language) *aménagement du territoire*—European planning, but obviously of the regional-economic kind. An expert from the Bretagne, a region aggrieved by its treatment at the hands of central-government services (Pierret 1984), played a prominent role. Indeed, regions began to look at the emerging EU as a source of support.

The initiative ran up against the French president, General Charles de Gaulle. The immediate issue was voting by qualified majority. This is a method now common in the EU Council of Ministers, giving different weights to the member states. At that time such qualified majority voting was foreseen to replace voting by unanimity, which gives each and every member state a veto. Under unanimity, France could thus reject any proposal to adopt a budget for the Common Agricultural Policy that failed to continue giving the French government the unique advantages that it was enjoying. Under qualified majority voting, the other member states could insist on a budget less favorable to France. France responded with a months-long boycott of meetings, known as the empty-chair crisis of 1965. It ended in national vetoes being sustained where matters of national interest are concerned. Henceforth, the dialectics between nation-states and Europe changed in favor of the former, leading to what was called Euro-sclerosis.

Meanwhile, disappointed planners had already begun to look to the Council of Europe, created in 1949, as the much looser formation with no executive authority which it is. There, a working group pursued the idea of European planning in 1968. The council eventually approved a non-binding charter for European spatial planning, also called the Torremolinos Charter (Conference of Ministers Responsible for Spatial/Regional Planning 1983) after the Spanish resort where the ministers had met and adopted it.

The departure of de Gaulle, who had rejected the idea of their accession, allowed the enlargement in 1973 of the EEC by the addition of the United Kingdom, Ireland, and Denmark. The EEC thus included all countries covered in this volume as members. A regional policy of sorts was introduced for the first time, but despite intentions to the contrary, national administrations saw to it that it remained a mere financial transfer mechanism by limiting even such meager planning provisions as were

included in the regulations. In particular, the United Kingdom was more interested in benefiting from what was then still called the Common Market than in integration as such, a fundamentally different perspective from that of some other members that still exists. However, in the early 1980s, just after the Torremolinos Charter was adopted, the European Parliament demanded that policies of what was then already the European Community should be coordinated with a view to the planning program in the Torremolinos Charter of balanced and integrated development and the preservation of the European heritage. Thus, the shared learning under the umbrella of the Council of Europe led to new initiatives for European planning. Indeed, the European Parliament asked for a commissioner for regional planning, not just, as was—and still is—the case, regional policy.

The heyday of European integration began under Jacques Delors, president of the European Commission from 1985 to 1995. He pulled the European Community out of its slumber. A seedbed of renewed planning initiatives was the restyled regional policy increasingly labeled the cohesion policy, the term introduced in the Single European Act of 1986 updating the Treaty of Rome. Since the time of Delors, the cohesion policy has pursued a programmatic approach. Beneficiaries are not only least favored regions as identified by GDP per capita adjusted for purchasing power and by unemployment rates, but also, albeit at a much lower rate, all other regions receiving incentives to improve growth and competitiveness.

Under the cohesion policy, the European Commission stretches its tentacles past national to subnational administrations and private stakeholders to mobilize what Delors called the *forces vives* (life forces). By bringing subnational authorities into the picture—France, which had inspired this approach, had created proper regions in 1982 and, according to a constitutional amendment, is now a decentralized state—this *multi-level governance* (Piattoni 2010) has become an EU trademark. States that are net contributors to the budget tend to dislike the cohesion policy, among others, precisely because it gives their own subnational administrations a voice in spending national taxes flowing into the coffers of the European Community. Regional and local administrations tend to support the European Commission as a counterweight to the sway national administrations hold over them.

### *The European Spatial Development Perspective (ESDP)*

The map of least favored regions, which shifts depending on the makeup of the EU, shapes the geography of the cohesion policy. French and Dutch national planners, together with European Commission officials, wanted a spatial framework for the cohesion policy that took account of the real

constitution of space and the impacts of other policies of the EU and other levels of government and administration. With their help, the commission should be responsible for formulating and applying this strategic tool to improve policy.

At the time, nobody seems to have considered the failed U.S. attempt in 1970 to pass the National Land Use Policy Act, which, according to Salkin in this volume, had similar intentions: a federal agency ensuring that other federal agencies would comply with state plans and providing federal funding for states to create similar agencies to coordinate with their local authorities. The act would thus have strengthened planning at all levels of government and administration, and a national data system would have been set up for this purpose.

The French-Dutch initiative was directed likewise at improving the situation of planning overall, not just adding one more level. For the French planning agency, challenged by a political leadership that was losing interest in rectifying imbalances between Paris and the regions (Burnham 2009; Massardier 1996), this was a strategy of creating a new position for itself as a linchpin between national and European planning at a time when the commission's president was Jacques Delors, a former French minister of finance and an ardent supporter of more integration.

The French national planners were the main initiators of European planning. In their efforts, they employed a tool of their trade, spatial scenarios. Their identification of the European core in a commissioned study (Brunet 1989) as what would eventually be dubbed the "Blue Banana" shaped European planning discourse. Barely straddling French territory in the northeast, so defined Europe's core bypassed France. With the iron curtain falling, French territory would become even more marginal in a Europe opening up to the east. The danger was acute for regions on the Atlantic Coast. Rectifying imbalances had been a key concern of French regional-economic planning, inspired by an early doomsday scenario, *Paris et le désert français* (Paris and the French desert) (Gravier 1947). The French state had effective instruments: government funding coordinated by the planners in a process involving the increasingly assertive regions. The European Community policy of including national, regional, and local public and private stakeholders in multiannual programming of the use of funds was similar. Thus, it was natural for French national planners to see the responsible European Commission officials, many of whom were French nationals, as allies.

Dutch planners, too, with an eye on the intended completion of the single market and the elimination of remaining nontariff barriers, considered the position of their small, export-oriented country in European space. Dutch national planning had evolved into a vehicle for formulating

strategy. The rhetoric, somewhat similar to that in France, invoked the allegedly marginal position of Danish Jutland jutting out from Europe's mainland into the sea as a metaphor and argued that The Netherlands would become the same unless its infrastructure connections improved. To address such issues, and following the example of a pioneering Dutch study, *Perspectives in Europe* (Rijksplanologische Dienst 1991), the Dutch country report for the *EU Compendium of Spatial Planning Systems and Policies* already referred to, saw an important role for Europe in spatial planning (CEC 1999d). Trust in the welfare state and national planning, as well as enthusiasm for the EU, have all but evaporated since. The diffuse and unpredictable impact of various EU policies prejudging planning issues (Ravesteyn and Evers 2004) has created unease.

The French-Dutch initiative would become the *ESDP*, which was not, as might have been expected, a document of the European Commission, but one prepared by the nation-states, albeit with help from the European Commission. Faludi (2002) and Faludi and Waterhout (2002) have recounted its making. Yet, even if planning did not become part of the European project, the shared learning it stimulated has been a bonus.

The initiative first took the form of informal meetings of national ministers. Eventually, they set up the equally informal Committee on Spatial Development. National planners on the committee made the creation of the *ESDP* into a process lasting until 1999, 10 years after the initiative was born. In addition to France and The Netherlands, of the nation-states discussed in this volume, Denmark participated enthusiastically. It defined itself as what a Danish document called the *green house in Europe* (Böhme 2002). Denmark had also gained relevant experience by participating in a planning exercise called Vision and Strategies Around the Baltic Sea 2010, a bottom-up initiative exploring spatial implications of the fall of the iron curtain in a corner of the world where, with the reinstatement of three independent Baltic states, the geopolitical situation was undergoing radical change.

However, from the time the European Union came into operation in November 1993, it was viewed with suspicion. A referendum in France had resulted in only a tiny majority in favor of adopting the relevant Treaty of Maastricht. Danish voters had rejected it until their country, whose voters were less enthusiastic than the planners, had been granted opt-outs from controversial provisions. The United Kingdom had also been granted opt-outs. For example, neither of the two is under an obligation to adopt the euro. More generally speaking, there was wide suspicion that the EU was an elite project. In their dialectic relation with the European Union, nation-states were regaining the upper hand, and this had effects on planning.

In addition, an EU spatial framework prepared by the European Commission would have enforced the programmatic approach to the cohesion policy. Indeed, to base EU support for regions on sound spatial analysis and a spatial strategy rather than on statistical indicators had been the idea. However, such a framework would be unwelcome to the main clientele of the cohesion policy, who were not national spatial planners, but ministers of economics or finance administering the funds received. Even where national planners were positive (not all of them were), more powerful national actors unwilling to listen to the planners were reining them in. Relations were at issue not only between the EU and its members, but also among different national bureaucracies.

German planners had other reasons to be apprehensive. As noted in this chapter, Germany pursues a comprehensive-integrated approach in which planners of the *Länder* (federal states) are chiefly responsible for planning. For the first time, however, serious national planning issues existed. German reunification had resulted in huge differences within what was now one nation-state. Without prejudice to the distribution of formal powers, federal and *Länder* planners jointly produced a spatial strategy. This first, informal national document not only dealt with integrating German space, but also re-conceptualized the spatial position of Germany from being at the eastern edge of Western Europe to being in the heart of a new Europe. Poland and Czechoslovakia were viewed as new neighbors with whom to seek cooperation.

This boosted the position of federal planners, who were called on to participate in the emerging European planning initiatives. Here, the otherwise dominant German *Länder* had no standing. Federal planners had to articulate German interests, including the interests of the *Länder*, but conceding the statutory powers of the *Länder* to the EU was out of the question. German planners thus seized on the fact that the treaties gave the EU no explicit planning mandate. Instead, their position became that, like the *Länder* in the Federal Republic, in the EU, too, the lower level, that is, the nation-states, should be calling the tune. The German tactic of throwing the rule book at whoever proposed an EU spatial strategy changed the relations between national planners and the European Commission. Further, apprehension about the EU in general was growing, so an EU spatial strategy became suspect also in other nation-states. A new Dutch planning director opined that it would be absurd for the European Commission to rule on a vast, somewhat controversial Rotterdam port extension. Rotterdam, however, sits on a main transport axis to the European hinterland. Therefore, it has a much wider impact than just on The Netherlands. It also competes with other European ports. Thus, a

common concern existed, but the Dutch national interest in the success of this main port prevailed.

In France, an EU spatial framework was attractive to the planners and to the ministry responsible because it would beef up the country's position, but others were less enthusiastic. Anyhow, the Germans had framed the issue in terms of giving up sovereignty, which raised French eyebrows too. As the text of the national anthem, the "Marseillaise" (sung by citizen soldiers rallying to the defense of French territory against invading European monarchies and royalist forces trying to undo the French Revolution), shows, territory had been a defining issue in the formation of national citizenship. Assuming control over territory had not been the idea behind European planning initiatives, but a spatial strategy for the more effective application of the cohesion policy and preferably also of other EU policies with spatial or territorial implications had. Once the issue had been framed in terms of sovereignty, European planning was a stillborn idea.

There were also more mundane reasons for opposing it. An EU spatial strategy would have strengthened the hand of the European Commission in administering the cohesion policy. The commission might invoke it to add further conditions, already a bone of contention, to grants offered. Recipients like Spain were apprehensive that, to meet what they perceived as northwestern European concerns, they would have to modify their preference for using EU funds for infrastructure investments.

The European Commission's idea of preparing a spatial strategy or vision to undergird the cohesion policy, and conceivably other policies with a spatial impact, was thus a nonstarter. At their informal meetings, national ministers responsible decided to prepare what was to become the *ESDP* as an intergovernmental document giving an indicative framework. On the occasion of the next treaty amendment, the Germans, who during their 1994 presidency had taken a strong hand in preparing the *ESDP*, suggested that it become binding on EU policy makers. In the German federal setup, bottom-up initiatives sometimes become federal policy, but a European Commission official who learned about this suggestion in conversations brushed it aside. The commission jealously guards its right of initiative.

Nobody could have prevented the commission from formulating a strategy strictly for its ongoing policies with a spatial or territorial impact, but for two reasons, it did not do so. One was that it did not have the capacity. The commission would either have to rely on consultants, not the best way to prepare an EU-wide strategy that would require much consultation, or on planners from the nation-states. Relying on national experts during the preparation and the implementation of EU policies is standard for a European Commission strapped for personnel, so presumably, when it

embarked on the exercise, what the commission had in mind was a committee, like many other committees operating in Brussels, of national planners chaired by one of its own staff. Expecting this to be the eventual outcome, the commission gave the informal Committee on Spatial Development the same financial and logistical support it gave to official committees, and the committee heavily relied on this support. Rather than a commission official, as would normally have been the case, the committee was chaired by a representative of the rotating six-month EU presidency. Depending on the type of planning which it represented and on its attitudes toward and interests in European planning, each presidency thus puts its own stamp on the proceedings. The succession of informal ministerial meetings to which the Committee on Spatial Development reported was likewise chaired by a national minister of the country that held the EU presidency.

The second reason that the European Commission would not develop a spatial strategy without the member states is that the commission's experts involved were somewhat marginal within the commission's services. Their director general once described them as the dreamers of his service. However, even if he and his service had thrown their full weight behind such a strategy, they would have faced endless struggles with other branches of the complex organization. The commission is divided into directorates general for specific policy areas that enjoy good contacts with relevant national ministries sharing their ideologies and concerns. Even the directorate general for regional policy, where planning enthusiasts could be found, was and continues to be divided. The majority of the staff members are involved in administering the cohesion policy, which is complex and politically controversial. Smooth relations with their clients, who are not always planners, are important, and a planning framework is a potential nuisance. Planning enthusiasts would have had difficulty in getting an EU spatial planning framework accepted, even within the commission. Support from national planners would be essential, but this was in short supply. A common interest between the commission's planning enthusiasts and national planners—who were confronted with the same type of resistance from line services opposed to planning and to planners wanting to get a handle on the spatial impacts of their projects and policies—failed to develop.

When the *ESDP* (CEC 1999e) finally appeared, it advocated a spatial approach that amounted to integrating policies as they affected space, or territory. Although this idea is central to the comprehensive-integrated approach, it is far from commonplace even in the nation-states pursuing that approach. Line services, called sectors in European planning jargon, are often fiercely independent and not enamored of spatial planners calling for coordination. The unexpected impacts of EU policies with a spa-

tial impact, of which the *ESDP* gives an overview, in the territories of the nation-states and their subnational administrations was the rationale for the *ESDP*'s spatial approach, particularly since such impacts became evident at national, regional, and local levels. This justified casting a critical eye on top-down EU sector policies from the bottom up. Integration would be reasserted later, but with a different twist, in the so-called Barca Report (Barca 2009), which argued for integrated territorial development policies, but did not refer to spatial planning, let alone the *ESDP*.

The *ESDP* also identified three spatial policy guidelines that reflected the earlier philosophy of the Council of Europe: (1) polycentric development, the counterpoint to the Blue Banana; (2) parity of access to infrastructure and knowledge; and (3) responsible management of the natural and cultural heritage. National planners involved were generally persuaded, but whether they convinced others is unclear. The *ESDP* narrative is about the parties involved thrashing out a joint position that was internally not quite consistent; a consistent position would have supported a stronger role for the commission.

### Shared Learning

The effects of the *ESDP* varied. In Southern Europe, planning academics and some practitioners learned some lessons about governance that amounted to cultural innovations (Giannakourou 2005). The northwestern European nation-states that had promoted the *ESDP*, The Netherlands and Germany in particular, paid almost no heed to it, and France put its money on a new discourse of territorial cohesion rather than making spatial planning an EU policy. The Labour government in the United Kingdom made attempts to emulate the *ESDP*'s message, but generally the message seemed destined for others (Faludi 2004). Ireland seemed impressed and produced the National Spatial Strategy in the wake of the *ESDP*.

There was more of an echo within the planning academia and the planning profession than within practice. The *ESDP* made planners appreciate one another's positions and the advantages of joint action. However, planners failed to resolve the conundrum of an EU role. Recognition that the EU had a role would have strengthened not only the position of the European Commission, but also their hands in dealings with others, like line agencies (called sectors) in Europe.

The learning effect of engaging in the *ESDP* process went beyond mutual respect and appreciation among those closely involved. A Community Initiative, under which the European Commission was allowed to spend some cohesion policy funds more or less at its discretion, led to cross-border, transnational, and, eventually, so-called interregional cooperation.



Because of the enthusiastic response, this initiative contributed to creating a veritable learning machine (Faludi 2008) that continues to operate, now in the framework of regular cohesion policy. Of these three strands, the transnational one was introduced specifically to support the efforts undertaken in the framework of creating the *ESDP* in 1996. The idea was to give not only national, but also, and in particular, regional and local planners and other stakeholders experience in transnational planning and, by so doing, to make them more likely to support European planning. Now in its fifth programming period (2014–2020), and although spatial planning as such is no longer on the agenda, all three strands are continuing, sharing in the enhanced status of an official cohesion policy objective called European Territorial Cooperation. The learning effect is widely recognized (Dühr, Colomb, and Nadin 2010; Dühr, Stead, and Zonneveld 2007). European planning may have stalled, but shared learning continues, with the cohesion policy as its main sponsor.

All this took place against the backdrop of the failed attempt in the early years of the 21st century to give the EU renewed impetus through a treaty framed as a constitution. Its replacement, the Treaty of Lisbon, which finally came into force in late 2009, is in many respects a carbon copy, but the odium of failure sticks. In addition, EU competitiveness, recognized as a key issue since the announcement in 2000 of the Lisbon Strategy, which aimed bravely at turning Europe into the most competitive region of the world by 2010, seems impervious to attempts to improve it. This larger narrative envelops all discussions of EU policy.

In the framework of the constitutional debate, the European Commission replaced all talk about spatial planning with a new concept reflecting a French discourse in terms of territorial cohesion. Territorial cohesion seemed a logical complement to the existing treaty objectives since the mid-1980s of economic and social cohesion under which the cohesion policy operated. Territorial cohesion thus found its way into the Lisbon Treaty. It is appropriate to ask whether pursuing it means anything else than strategic spatial planning. The French, who injected territorial cohesion into the debate, have no qualms about seeing it as the same as their *aménagement du territoire*, or regional-economic planning according to the *Compendium*. Territorial cohesion was a greater challenge to German planners. They had little voice in administering the cohesion policy in Germany, and the very concept was alien to them, as it was to many others. In any case, they saw it as separate from spatial planning. This is true to the extent that territorial cohesion does not concern land use, at least in any regulatory fashion.

Any U.K. government has to take account of widespread Eurosceptic sentiments. In any case, the present coalition of Conservatives and Liberal-

Democrats favors localism and is inimical to strategic planning. Therefore, the U.K. contribution to European planning will continue to be limited to the sterling work of government planners, consultants, and academics cooperating with other nationals when they get the chance.

This is the interim position reached in another intergovernmental process, after a pause of several years, which in the wake of the *ESDP* led to two further documents of the member states. The first, *Territorial Agenda of the European Union* (TA 2007), was adopted under the German presidency in 2007. It built on the results achieved in the framework of the European Spatial Planning Observation Network (ESPON), which somewhat resembles a national data set, but has wider ambitions to provide a research base for planning.

The twisted story of ESPON begins with the *ESDP*. Most prefer to forget the original name. The current name is the European Observation Network for Territorial Development and Cohesion, but the acronym ESPON remains in use. Faludi (2008; see also Böhme and Schön 2006) talks about the origins and implementation of the idea of evidence-based planning on which ESPON is based. In fact, ESPON is not only about collecting evidence pure and simple. Its Coordination Unit, based in and supported by the government of Luxembourg, is involved in low politics, including bureau politics, against the backdrop of the high politics of the EU. This is about funding, and to this end, synthesis reports seek to demonstrate the relevance of ESPON to the concerns of the European Commission, the member states, and their evolving agendas. Any kind of synthesis involves making choices, but the timing of the reports suggests that they are intended to influence policy, in particular concerning ESPON itself.

Concern for building a constituency has led to programs involving not only researchers, but also stakeholders. To date, ESPON has commissioned 23 so-called targeted analyses that present, as the ESPON website puts it, a new type of projects exploring, in partnership with stakeholders, the potential use of existing findings.<sup>1</sup> These projects thus work according to briefs formulated from the bottom up, addressing practical needs rather than researcher priorities. Davoudi (2006) has aptly described ESPON as pursuing evidence-informed rather than evidence-based planning. Because the ESPON program is approved by a Monitoring Committee composed of representatives of member states and the European Commission, it is also the outcome of political bargaining. One can view this committee as a stand-in for a nonexistent planning group of the commission

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<sup>1</sup> As of early 2014, the total count of projects started was 66, with a total budget of €47 million (about \$57 million).

(in EU jargon, what is called a comitology committee) where national representatives can share in the conduct of community planning business.

Presently, under the territorial cohesion flag, ESPON is the mainstay of European planning. With its well-oiled Coordination Unit, and with the Luxembourg government giving support and looking after financial management and control on behalf of the European Commission, ESPON is in fact the only game in town. It stays well clear of the discussion about national and European planning. Instead, it promotes shared learning, not only among expert researchers, hundreds of whom are involved in transnational project groups formed around a lead partner, but also among the practitioners involved as stakeholders. Thus, ESPON has the potential to become a stimulus for a renewed effort to institute European planning of whichever kind. Projects under its first program, like a scenario study (Lennert 2008) and another on *Europe in the World* (Beckouche and Grasland 2008), already held that potential. Under its current program, another scenario study looking forward to 2050 is under way (Doucet and Drevet 2014).

As indicated here, the 2007 *Territorial Agenda* sought to build on shared learning in the framework of the ESPON program, among others. This strengthens the case for giving planners a say in adjusting line or sector policies to local, regional, and national circumstances. Attitudes of the planners involved to EU territorial cohesion were on the whole guardedly positive, but by that time, the commission itself had become less proactive. Without much conviction, it published the *Green Paper on Territorial Cohesion* (CEC 2008). Most of the hundreds of reactions were favorable, but some were distinctly less so, notably those of the United Kingdom and the Economics Ministry in Germany, under whose remit the cohesion policy falls. This augurs badly for the prospects of any commission initiative to legislate in matters of territorial cohesion. Other than in the *ESDP* process, the objection could never be that there is no EU competence in the matter. However, it is a shared one, meaning that EU members have to agree to any commission proposals. Member states, or at least some of them, are likely to argue that the EU should not assume this particular competence by invoking the subsidiarity principle. Under that principle, the EU should assume competences (mandates) only in matters that the member states themselves cannot deal with adequately. Some nation-states would surely invoke this principle. Indeed, this is what Germany and the United Kingdom did in their reactions to the *Green Paper*. Thus, any commission proposal would be controversial. Controversy on a minor issue like territorial cohesion was the last thing the commission needed at a time when the *Financial Framework 2014–2020*, and with it the future of the cohesion policy, was at stake. The controversy has ended, but the commission still refrains from invoking the concept of territorial cohesion.

In another initiative more directly related to the cohesion policy, the commissioner for regional policy invited a group of experts to consider its future. Named after its chairman, Fabrizio Barca (2009), without mentioning spatial planning, the Barca Report asked for place-based, integrated territorial development policies. If these were put into practice, they would satisfy a key ambition of the *ESDP*, that of implementing the spatial approach, and would also come close to one of the key ideas behind territorial cohesion, to coordinate policies as they affect territory (table 7.2).

In the meantime, the bigger story is that the commission prepared and the European Council approved a master strategy to boost EU competitiveness, *Europe 2020: A Strategy for Smart, Sustainable and Inclusive Growth* (CEC 2010). Grudgingly, the final version acknowledges the need to take account of territory, but it does not say how. In parallel, an update of the 2007 *Territorial Agenda*, *Territorial Agenda of the European Union 2020* (TA 2011), addressed the issue of how spatial planning could support smart, sustainable, and inclusive growth, which are the express concerns of *Europe 2020*. The Polish EU presidency of the second half of 2011 convened a team of national experts, some of them with *ESDP* credentials, and did its best to render such suggestions concrete (Zaucha et al. 2014), but none of the successive EU presidencies since then have seemed to care.

What is remarkable about the process just described, from the 2007 *Territorial Agenda* to *Territorial Agenda of the European Union 2020* and the strong Polish stand on such matters, is the role of new actors, mainly, but not exclusively, from the new member states in Central and Eastern Europe. The 2007 *Territorial Agenda* was prepared with their full participation, but none of them held an EU presidency during that period. Immediately after the Germans oversaw the adoption of the 2007 *Territorial Agenda*, Portugal did hold the presidency and launched an action program to take the agenda further. Holding the first presidency ever of a new member state, Slovenia pursued this very actively in 2008, followed by France. Hungary was responsible for the adoption of *Territorial Agenda of the European Union 2020* in 2011, and, as indicated, Poland, following immediately thereafter, made a huge effort to bring the debate closer to mainstream cohesion policy. Clearly, this all happened because planners from the new member states had learned about the idea and collaborative practices of European planning. That they were now holding EU presidencies for the first time according to a fairly arbitrary schedule that reflects many political considerations helped. In 2014, Greece and Italy hold the presidency, and their focus has been and still is on the Mediterranean and on the debt crisis that is affecting them badly. 2015 will see Latvia and Luxembourg holding this position until The Netherlands takes over in early 2016, but as noted, this country is now much less enthusiastic than it used

**TABLE 7.2**

*Institutions, Agencies, and Organizations Active in Spatial Planning in the European Union*

**European Union (EU):** The European Union is an unprecedented regional grouping of European nation-states with wide-ranging mandates.

**European Community (EC):** Name before establishment of EU.

**European Economic Community (EEC):** The European Economic Community was established in 1958. Sometimes streamlined as the European Community.

**European Coal and Steel Community (ECSC):** The European Coal and Steel Community was established in 1950 to create a joint regime for coal and steel production and distribution.

**European Commission:** The European Commission is the executive arm of the European Union and has the sole power to make legislative proposals.

**Council of the European Union:** The Council of the European Union (also known as the Council of Ministers) consists of national government representatives who make decisions on proposals.

**European Council:** The European Council is composed of heads of state and governments of all member states giving overall direction to EU policy.

**European Parliament:** The European Parliament is a directly elected assembly with powers of co-decision-making.

**Parliamentary Assembly:** A consultative body of the European Economic Community, the forerunner of the European Union, composed of national parliamentarians. Subsequent to being directly elected in 1979, reconstituted as the European Parliament.

**Informal ministerial meetings:** Semipermanent assemblies of national ministers considering the *ESDP* and the “Territorial Agenda.”

**Committee on Spatial Development:** An informal committee of national experts who prepared the *ESDP* and the “Territorial Agenda.”

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to be. So whether it will do what has been agreed under the *Action Programme* in pursuance of the *Territorial Agenda of the European Union 2020* in 2011, which is to revise that document, is still unknown.

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Whether and how this whole narrative will continue remains to be seen. Hard pressed as the EU is by the current crisis and with all eyes fixed on the next *Financial Framework 2014–2020*, the European Commission has been soft-pedaling territorial integration and territorial cohesion, let alone acknowledging that there is any mention of European spatial planning. Now that this is over, enthusiasts at the commission and among national

planners, despite waning support for national planning, may want to resume their efforts, and the debates over national and European planning may continue. Meanwhile, the greatest gain has been the shared learning about planning systems and practices and about the new, unusual cross-border and transnational spaces that are emerging and what they may mean for the EU's chief concern, competitiveness. Indeed, if the initiative is ever restarted, not only by national planners of a select few EU members, but also by others, including the commission, the existing fund of experiences, thanks to ongoing support for cross-border, transnational, and interregional planning under European Territorial Cooperation, Objective 3 of the cohesion policy, among other factors, this accumulated capital may enhance its benefits.

These are not, however, propitious times for discussing European planning. True, the EU's financial framework has been settled before the end of 2013, and, although the multiannual budget has been cut for the first time in the history of the EU, controversies about the cohesion policy as one of the largest spenders of EU funds have abated. The survival of the cohesion policy may be sufficient for the prospect of some form of European planning in the future, but certainly not under this name. The European Commission has announced that territory, not territorial cohesion, will play a role in the management of the funds, and some of the regulations discussed now point in this direction. Also, new macro-regional strategies for the Baltic Sea area, the Danube space, and recently, the Ionian, Adriatic, and Alpine space, have been announced that will play some role in the future allocation of what is now called the Regional and Investment Funds. However, the conflict over attitudes toward European integration continues and has dominated the campaign in the European Parliament elections in early 2014. Because of changes to the rules introduced in the Lisbon Treaty, these elections have been more important than ever. The impact of these elections on the composition of the European Commission coming into office in November 2014 has been strong. One nightmare scenario that Eurosceptic parties will make strong inroads has not come completely true, but the elections posed other issues. Each of the member states has nominated one commissioner, but the European Parliament's opinion carried weight in the appointment of the commission's president. In the end, the right-of-center political faction in the European Parliament came out on top and its candidate, former Luxembourg Prime Minister Jean-Claude Juncker, has become the President of the European Commission. This process was a messy one even so, creating unease and ill-feelings with some member states. The tension between national and European concerns that has dominated the story of European planning has taken another twist.

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## *Commentary*

BRENDAN WILLIAMS

**A**ndreas Faludi's chapter examines the ideas and practices arising from the dialectics among elites involved in the planning and building of what is termed "Europeanization," which is linked to the evolution of member states of the European Union (EU). In examining the successes and failures of the process, Andreas Faludi finds that there has been much shared learning for both the EU and the United States. The future is open, but the Europeanization of planning will have a lasting effect. The rapid expansion of the EU's jurisdiction and administrative power seems to lack much critical thinking and can be viewed as overextended in scope from what is practical.

The introduction of the chapter contrasts the fully fledged union of the United States with the still-evolving EU, which does not have clear geographic boundaries or political limits. It asks whether the many conflicts of interest among the members of the EU, nation-states in their own right, affect policy making, with some countries seeing benefits in an activist EU and others not. Faludi distinguishes between planning and Europeanization, the forming of common European outlooks. This distinction aids analysis of the past and assessment of future contingencies in the face of planning. Faludi concludes that planning has become Europeanized to such a degree that a return to inward-looking national planning is inconceivable.

The enormous economic recession and financial crisis since 2008 has significantly weakened the ambitions of political leaders for a more integrated Europe that were prevalent in the 1990s and earlier periods. Indeed, in recent years, the EU faced serious questions about its future existence and role. The economic recession, the financial crisis, and the austerity policy response have led to ongoing transformations in political and state regulatory processes, including planning. Most fundamentally in Europe, the crisis has rekindled many major political tensions, both in the EU and within individual member states. The announcement in 2013 by the governing Conservative Party in the United Kingdom of a commitment to negotiate a new basis for membership, followed by a future referendum on continuing membership or exiting the EU, has opened a Pandora's box of potential outcomes. At the same time, Scotland voted No in a referendum on Scottish independence and leaving the United Kingdom, but the Scottish groups promoting separation wish to remain in the EU. Similarly, in Spain, the issue of an independent Catalonia with the capital in Barcelona has been reignited, and similar political movements in the Basque region are seeking separation from Spain and retaining EU membership. Although it is likely that, as in all previous crises, the EU will survive, the previously unthinkable notions of nation-states breaking away from the EU and of internal breakup of nation-states are now at least a possibility.

The chapter excellently covers the role of EU processes in the evolution of European planning systems, but it says little about the key globalization trends that may transcend the EU and its influence on planning and development systems in its member states. One of these trends is the role of international financing of the urban development process, under which local planning and policy aspirations may no longer be dependent only on local economic inputs, but may become part of a pattern of wider international capital flows. This has moved both the planning and the supply of urban development from being largely linked to and derived from real economic regional growth trends to being subject to large capital flows seeking investment opportunities on a global basis. These trends, coupled with large-scale financial deregulation in peripheral EU economic areas since the era of the European Monetary Union, have produced a more pronounced cyclical pattern with significant booms and busts in Ireland, Spain, Portugal, and Greece.

Faludi notes that shared learning has been part of international exchanges since before World War I. It should be added that pan-European influences have been evident in planning in every historical period. One might also point out key earlier influential approaches to planning and urban management in the 19th century, such as the Hobrecht Plan in Berlin and Georges-Eugène Haussmann's renovation of Paris (Hall 2014).

Dealing with the modern period, the chapter outlines an evolution commencing with the Marshall Plan, officially the European Recovery Plan, which aided the reconstruction of impoverished European economies. The ruination of Europe by the end of World War II is difficult to imagine today; the majority of buildings and most of the infrastructure in cities such as Berlin were totally destroyed. This experience encouraged a generation scarred by war to seek progress through enhanced cooperation and cohesion at all levels rather than conflict.

The role of planning as a policy area has been historically sensitive within the European Union because control over territory and the competences to plan within it are seen as defining characteristics of a nation-state. Individual national governments may not wish to engage with one another over physical planning, and they have the right to take primary responsibility for such matters. In earlier works, Faludi (2002, 2010) has developed the argument that strategic planning at the EU level informs decision making in practice through exchange of information by experts, rather than as a direct influence on outcomes.

Faludi sees diminished trust in the welfare state and national planning and waning enthusiasm for the EU itself, not just for its planning role. Some success, however, can be seen in the *European Spatial Development Perspective* and the European Spatial Planning Observation Network (ESPON), which provide a voluntary guidance framework and support policy development by applied research and technical assistance. This limited consensus-driven approach is also necessary because the European Commission can not develop a spatial strategy on its own. Like national administrations, it is divided; its directorates general have good contacts with relevant national ministries and share their ideologies and concerns, including, as in many European countries, integration fatigue. In the meantime, the chapter sees important future development in “Europe 2020: A Strategy for Smart, Sustainable, and Inclusive Growth” (CEC 2010), a master strategy for boosting EU competitiveness prepared by the European Commission and approved by the European Council. Faludi concludes that the survival of the cohesion policy may be sufficient for the prospect of some form or other of the Europeanization of planning.

In particular, the current European financial crisis has significantly eroded a traditional view of city and state planning as regulating and managing conflicting interests to ensure economic and social progress and security. The catastrophic economic and societal consequences of the collapse of property markets in peripheral EU states have led to critical evaluation of planning and development systems from a variety of political and ideological perspectives. Critics with a free-market perspective frequently cite the inefficiencies of state interventions, planning, and controls. Such

critics also focus on the role of state subsidies, incentives, and supports in distorting functioning markets. Meanwhile, the left-wing perspective frequently argues that the role of the state and planning systems in mediating conflicting interests has become dominated by support of existing and future investor interests, often under the guise of entrepreneurial-type planning systems. From this perspective, this support is seen to lead to the bailout of such interests at the expense of general taxpayers and citizens. It is this crossfire of international financial tensions and competing criticisms, both within Europe and beyond, that is increasingly shaping the nature of EU planning systems.

While the influence of the EU has led to significant lasting improvements in many aspects of environmental regulation and standards, its impact on the statutory planning system has been less significant. For example, the National Spatial Strategy and the reform of the planning system in Ireland that were derived in part from EU ideas like the *European Spatial Development Perspective* proved to have limited impact in the face of development boom-to-bust pressures. The earlier, now seemingly golden period of the EU as an undoubted contributor to enhanced economic development and progress on wider societal and environmental issues has ended. Support for a widening and deepening of EU involvement in influencing and integrating policy approaches in European states has lessened.

The history of the EU has been that agreements and positive solutions are reached only after protracted negotiations and real prospects of failure. Thus, it is to be hoped that better initiatives to achieve a collective better future for EU citizens will emerge from the current crisis. Real progress for EU citizens has been made in regard to rights developed under the EU, including improved working conditions and welfare. In addition, the success of the EU in bringing about the first continuous period of peace and stability among the competing states of Europe, for whom war had been a multigenerational experience, can not be overstated. Overcoming the present challenges in the economy and in planning and managing development roles remains within the powers and scope of this generation if the political will can be found.

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## The National Spatial Strategy for The Netherlands

BARRIE NEEDHAM

A national spatial strategy is a strategy for influencing the distribution of people and activities within the national space. Only the national government can decide to pursue such a strategy and determine its content; it is the choice about how much of the spatial development of the whole country the national government wants to regulate or guide. Inevitably, that decision constrains the decision space of local governments, for local governments must at least take account of the national strategy. In another way, too, the national government constrains the decision reach of local governments because it determines through its planning legislation what powers local governments need to pursue their own spatial strategies.<sup>1</sup> Thus, a national spatial strategy determines the division of planning powers and responsibilities between the national government and other levels of government. One focus of this chapter is the relationship between national spatial strategy and local spatial strategy in The Netherlands, and how it has changed.

Once the national government has decided what it wants to regulate, it needs to decide what measures it will implement. A national government

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Thanks go to my colleague, Professor Hans Mastop, for very useful comments on a draft of this chapter, and to the Ministry of Infrastructure and the Environment for information.

<sup>1</sup> It must be added that the extent to which a national government may constrain local governments might be limited by the national constitution or jurisprudence.



can influence the distribution of people and activities throughout the national space in many different ways. One way is by making a national spatial plan, which shows the distribution of people and activities that the national government desires. There is a long tradition of Dutch national governments making national plans,<sup>2</sup> which are well known to the international planning community. Less well known is how the Dutch national government has tried to realize those plans. A national spatial strategy can also be pursued without a national plan, for example, by making subsidies available for projects of national importance, such as large-scale infrastructure. Even less directly, it can be done by means of general rules or guidelines, for example, regarding out-of-town shopping centers or installations that could endanger public health and safety. Even the laws on how the various levels of government may regulate spatial development in their jurisdictions influence the distribution of people and activities throughout the national space. The second theme of this chapter is how the Dutch national government tries to realize its spatial strategies.

From the end of World War II to around 2004, there was remarkable continuity in Dutch planning at all levels, which has been seriously disturbed in the past 10 years. The current national spatial strategy cannot be understood without knowing the tradition against which it evolved. Moreover, the current strategy has not yet influenced the distribution of people and activities throughout the national space. For these reasons, the current strategy is placed not at the center of this chapter, but toward the end, in context and as an illustration of one way in which the Dutch practice national spatial planning.

## **Geography and General Structure of Government**

The Netherlands has a population of about 16.5 million living on about 37,000 square kilometers (excluding the coastal waters). The population density is thus 446 per square kilometer, higher (485) if one excludes the inland waters (the land area is about 34,000 square kilometers). The population and area are roughly the same as those of the southeastern part of England. Compared with other regions too, the population density is high but not exceptional: the two regions that border it, Flanders (part of Belgium) and North Rhine–Westphalia (part of Germany), have similarly high population densities.

After World War II, the population grew rapidly, but growth has slowed and is expected to cease after 2035. In the more peripheral areas, the pop-

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<sup>2</sup> The Dutch call them national spatial planning policy reports rather than national plans.

ulation, the number of households, and the number of people of working age have already started to decline because the population there is aging, and few people migrate to those areas. The population is still growing, albeit slowly, in the west of the country, in particular, in and around what is called the Randstad, which includes the cities of Amsterdam, Rotterdam, The Hague, and Utrecht. There, the population is younger, and the area is attractive to immigrants because work is available. Ironically, it is in this part of The Netherlands that building conditions are most difficult. Twenty-four percent of the national land area is under sea level, and most of this is in the western part. Much more land is liable to flooding (not only from the sea but also from rivers), and much of this land too is in the west (figure 8.1). Also, the soil in that part of the country is peat, which is expensive to build on and, moreover, is slowly subsiding.<sup>3</sup>

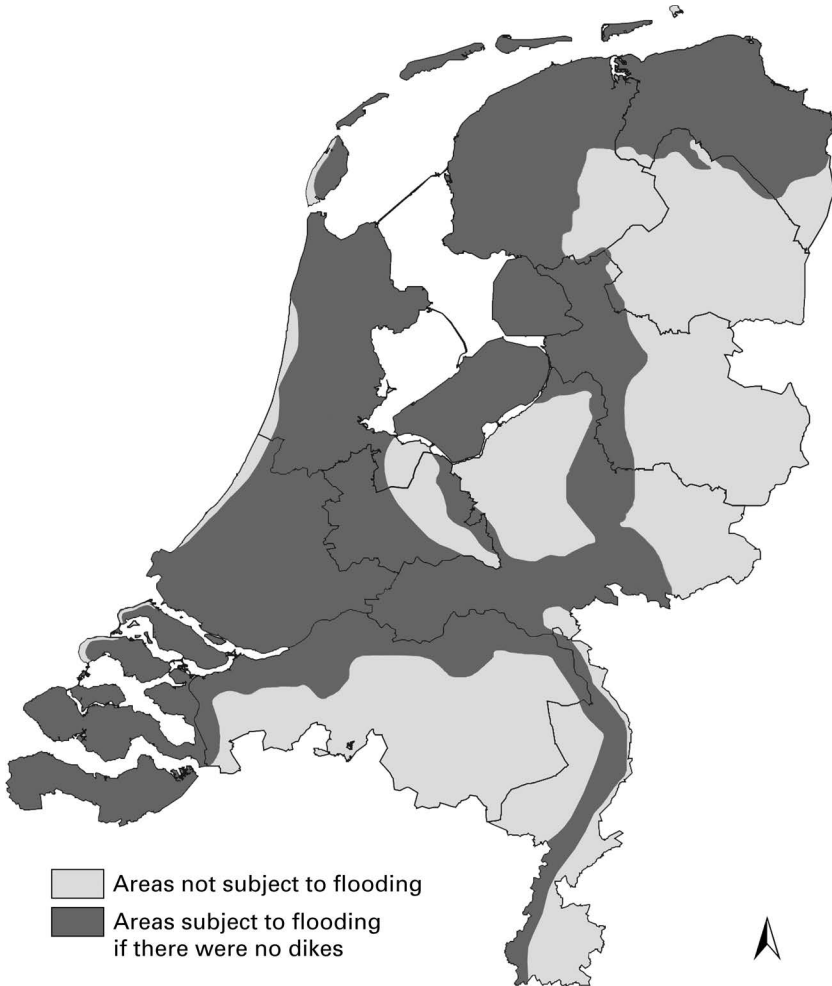
The powers of government are distributed over three levels: national, provincial, and municipal. There are 12 provinces and currently 418 municipalities, but the number of municipalities is constantly declining because of amalgamation (figure 8.2). Constitutionally, The Netherlands is a decentralized, unitary state. Decentralization refers to the distribution of powers that provides the provinces and municipalities with formal autonomy. Unitary refers to the principle that one public body may not pursue policies that conflict or are inconsistent with policies of other public bodies. The apparent oxymoron “decentralized unitary state” is resolved by giving the national government the power to overrule provinces and municipalities, and the provinces the power to overrule municipalities.

For decades, there has been inconclusive debate about instituting a regional level of government between the provincial and the municipal levels. There is agreement that it would be useful to have spatial planning at that level; the disagreement is about how that should be done. Municipalities, in particular, are very jealous of their powers. There are formal rules for voluntary cooperation between municipalities, and in 2006, such regional cooperatives were given formal powers to engage in spatial and transport planning, among other activities.<sup>4</sup> The national government has now withdrawn those powers and has given the task of fostering inter-municipal cooperation to the provinces. Where municipalities do want to work together voluntarily, this can be quite effective because the agreements that they make are at least morally binding.

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<sup>3</sup> There is much misunderstanding about the Dutch creating land. Much land that was so boggy that it could not be used at all has been drained in the past centuries. Some land has been reclaimed from the sea, but less than has been lost to the sea over the past 2,000 years.

<sup>4</sup> There were eight special regions which had these powers.



**Figure 8.1** Areas Subject to Flooding in The Netherlands

*Source: Needham (2007).*

Vertical coordination involves the powers for making the decentralized unitary state work and how those powers are used. The questions of vertical and horizontal coordination are of great importance for spatial planning in The Netherlands, primarily because of the challenges posed by the high land-use densities. The possibility of spatial conflicts—for example, between a shopping center in one municipality and a shopping center in a neighboring municipality, between a chemical plant and a housing area, or between a motorway and a nature reserve—is always high. Avoiding or resolving such conflicts is important for the Dutch, who share a



**Figure 8.2** Municipalities and Provinces in The Netherlands

*Source: Needham (2007).*

strong feeling that their scarce land should be used carefully and efficiently. Therefore, spatial planning needs to be vertically coordinated.

### **Structure of Land Use Governance**

A spatial planning act that was passed in 1962 and came into force in 1965 regulated spatial planning at all levels of government for more than 40 years, albeit with many modifications during that period. In 1999, it was decided to make a completely new act because the old act had become

a patchwork and needed to be made more coherent. More important, the national government wanted to change the division of planning powers between itself and local governments. In particular, the national government wanted more power to force local governments to follow its policies. Carefully and deliberately, a new spatial planning act was drawn up and was implemented in 2008.

Further change ensued shortly afterward when the Parliament came under the grip of two ideas, both of them radically critical of the approach taken to spatial planning over the previous 60 years or so. One idea was that spatial planning unnecessarily obstructed desirable development. The second idea was that the procedures of spatial planning would be much quicker and more efficient if they were integrated with related procedures (e.g., for environmental policy), and also if the number of government departments and levels involved in planning decisions was reduced. A third, less ideological concern was that the existing legislation did not conform well to European Union (EU) procedures.

Two new pieces of legislation have already been introduced (the Spatial Planning Act of 2008 regulating “activities which influence the use of the physical environment” and the Crisis and Recovery Act of 2010), and a third act is in preparation, the National Environment and Planning Act. The only parts of the first two new acts that are relevant here are those directly influencing national spatial strategy and the structure of land use governance. The current situation, shaped by the Spatial Planning Act of 2008 and the subsequent changes, is outlined here using the terms of the 2008 act (which might be altered in the forthcoming National Environment and Planning Act).

Each of the three levels of government may make and implement spatial policy for the area under its jurisdiction. Each level can specify the content of its spatial policy in one or more structure visions. These can be developed for the whole jurisdiction (a spatial plan) or for one or more aspects of spatial policy (a particular policy sector, such as traffic or energy, or a spatially defined category, such as rural areas). The first type, a spatial plan for the whole area, is obligatory at all three levels. In all cases, the structure vision has to include statements about how that policy will be implemented.

In implementing a spatial policy, each of the three levels of government has more or less the same formal powers. These include the following:

- Land use plan: The legal significance of a land use plan is that no development that needs a development permit (including most building works) may be permitted if the proposed work is not in

conformity with the plan; also, no development may be refused that does conform to the plan.<sup>5</sup>

- **Project plan:** The legal significance of a project plan is that, if a proposed development does not conform to the land use plan, but the government concerned nevertheless wants to allow it, the development can be approved without changing the land use plan. The government concerned can make a plan for just that one project and then give permissions in line with that plan. A project plan can be made more quickly than changing the land use plan, not because the procedures are different, but because the extent of the plan area is much smaller. However, this allows for a sort of ad hoc land use planning.
- **Undertaking a development project:** Powers under Civil Law apply to all legal persons, public and private. A public body may therefore buy and sell land and construct buildings or infrastructure on that land, among other activities. A public body is different from a private body in that it has formal powers (such as the land use plan and the project plan mentioned here), but also compulsory purchase power for realizing such projects, a power that a private body does not have.

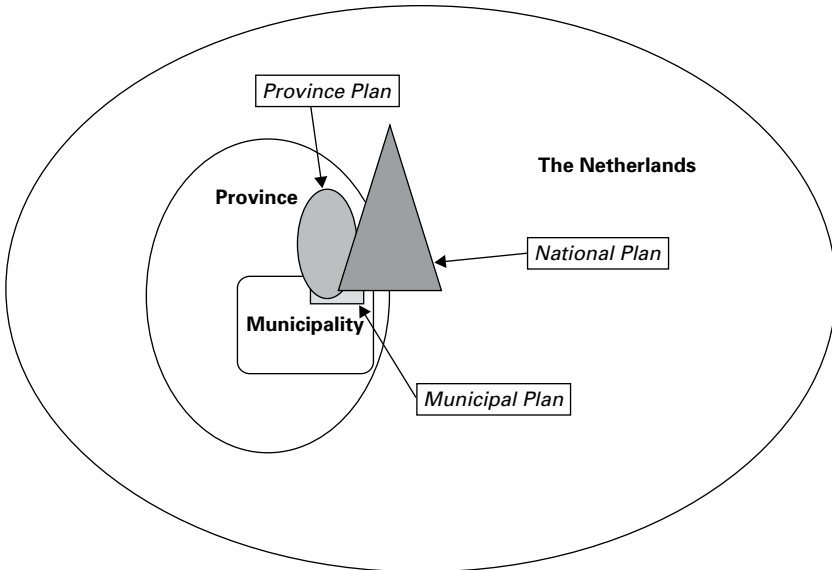
Clearly, it is possible for one location to be subject to the spatial planning of all levels of government, and conflicts in interest and intentions of different levels sometimes occur (figure 8.3).

In The Netherlands, there are procedures for avoiding inconsistencies among the three spatial policies (vertical coordination). Those procedures give precedence to the national government over provincial and municipal governments, and to provincial governments over municipal governments. They are as follows:

- A land use plan or project plan of the national government supersedes any plan of a province or municipality, and a land use plan or project plan of a province supersedes any plan of a municipality. For this reason, those national and provincial plans are called imposed plans. In both those cases, the power to grant the necessary permits is taken away from the municipal government and exercised by the national or provincial government, respectively.
- The national government can make a set of rules concerning the contents of and procedures for municipal and provincial land use

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<sup>5</sup> There are many exceptions to this rule, designed to give flexibility in the granting of development permits.



**Figure 8.3** Different Government Levels and Different Planning Policies for Same Location

plans. These rules may vary among different locations.<sup>6</sup> Each provincial government can also make an ordinance concerning the contents and procedures of municipal land use plans, and the ordinance can vary among different locations within one province. (The national and provincial rules can be called planning guidelines.)

- The national government can require that provinces and municipalities make a land use plan that is in conformity with certain statements of policy content (i.e., planning guidelines) specified by the national government. A provincial government can require that municipalities make a land use plan that is in conformity with the provincial ordinances.
- A municipality that is preparing a land use plan has to inform its provincial government, which has the opportunity to give its opinion about the proposed contents. If the version of the plan that the municipality intends to adopt does not sufficiently take account of

<sup>6</sup> For example, the latest national spatial plan (Structuurvisie Infrastructuur en Ruimte 2012) includes an appendix containing these rules; they are considered necessary for implementing that policy, but they are established by an easier procedure than that for the structure vision itself.

the provincial opinion, the province may issue a directive that makes the relevant parts of the proposed land use plan null and void. The responsible national minister has the same powers.

- Under the Crisis and Recovery Act of 2010, the national government can make a list of certain types of projects and of specific projects against which local governments cannot exercise their normal right of appeal.

This is not a simple hierarchy in which the higher level determines policy that the lower level has to implement. The higher level can always overrule a lower level, but policy initiatives can come from below, as well as from above.

Until 2010, the ministry had regional inspectorates that supervised and monitored the way in which local governments (provinces and municipalities) used their planning powers. Now there is one central inspectorate. The National Environment and Planning Act gives the task of supervising the municipalities to the provinces.

### **Evolution of the Statutory Framework**

Traditionally, Dutch municipalities have enjoyed considerable autonomy, especially in spatial planning. Some planners began to question that autonomy in the 1930s because it stood in the way of any sort of regional planning (let alone national planning), but nothing changed until the occupation by Germany in World War II. In 1941, a national agency, the Service for the National Plan, was established. Given the tradition of local autonomy, it would have been difficult for the Dutch alone to create such an agency; however, once it had been created, it remained after the country had been liberated. For many years, it was called the National Planning Agency, and it was placed within the Ministry of Housing, Spatial Planning, and the Environment. The agency has been active, albeit with a less centralized approach to spatial strategy than had been envisaged in 1941. (For histories of those early years and of national spatial policy up to 1990, see Faludi 1991 and Faludi and Van der Valk 1994; also table 8.1.)

Immediately after the liberation, the Dutch Parliament created wide-ranging powers to coordinate the reconstruction of the war-damaged country. A policy of actively dispersing industrial development from the west of the country to less developed regions was propagated in the early 1950s. A report on the development of the West of the country in relation to the rest of the country was published in 1956. The first national physical planning report came out in 1960, and the second was published in



**TABLE 8.1***Milestones in the Dutch National Spatial Strategy*

1941	The occupying German army establishes the Bureau for the National Plan.
1956	The report on the development of the west of the country in relation to “the rest of the country” is published.
1960	The First National Physical Planning Report is published.
1962	Parliament passes the first act specifically on spatial planning.
1966	The Second National Physical Planning Report is published.
1974	The first part of the Third National Policy document on spatial planning is published.
1985	The Spatial Planning Act is revised to include national spatial planning key decisions in order to give the national government more power over national spatial planning.
1988	The Fourth National Policy document on spatial planning is published.
1992	The Supplement to the Fourth National Policy document on spatial planning is adopted instead of the 1988 version.
1993	The Trajectory Act to push through national projects for line infrastructure is passed.
1994	The Spatial Planning Act is revised to enable NIMBY projects to be forced through.
2000	The Fifth National Policy document on spatial planning is published.
2002	The function of giving independent advice to the minister of spatial planning is removed from the ministry, and an independent think tank is set up for this purpose.
2004	A new national spatial strategy is adopted instead of the 2000 version of the Fifth document.
2008	The new Spatial Planning Act comes into force. It regulates activities that influence the use of the physical environment.
2010	The Crisis and Recovery Act is enacted. Regional inspectorates of the Ministry for Spatial Planning are replaced by one central inspectorate. The Ministry of Housing, Spatial Planning, and Environmental Affairs is abolished, and the responsibilities for spatial planning and environmental policy are combined with the responsibility for infrastructure and water in the Ministry for Infrastructure and Environment. The responsibility for housing is transferred to another ministry (Binnenlandse Zaken).
2011	Bestuursakkoord, setting out the new policy of the national government for the division of tasks between the national and local governments, is adopted.
2012	The national policy strategy for infrastructure and spatial planning is adopted.

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1966. The third national policy document on spatial planning, for the years 1973 to 1983, was published in parts from 1974 onward. The fourth was published in 1988, but before it was formally adopted, a new parliament withdrew it and replaced it with the “Supplement to the Fourth National Policy Document on Spatial Planning” in 1992 (which came to be referred to as the Vinex). A similar fate befell the fifth national policy document on spatial planning: it was published in 2000, but before it could be formally adopted, a new parliament replaced it with the *National Spatial Strategy (Nota ruimte)* in 2004. Most recently, the national government in power between June 2010 and April 2012, which was not enthusiastic about spatial planning in general and national planning in particular, adopted in 2012 a (selective) national spatial plan, called, using the new terms, the “Structuurvisie infrastructuur en ruimte—National Policy Strategy for Infrastructure and Spatial Planning.” This was endorsed by the parliament elected in September 2012 and is the current national spatial strategy. The third, fourth, and fifth national spatial plans were thick documents; the (draft) fifth plan was given the nickname “the paving stone.”

These are the national plans from which The Netherlands has acquired an international planning reputation. However, the Dutch themselves resist referring to them as national plans. It should be added that national governments have also prepared many policy documents for the spatial dimension of a particular sector, such as harbors, energy, defense, and roads. National governments have also drawn up plans (*structuurschetsen*), which show national policy for a particular type of area, such as the countryside. These more specific documents are not discussed here because they usually have been incorporated into the more comprehensive national policy strategies.

It has been much less known internationally that until the 2008 act, municipalities could still dominate spatial planning, even at the cost of the national spatial strategy. Crucially, until the new act, municipalities were the only government body empowered to make land use plans and to grant the relevant permits. Legally, it is not allowed to grant a development permit that does not conform to the land use plan. It follows that if a municipal plan did not agree with what the national government wanted for a particular location (e.g., the national government wanted to build a power station, which was not included in the municipal plan), the development desired by the national government could not be realized, for that would have required a permit that did not conform to the municipal plan. Under the 1962 Spatial Planning Act, the national government had the power to overrule local planning. It could require a municipality to make a new land use plan or to revise an existing plan, and it could specify the content of that plan. Also, if a province approved a municipal plan (a requirement that

has since been withdrawn) that was considered to be against the national policy, the national government could replace that provincial approval with its own refusal. However, those procedures were clumsy and very slow.

How, then, did the Dutch planning system work? In particular, how were those spectacular urban and rural projects realized that still attract the envious attention of planners throughout the world? To answer this question, it is necessary to leave the formal, statutory framework and to consider the informal ways in which spatial planning in The Netherlands is pursued.

In the aftermath of World War II, there was general agreement about how the country should be developed. Vast amounts of new housing were needed, as well as much land for industrial development, new roads, and airports. There was an implicit agreement that all this should be planned, in the tradition of land management that had started centuries earlier with draining and reclaiming land (Needham 2007). That unanimity fostered cooperation among all levels of government. In addition, much of the funding for postwar spatial development came from the national government in the form of generic grants for affordable housing and specific grants for urban redevelopment, growth centers, infrastructure, and harbors, among other things. The national government departments of housing, transport, agriculture, and economics worked together with the national Ministry for Spatial Planning to direct funds toward local projects, which the local governments readily included in their local plans. Jenno Witsen, director of the National Spatial Planning Agency between 1983 and 1990, has said in a public lecture that “there is one policy for spatial planning in the Netherlands, carried out by three levels of government.” For the most part, that held true for the first 40 postwar years. Moreover, politicians, public officers, and professionals all thought in the same terms; there was a shared planning doctrine (Faludi and Van der Valk 1994, chapter 1).

In the early 1990s, things started to change. Increasing environmental consciousness led to more conflicts over urban growth, building of new roads, and protection of natural areas. As the shortages due to the war and the exceptional population growth that followed it diminished, the solidarity born of reconstruction work dimmed, and individualism arising out of wealth flourished, the idea of a general public interest in support of spatial development could no longer be taken for granted. Municipalities started to resist what the national government wanted. Moreover, the national government did not want to continue carrying the burden of subsidizing so many projects, especially as municipal governments became ever more skillful in extracting money as a condition for consenting to national projects. (The Betuwe Route, a freight rail line running from the Rotter-

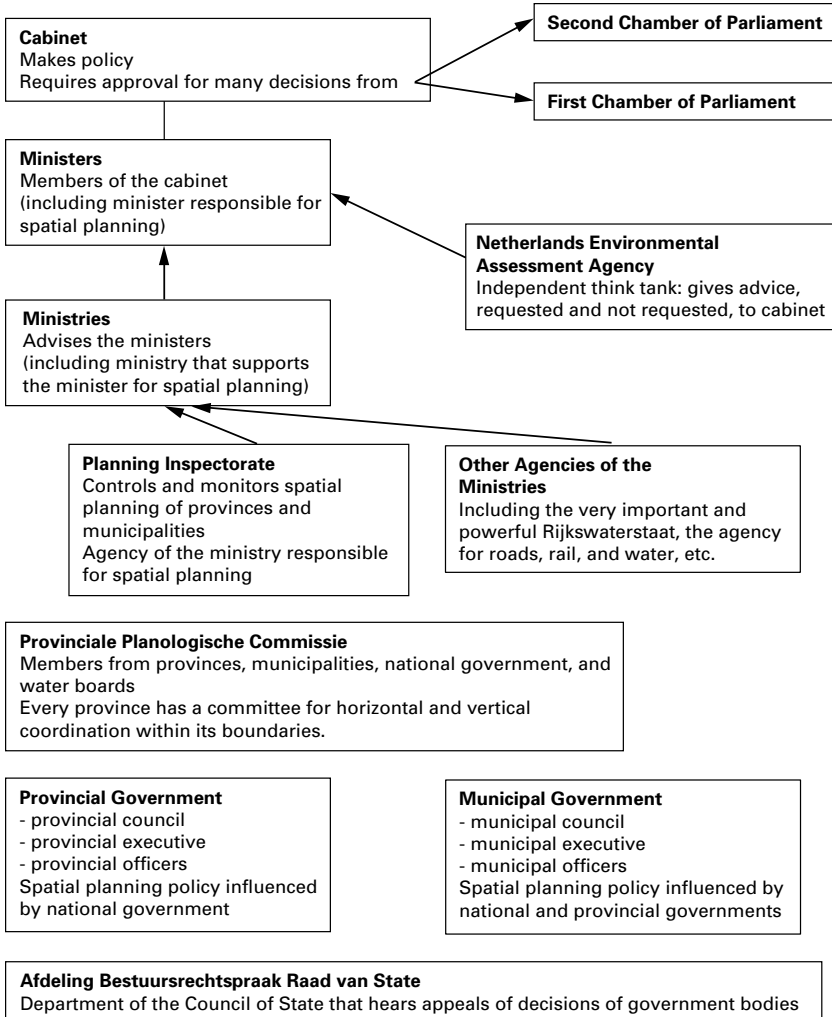
dam harbors eastward to Germany, cost twice the initial budget, largely because of demands made by the municipalities concerned as a condition for not resisting the development [Pestman 2001].) What the Dutch called “subsidy addiction” had arisen.

The national government became fed up with municipalities that frustrated or seriously delayed the implementation of national planning policy, and with the extra costs that this could involve. As mentioned in this chapter, the 1962 act gave the national government the power to require that a municipality make a plan or revise an existing plan and to specify the content of that plan, but that was a clumsy way of implementing national spatial policy. The extreme example is that it took almost 60 years of procedural wrangling before construction could start on a missing link of seven kilometers in the A4 motorway between Delft and Schiedam. The statutory framework that worked when it was complemented by informal cooperation proved inadequate when that cooperation weakened. Gradually, the national government changed the statutory framework to give itself more powers. In 1985, it introduced national spatial planning key decisions to give its spatial policies more legal force; in 1993, it passed the Trajectory Act to push through national projects for line infrastructure; and in 1994, it instituted legal changes to force the acceptance of locally unwanted projects with effects that exceeded the limits of one municipality (such as an incineration plant), called NIMBY (not in my backyard) projects. In those ways, projects supported by the national government could legally be regarded as exempt from a municipal plan.

These statutory reactions were ad hoc and made the Spatial Planning Act incoherent. Therefore, the national government decided to make a completely new spatial planning act, which came into force in 2008. Its provisions are outlined earlier in this chapter in the section “Structure of Land Use Governance.” For the first time, the national government has the power to make land use plans and systematically to grant development permits. The 2008 act resulted in considerable centralization of planning powers in The Netherlands. Nevertheless, it is intended and expected that municipalities will continue to make most land use plans and project plans and grant most permits. The new implementation powers of the national government and provincial governments will be used only as a last resort, or as a threat to coerce municipalities.

### **Planning Participants, Information Sources, and the Planning Process at the National Level**

The Second Chamber of Parliament, after consultation with the First Chamber, must approve the content of a national policy for spatial planning



**Figure 8.4** Official Agencies Involved in Dutch National Planning

(a structure vision). The minister responsible for spatial planning, or that minister “in agreement with other ministers concerned” (article 2.3.1 of the Spatial Planning Act 2008), supervises the creation of the structure vision. This makes it possible to coordinate national spatial policy horizontally with policies of other sectors, such as agriculture, transport, and energy. A national land use plan or project plan, however, needs only the approval of the minister for spatial planning (figure 8.4).

The ministry that undertakes the making of the policy advises the minister. For decades, this was the Ministry of Housing, Spatial Planning,

and Environmental Affairs. The cabinet that came into power in 2010 abolished this ministry; the responsibilities for spatial planning and environmental policy were combined with the responsibilities for infrastructure and water into a new ministry called the Ministry for Infrastructure and Environment; the responsibility for housing was transferred to another, existing ministry (Internal Affairs [Binnenlandse Zaken]).

Until 2002, the ministry responsible for spatial planning had a double task: to advise the minister about policy and to carry out the necessary research in an independent way. For the latter task, it employed a large number of planning researchers. Subsequently, the research task was given to a think tank financed through the ministry; since 2008, that agency has been called The Netherlands Environmental Assessment Agency. It has a substantial staff of 200 full-time equivalents (Lagendijk and Needham 2012).

In the 1970s, when the third national policy document was being prepared—the heyday of Dutch national spatial planning (Mastop 2001)—the preparation of a national spatial plan was an immense task that lasted years and involved consultations with both governmental and nongovernmental organizations. Detailed procedures had to be followed, draft versions had to be discussed in both chambers of Parliament, and the plan had to be put on public display. Because of the length of the procedure, the cabinet that started the process might have been replaced before the plan was completed. That actually happened with the fourth and the fifth national plans when the new cabinets decided not to accept the draft versions of these plans, but to replace them with new plans, because the political unanimity about spatial planning was waning by this time.

The 2008 act prescribes no procedures for making (as distinct from approving) a structure vision, either at the national level or at the provincial or municipal levels. In contrast, a minister, province, or municipality must follow many legal procedures in making a land use or a project plan. The reason for the difference is that structure visions have no binding legal force, unlike land use and project plans. The planning guidelines that are determined by the minister and are legally binding are established through prescribed procedures (the general procedures for establishing a general administrative order).

If some person or organization (a legal person, which includes public bodies) wants to appeal a decision of the national government concerning spatial planning (or any other policy field), an independent court, the *Afdeling Bestuursrechtspraak*, belonging to the Council of State hears that appeal. The Crisis and Recovery Act of 2010 removed that right of appeal for many cases concerning large projects.

## Reasons for Pursuing a National Spatial Strategy

The Dutch national government has pursued a spatial strategy for almost 70 years. In the first 60 years, it gradually included more aspects of spatial development, but in the past 10 years, the scope has been reduced greatly. Discussion of the Dutch spatial strategy can be made clearer by first examining the possible reasons that any national government might want to pursue a national spatial strategy. It is striking that this discussion has hardly been pursued in The Netherlands; it would seem that the reasons for pursuing a national spatial policy are so obvious that they can be taken for granted. “The institutionalisation of Dutch planning preceded the rationale” (Faludi 1991, 10). Faludi continues: “Therefore, after the war it became imperative for national planning to find a rationale” (Faludi 1991, 11). Nevertheless, that search did not produce a general theory about national planning. In its absence, there are eight possible reasons that any national government might want to influence the distribution of people and activities within the national space:

1. To comply with international obligations, such as those under membership in the European Union.
2. To provide infrastructure of national importance, such as airports, waterways, railways, motorways, and international harbors.
3. To achieve important national goals that the separate regions alone cannot achieve, or that would bring national advantages greater than the advantage to an individual region (e.g., growth zones that build on the potential of certain regions; areas important for maintaining biodiversity; and security against natural calamities, such as flooding).
4. To reduce inequalities among regions (e.g., in income, unemployment, or education) that might endanger the unity of the country.
5. To ensure that citizens of the country enjoy the same basic amenities, wherever they live (e.g., it might be decided that all children should be able to attend a primary school within a traveling distance of 30 minutes from home, that all people should be able to receive emergency medical treatment within 45 minutes, or that a fire brigade should be able to reach a fire within 30 minutes).
6. To settle conflicts if activities within one region affect another region adversely (negative external effects), and the two regions alone cannot work together to find a solution (e.g., a proposed shopping

center in one region that might drain the economy of an adjacent region, or a chemical plant in one region that might pollute an adjacent region).

7. To compensate for the disproportionate effects of activities traditionally regarded as the national government's responsibility that would affect the distribution of people and activities within the national space (e.g., large funds spent in a few locations on national defense facilities, such as military bases and military research centers, or on nationally funded universities, with disproportionate effects in their locations).
8. To improve the coordination and effectiveness of different types of measures taken by the national government when those measures have spatial consequences (e.g., policies for agriculture and for water safety, which can both affect the same area).

A national government is required to meet its international obligations, but it is not obliged to do anything about the other seven considerations. They express technical or material relationships between different localities in the national space that the national government may ignore or take little account of. Those technical considerations exist irrespective of the political attention given to them. Whether and how to pay any attention to them, that is, whether to pursue some form of national spatial strategy, is a political choice. That choice will take account of the possible advantages and disadvantages of considering these material relationships. Different national governments can make different political choices.

### **Key Elements of the Dutch National Plans Before 2004**

There has been remarkable continuity in Dutch spatial policy in general, and in national spatial policy in particular. The first four national spatial plans followed what the WRR (1998)<sup>7</sup> identified as five "basic principles" (Needham 2007, 48–49):

1. Concentration of urbanization.
2. Spatial cohesion.
3. Spatial differentiation.

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<sup>7</sup> The WRR (Wetenschappelijke raad voor het overheidsbeleid) is called in English the Scientific Council for Government Policy. It gives advice, asked and unasked, to the cabinet.



4. Spatial hierarchy.
5. Spatial justice.

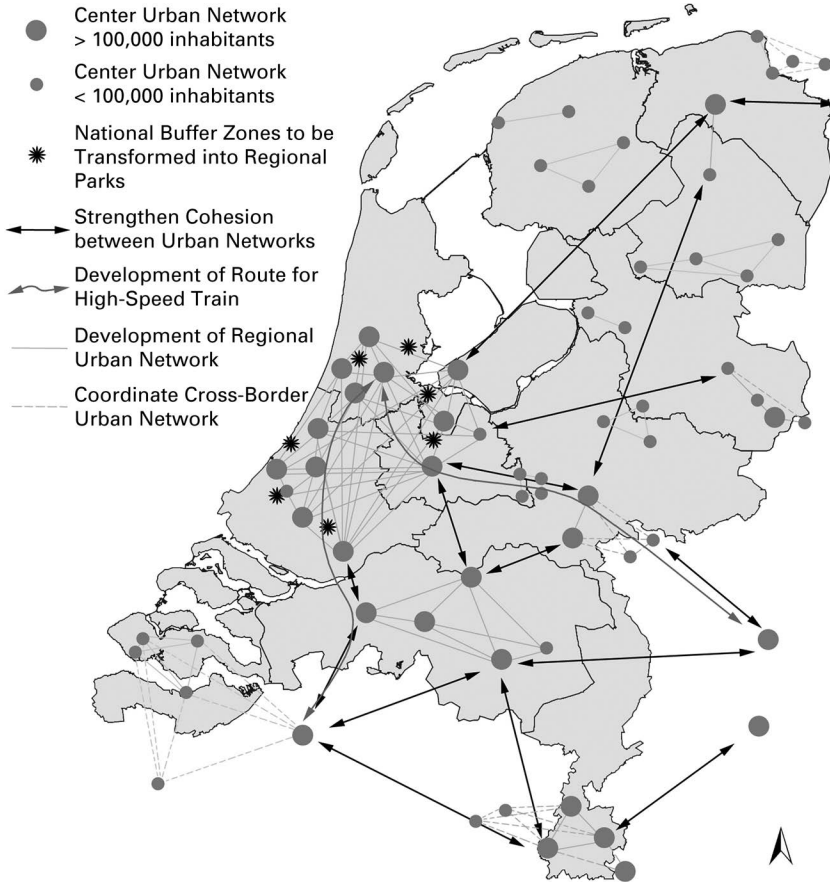
All levels of government shared these principles, although there was not always agreement on the precise working out of these concepts (for example, many municipalities wanted more land for housing and industry than the national government thought desirable). Faludi and Van der Valk have called the way in which the general principles were given a spatial content “principles of spatial organisation” (1994, 18). The following are some of the concepts and projects identified in the first five national strategies:

- Bundled deconcentration.
- Growth centers.
- National landscapes and national parks.
- Mainports, brainports, and greenports.
- Economic core areas.
- City regions and urban nodes.
- Urban networks and the central urban network.
- Vital town centers.
- National key projects.
- The central ring of cities.
- Quality of surroundings for daily living.
- Integral development.
- Spatial quality.
- Compact cities.
- Multiple uses of land.
- Intensive use of land.
- Readjustment of agricultural land.
- Ecological main structure.

As is to be expected, the content of the spatial strategies changed somewhat during these 60 years. “Strategic national planning in the Netherlands is closely linked to planning for the Randstad” (Mastop 2001, 225),

and that was particularly so for the first 30 years. The report on the development of the west of the country (1956) was concerned about the overdevelopment of that region after the war. It was expected that large-scale industrialization would be necessary, with firms wanting to locate in and around the Randstad. This would lead to the growth of a metropolis and the consequent disappearance of urban identities and open space. To prevent this, employment should be dispersed to the rest of the country. The first national spatial policy document (1960) worked this out further. The second policy document (1966) continued to advocate dispersal, but of people, not jobs, and to the central zone of The Netherlands, not to the peripheral areas. The imminent danger of suburbanization and formless growth in the peri-urban regions was to be countered by bundled deconcentration. The third document (1974) continued the policy of planned dispersal (overspill) from the cities of the Randstad by designating 15 growth centers, most of them around the Randstad itself. That policy was discontinued in the 1980s, when the housing shortage had been reduced and the larger cities started to suffer from the outward migration. Since then, policy has been directed at strengthening towns and cities, including a policy for “the compact city” in the fourth national policy document on spatial planning. In the draft fourth plan (1988), the national policy of stimulating economic growth in the peripheral regions at the cost of the more thriving regions (the regional economic policy), which had already been weakened, was finally dropped. The new rationale was that spatial policy should stimulate economic growth in the locations most favorable for it. One way of doing this was by concentrating development in urban nodes. The supplement to the fourth plan (the Vinex) placed more emphasis on environmental matters and contained proposals for the location of most of the new housing that would be built in the whole country between 1995 and 2005. The fifth plan proposed concentrating urban growth within greenbelts and keeping it out of rural areas by imposing strong restrictions (figure 8.5). However, that plan was never formally adopted, and its replacement relaxed both sorts of planning restrictions. (For more information about the content of the first four national spatial plans, see Faludi 1991 and Mastop 2001.)

Despite the changes introduced in successive national plans, there was a continuity that surprises and fascinates foreign planners. The content of spatial planning was relatively unaffected by changes in the composition of the national government (and of provincial and municipal governments). It was national policy to keep towns and cities strong, to steer urban development away from the countryside and keep the distinction between town and country, to promote a form of development that public



**Figure 8.5** Policy for Development According to the Fifth National Policy Document, 2000

Source: Needham (2007).

transport could serve, to integrate development at the scale of the city region, and to ensure that there were always enough development possibilities for housing and for production. The ambitions remained high and were expressed in the maps included in the national spatial plans.

Moreover, the national spatial plans were more than hopeful visions; many aspects of them have been realized (it is surprising that so little empirical research has been conducted on the concrete results of Dutch national spatial planning). The best-known example of what has not been realized is keeping open the “Green Heart” of the Randstad (Needham 2007, 61). Elsewhere, the proposed locations for new housing, in particular, were fairly closely realized, as well as the protection of open

space (Bontje 2001; Faludi and Van der Valk 1991;<sup>8</sup> Geurs and Van Wee 2006; Koomen, Dekkers, and Van Dijk 2008; Korthals Altes 2007; Natuurbalans 2006; Needham and Faludi 1999; Needham and Zwanikken 1997).

This wonder was achieved partly through the consensus among the layers of government. The national government also took account of the wishes of the other two levels in drawing up its spatial policies. Finally, there were the financial contributions from the national government. Although this started to change around 2000, most of the built environment (and much of the unbuilt environment) that exists nowadays has been realized under the conditions of one policy for spatial planning in the Netherlands, carried out by three levels of government.

That 60 years of practice of national spatial policy can be better understood by analyzing it in terms of the eight reasons for pursuing a national spatial strategy. Reason 1, meeting international obligations, was not very important, partly because there were not many such obligations. Reason 2, providing infrastructure of national importance, was important, but realization was often difficult because of the inadequacies in the statutory rules described in this chapter. Reason 3, national goals that the separate regions alone cannot achieve, was important, but realization of those goals was sometimes hindered by the strength of municipal autonomy. For example, national attempts to favor some regions over others in the national interest—the rationale behind national planning during its first 20 years—were strongly resisted by regions that were not favored. Reasons 4, reducing inequalities among regions, and 5, ensuring that citizens of the country enjoy the same basic amenities, wherever they live, were given great importance nationally and also by the less favored local governments, which wanted to be brought up to the level of the more favored, using money from the national government. Reason 6, avoiding negative external effects between regions, was given importance, but efforts were not very successful because of resistance from municipalities. In particular, there was enormous overzoning of land for industries, offices, and shopping centers. Reason 7, compensating for the locational effects of other national policies, was regarded as important, and the issue was tackled by policies to distribute investment in such projects, such as universities and prisons, among the regions.

Reason 8, territorial policy integration, was very important from the very beginning. The sectoral ministries had (and still have) big investment programs; they are spending departments. The Ministry for Spatial

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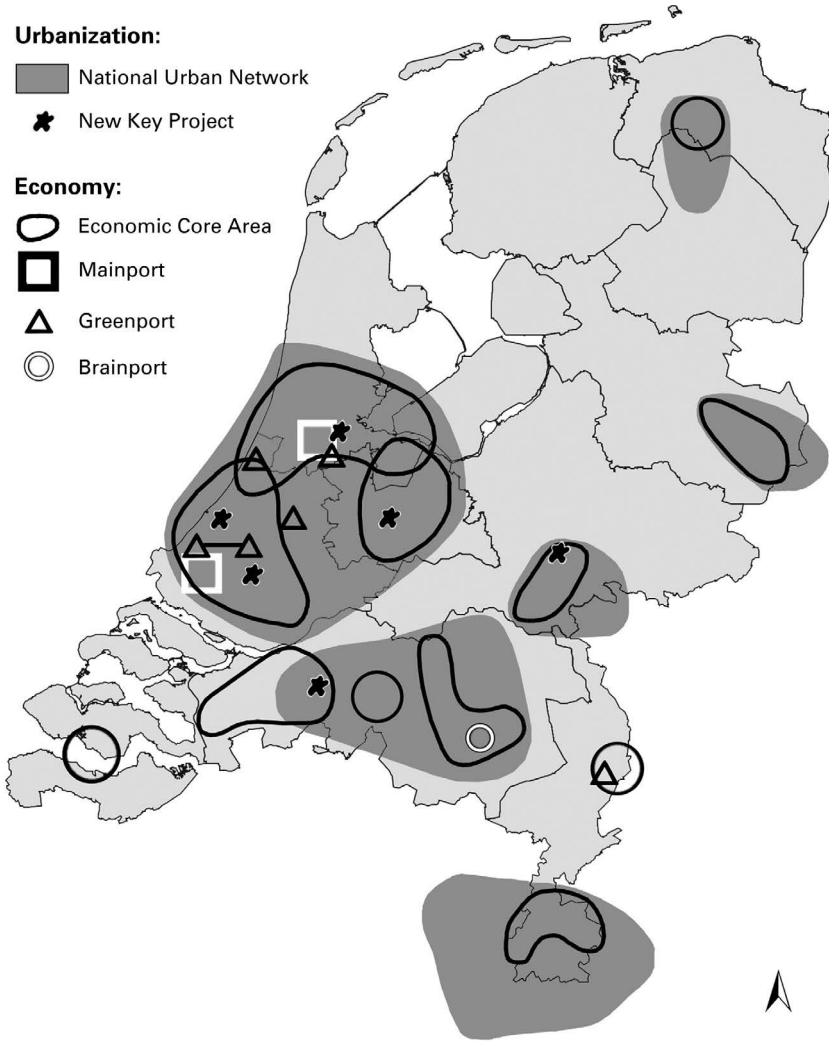
<sup>8</sup> The title of Faludi and Van der Valk (1991), “Half a Million Witnesses,” refers to the half a million people who were living in the developments proposed by the national spatial strategy.

Planning, in contrast, had no budget for development projects. The sectoral ministries for transport, energy, agriculture, housing, and public works saw the importance of spatial coordination, while the Ministry of Spatial Planning wanted to influence the location of those sectoral investments. The national government pursued this territorial policy integration, or horizontal coordination at the national level, partly by securing the support of all relevant ministries for the national plans, but also through a special, statutory coordinating committee, the National Spatial Planning Committee, which Parliament abolished around 2008 because it considered it superfluous. This is not to say that the big spending departments accepted meekly the wishes of the spatial planning ministry (some of them even went so far as to make their own national spatial plans), but the importance of giving a coherent spatial dimension to sectoral policy was widely accepted (Mastop 2001). There was informal agreement that there should be a national agenda for development projects.

### **Key Elements of the National Plan Since 2004**

Significant changes began when the cabinet that came into power in 2003, more right-wing than its predecessor, discarded the draft version of the fifth plan and replaced it with the “National Spatial Strategy” (figure 8.6). This strategy was based on an abstract principle about the role of national spatial planning formulated in that plan as: “Decisions made locally whenever that is possible, nationally only when that is necessary.” Although this slogan, introduced around 2004, is meaningless without further definition, it did signify an important change in thinking by posing a fundamental question: how much and what kind of national spatial planning did the Dutch want? The answer was, much less than previously. The national government would stop practicing some types of active planning. Either it wanted lower levels of government to take over those planning tasks, or it left it to those lower levels to decide what to do. The national government also intended to exert less control and supervision of spatial planning by local governments. The three cabinets that followed between 2006 and 2012 continued this line, and the cabinet that came into power in November 2012 has shown no signs of doing otherwise.

Those who did not agree with this change in national spatial strategy, such as many national politicians in the opposition who favored continuing strong central involvement, as well as many professional planners, were hampered in their opposition because until then, Dutch planners had hardly ever posed the fundamental question: how much national spatial planning did the Dutch want, and of what sort? Thus, they had no rationale at hand for defending the previous situation.



**Figure 8.6** Policy for Development According to the National Spatial Strategy, 2004  
 Source: Needham (2007).

The change in policy introduced in 2003 was worked out and put into practice through an intergovernmental agreement (Bestuursakkoord) among all three levels (but initiated by the national level) in April 2011. This agreement covers much more than spatial planning, but the most important provisions in regard to spatial planning are the following:

- The principle is established that the national government has the responsibility for determining the division of powers between the

levels of government, which includes ensuring that the local governments have the necessary powers and finance.

- The national government announces that it will stop trying to fix the boundaries of urbanisation, and will not try to enforce buffer zones or national landscapes. It hopes that the provinces will take over those tasks.<sup>9</sup>
- The national government will no longer get involved in decision making about development projects with “external effects.” Again, it hopes that the provinces will do that.
- The national government withdraws from any involvement with the redevelopment of obsolete industrial estates, with concentration and intensification of urban development, with regional economic policy, and with improving the environmental quality of natural landscapes. It is up to the local governments to take over those tasks, if they want to.

In March 2012, the national government formally adopted its “National Policy Strategy for Infrastructure and Spatial Planning.”<sup>10</sup> The new general policy is worked out in more detail by applying it to spatial strategy. That national spatial strategy is much more selective than its predecessors and has three aims:

1. Enhance the Netherlands’ competitiveness by strengthening its spatial and economic infrastructure.
2. Improve and physically guarantee accessibility, putting users first.<sup>11</sup>
3. Guarantee a safe environment in which it is pleasant to live, and in which unique natural and cultural heritage values are preserved.

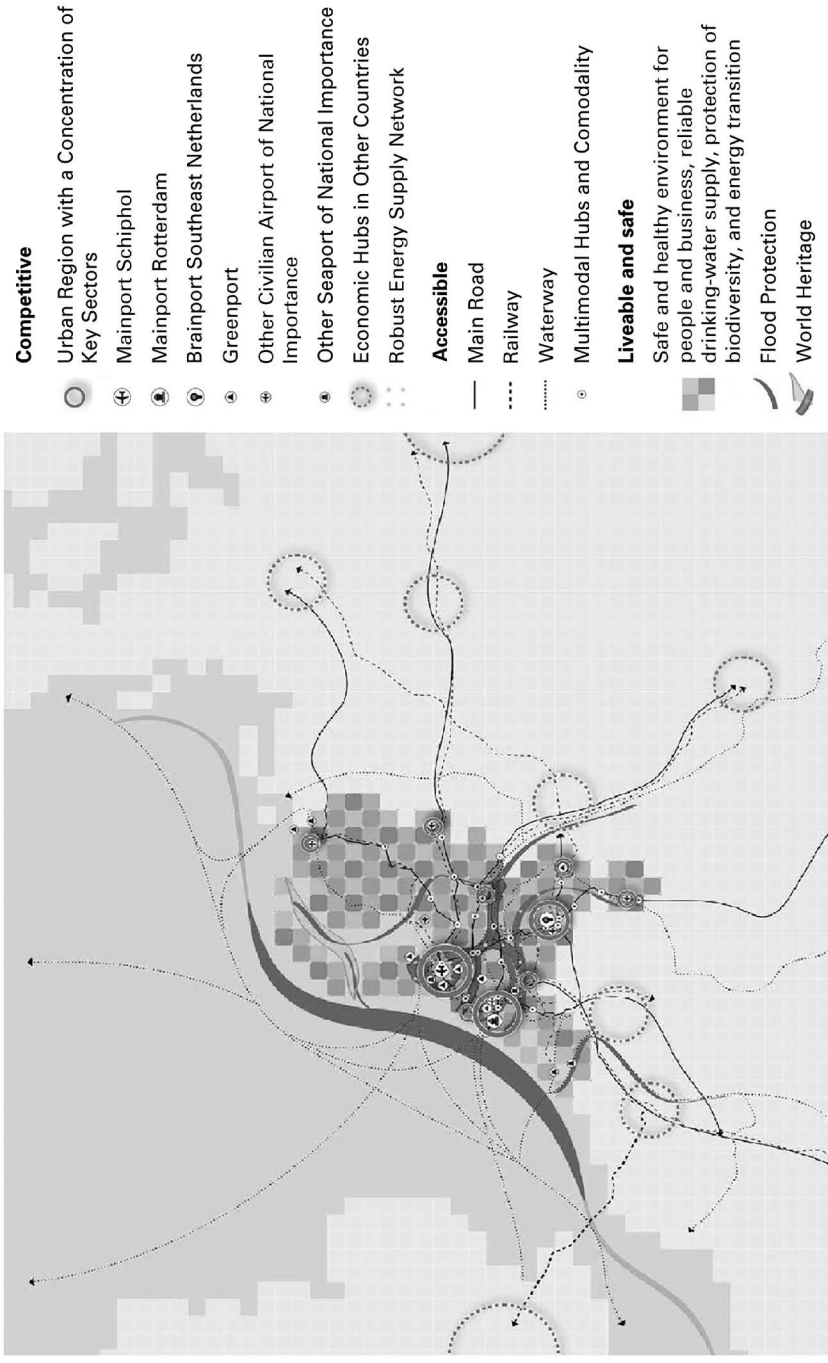
Each of these three aims is translated into a number of issues of national importance (13 in all) that are to be realized by the national spatial strategy (figure 8.7).

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<sup>9</sup> The national government itself does not want to restrict development in certain types of locations, but, by delegating that sort of decision to the provinces, it accepts the possibility that some or all provinces may want to do that. If so, then development will continue to be restricted.

<sup>10</sup> An English-language version of the summary document is available at [www.government.nl/ministries/ienm/documents-and-publications/reports/2011/08/04/summary-draft-national-policy-strategy-for-infrastructure-and-spatial-planning.html](http://www.government.nl/ministries/ienm/documents-and-publications/reports/2011/08/04/summary-draft-national-policy-strategy-for-infrastructure-and-spatial-planning.html). As far as possible, the English terms in this chapter have been taken from this official translation.

<sup>11</sup> The phrase “putting users first” refers to the wish to put the wishes of transport users above other (unnamed) considerations.



**Figure 8.7** Ambitions for The Netherlands, 2040

Source: *Structuurvisie Infrastructuur en Ruimte (2012)*. Reprinted with permission of the Ministry of Infrastructure and the Environment.



Twelve of these issues of national importance are further worked out for each of nine regions, including parts of the North Sea.<sup>12</sup> The strength of these regional plans is that they are connected with an instrument called the Multi-year Program for Infrastructure, Spatial Planning, and Transport (Meerjarenprogramma Infrastructuur, Ruimte en Transport [MIRT]). Such programs lay down the spatial investment programs of the national government for each region up to 2020. The aim is to improve cohesion among investments in the separate projects, to give local governments more certainty about future investments by the national government, and to enable arrangements with local governments regarding their share of responsibility and financing. It is through the MIRT that much of the current national spatial strategy will be realized. An additional instrument is the planning guidelines: one set for the content of the policy (Spatial Planning General Rules Decree) and one for the procedures (Spatial Planning Decree).

In contrast to previous national spatial plans, the 2012 strategy strikingly says nothing about desired patterns of urbanization; it offers no details of where development should take place and where it should not, and whether it should follow a certain model (such as the bundled deconcentration or the compact city of earlier national plans).<sup>13</sup> The cabinet has explicitly left those issues to the lower levels. Nevertheless, the plan does establish as the 13th issue of national importance that there should be “careful and transparent decision-making for all decisions affecting land use and infrastructure.” To realize this, a procedure called the “ladder for sustainable urbanisation” must be followed. This requires considering the following:

- Does the intended development meet a regional, inter-local demand for industrial sites, offices, residential buildings, retail development, or other urban amenities that has not been met elsewhere?
- If the intended development does meet such a need, can that be met in an urban area by restructuring or transforming existing locations?
- If restructuring or transforming offers insufficient potential, the authorities concerned will assess whether it can be achieved in such a way that it can be accessed appropriately by multiple modes of transport.

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<sup>12</sup> These regions are not the same as the current provinces. This national plan takes no account of provincial boundaries.

<sup>13</sup> Other parts of this plan, those that indicate areas that are important for international competitiveness and the parts that indicate infrastructure that is of national importance (figure 8.6), will have great consequences for where urbanization will take place.

Local (municipal and provincial) governments should carry out this procedure. How this should be done, and how the national government will enforce this, is to be worked out in a planning guideline.

The eight reasons for pursuing a national spatial strategy can also be used to analyze the current policy and the differences with the policies up to 2004. Reason 1, meeting international obligations, has been given much more importance. There are now many more EU obligations. For example, they are the reason that areas of great significance for their natural qualities (the Natura 2000 areas) continue to be given strong protection, and that areas important for river-basin management are an issue of national importance.<sup>14</sup> Reason 2, providing infrastructure of national importance, remains very important, and the rules for ensuring this provision on time have been greatly strengthened. Reason 3, national goals that the separate regions alone cannot achieve, remains important, but it is now much more selective because it applies only to economic competitiveness and to water safety. Reasons 4, reducing inequalities among regions, and 5, ensuring that citizens of the country enjoy the same basic amenities, wherever they live, no longer have a place in the national spatial strategy. National government involvement in the location of production is determined only by consideration of what would bring most economic growth to the whole country. Spatial equity—that citizens should have good access to basic amenities, wherever they live—is a concern for other policy fields (health policy for the location of hospitals, educational policy for the location of schools and colleges, home affairs for the location of police stations), but not for spatial policy. The national government has explicitly abandoned reason 6, avoiding negative external effects between regions; if provinces want to give it attention, they are free to do so. Reason 7, compensating for the locational effects of other national policies, gets no more attention. In contrast, reason 8, territorial policy integration, is a central aspect of the current structure vision; the national government wants to realize its national spatial strategy by integrating its investment decisions within each of the nine regions.

The “National Policy Strategy for Infrastructure and Spatial Planning” states:

Central government will remain responsible for the spatial planning system. It may also have to assume responsibility when:

- an issue entails benefits or drawbacks for the country as a whole, and it is beyond the powers of local and provincial authorities to override

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<sup>14</sup> The *European Spatial Development Perspective* (1999) places no obligations on the member states. Its content has had little effect on Dutch spatial policy, even though the Dutch were very active in preparing the *ESDP*.

the authority of other parties. This might include space for military activities and challenges in urban regions associated with the mainports, brainports, greenports, and valleys;

- international obligations or agreements apply, for example on matters of biodiversity, sustainable energy, water system remediation or world heritage; and
- an issue transcends provincial or national boundaries and there is either a risk of administrative deadlock or responsibility is in the hands of central government. Examples include the main road, water, rail and energy supply networks, and also the protection of public health. (section 1.2)

The first point illustrates reason 3, national goals that the separate regions alone cannot achieve; the second illustrates reason 1, meeting international obligations; and the third illustrates reason 2, providing infrastructure of national importance. Although reason 8, territorial policy integration, is not mentioned explicitly, it is clearly very important, as witnessed by the central position given to the MIRTs.

This is clearly a different type of national spatial strategy from that pursued before 2004. Zooneveld (2012) makes the comparison using the five basic principles of WRR (1998). He concludes that concentration of urbanization, spatial differentiation, and spatial justice have disappeared; that the principle of spatial cohesion has taken the form of coordination among spatial development, infrastructure, and water; and that spatial hierarchy has taken the form of giving dominance to spatial considerations that favor the competitiveness of the Dutch economy. Faludi (2011) goes further. He invented the concept of the planning doctrine in 1985 (Faludi 1985) and claimed that the Dutch had a very strong planning doctrine; now, he says, it has been abandoned. It might be too soon to make such claims; the continuity that lasted for 60 years has certainly been broken, but it might be restored. Roodbol-Mekkes, Van der Valk, and Korthals Altes (2012) are certainly more cautious when they say that the Dutch planning doctrine is undergoing evolutionary and not revolutionary change. However, they find that it is “in disarray” (Roodbol-Mekkes, Van der Valk, and Korthals Altes 2012). The main changes in national spatial policy are set out in table 8.2.

Why is the current national spatial strategy so different from its predecessors? One reason is the frustrating experience with trying to realize some aspects of national spatial development, aspects to which the current national government gives great importance, such as big infrastructure projects. Recent cabinets have decided to concentrate their spatial strategy on these projects and to give themselves stronger powers to realize them. Other reasons have to do with different political choices. One

**TABLE 8.2***Main Changes in Dutch National Spatial Strategy*

Reasons that a National Government Might Want to Pursue a National Spatial Strategy	Dutch National Spatial Strategy to Approximately 2003	Dutch National Spatial Strategy After Approximately 2003
To meet international obligations	Not very important because there were few such obligations	Important because there are many more international obligations, especially from the EU
To provide infrastructure of national importance	Important, but not always supported locally	Important and promoted by greater powers of the national government
To achieve important national goals that the separate regions alone cannot achieve	Important, but not always supported locally	Selective; applied only to economic competitiveness
To reduce inequalities between regions	Important and supported locally	No longer part of national spatial policy
To ensure that citizens of the country enjoy the same basic amenities, wherever they live	Important and supported locally	No longer part of national spatial policy
To resolve conflicts when there are negative external effects between regions	Important, but often resisted locally	No longer part of national spatial policy
To compensate for disproportionate effects of national government responsibilities (e.g., defense) that would affect the distribution of people and activities within the national space	Important and supported locally	No longer part of national spatial policy
To achieve territorial integration of different national government policies (horizontal coordination at the national level)	Important	Given greater importance

choice is to give more weight to economic growth and less to spatial justice; this is in line with neoliberal trends in many countries of the world. Another choice is to give more decision space to local governments by withdrawing from some national government activities; the national government has decided that the advantages of selective decentralization outweigh its disadvantages.

The “national policy strategy for infrastructure and spatial planning” offers three reasons for decentralization. First, citizens should be able to make the (planning) decisions that affect them most closely; decisions about local development should be made locally, for the people there know the situation best and should have room to find their own creative solutions. Moreover, the differences among the Dutch regions are increasing, so it has become less appropriate for the national government to impose one policy throughout the country. The relationship between government levels should be one of trust, rather than of supervision and control. Second, decentralization will reduce the number of politicians and officials involved in planning, the time that they spend on it, and the costs of public administration. Third, decentralization, with fewer levels involved, will speed up the planning process and facilitate economic development.

It should be noted that this decentralization of spatial planning was introduced around the same time at which planning legislation was being centralized (the act of 2008), and by the same cabinet. This is not a contradiction. The national government wanted to restrict its planning activities (decentralization of planning policy); at the same time, it wanted stronger powers to be able to realize those aspects of planning on which it wanted to concentrate (more powers to the center). Nevertheless, the legislation (centralization) will last longer than the planning ambitions of a few cabinets (in this case, decentralization). A cabinet with ambitions for highly centralized spatial planning will now have more legal power to pursue it.

### **Plan Implementation Tools and Processes**

The formal procedures for implementing the national spatial strategy, including those for vertical coordination, are described in the section on the structure of land use governance in this chapter. In addition, there are multi-year programs for infrastructure, land use, and transport (the MIRTs that are mentioned in the section on key elements of the Dutch national plan since 2004) that are also an important part of the current national spatial strategy.<sup>15</sup> These are the mechanisms for ensuring spatial coordination of national investment projects. MIRTs have gained in importance now that the national government has given itself the power to push such projects through, if necessary against the wishes of provincial and municipal governments.

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<sup>15</sup> The MIRT is a continuation and extension of a previous instrument called the Multi-jaar Infrastructuur en Transport programma (MIT); the extension is that the investment plans of the MIT are now put in a spatial context.

Informal processes can also be extremely effective. All levels of government prefer to resolve differences of opinion about the spatial development of a particular location in an informal way; resort to the hierarchical, formal procedures is regarded as an admission of administrative failure. The informal procedures begin with consultations and negotiations. (Until the 2008 Spatial Planning Act, there were statutory bodies at the provincial and national levels precisely intended for such consultations. Such bodies now exist only at the provincial level.) Those negotiations inevitably take place in the shadow of the knowledge that the national government can always, in the end, use its formal powers to impose its own will. There is also government by the purse strings. If the national government wants a particular costly development to be built and a municipal government hesitates, the national government will propose cooperation lubricated by an attractive subsidy.<sup>16</sup> Provincial governments play a similar game: trying to get subsidies from the national government and offering subsidies to the municipal governments. Sometimes, professional and administrative support is offered, as well as money. This is how the eight national key projects proposed in the fourth national spatial plan were implemented, and how another seven projects for modernizing railway stations to accommodate high-speed trains, launched in 1997, are being built. This way of developing complex projects—cooperation among the different levels coupled with cooperation among the different sectors and with money from the central government—has been called “diagonal co-ordination” (Mastop 2001, 240). Sometimes, the negotiations are more indirect; for example, the national government may offer a subsidy to build a ring road in exchange for the local government dropping a plan to build on the edge of a nature reserve.

Recent cabinets have preferred to reduce this sort of national involvement in local projects. These processes are not transparent, often take a very long time, and cost the national government a lot of money. The current position is that such issues should be determined locally. At the same time, the national government wants to protect projects of national importance from local influence.

Even if only formal procedures are followed, national spatial strategy can be implemented through a wide range of measures. The current national spatial strategy makes this clear and has the following components:

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<sup>16</sup> Until 2010, such subsidies did not come from the ministry responsible for spatial planning because it was not a spending department. There were other interested departments with a lot of money, such as housing, agriculture, and transport, and the national government influenced local spatial policy by offering subsidies from these allied departments.

- Decisions about what are issues of national importance and what are not.
- A map or plan showing roughly the desired location of a selection of land uses (the current strategy is not a comprehensive plan).
- Investment plans at the regional level for realizing the desired land uses.
- Rules concerning the content of and procedures for creating municipal and provincial land use plans.
- Statutory laws that allocate the division of planning responsibilities among the various levels of government and spell out procedures for enforcing them if necessary.
- Agreements with local governments about carrying out those responsibilities.

Here again, there is a link between the choice within the range from centralization to decentralization and the choice of implementation tools. When the national and local governments worked closely together, much national spatial strategy could be implemented by informal processes. When the national government decided to allocate responsibilities between the national and local governments explicitly and formally, it had to strengthen its formal powers to implement its own policies.

### **Key Outcomes and Lessons**

As discussed in this chapter, Dutch national spatial planning has been successful in many respects; much of the content has been realized literally on the ground. However, it is much too soon to evaluate the changes in approach to national planning introduced since about 2008. How has the success of previous policies been achieved, and what lessons can be learned from this?

First, successful, effective national spatial planning requires continuity at the national level in the content of that planning. Also, that continuity must last a long time; in particular, it must survive changes in the political composition of the governments concerned, because changing the physical environment deliberately is a slow process. It is in this context that the discussion of planning doctrines is important. A planning doctrine can serve as a “durable frame for planning practice” (Roodbol-Mekkes, Van der Valk, and Korthals Altes 2012, 380). A cabinet that abandons the prevailing doctrine runs the risk of propagating a practice that will lead its successor to abandon the new doctrine before it has had the opportunity

to affect development. If that practice is continued, national spatial strategies will have no impact on the ground.

Second, many good planning professionals are needed.<sup>17</sup> The Netherlands has a strong planning profession with practicing planners who write about and discuss planning issues eloquently and widely. This is how the Dutch planning doctrine arose. The doctrine has made it possible to conduct debates about content and procedures quickly and effectively. A rigid planning doctrine can stifle new ideas, but there is no indication that this has been the case in The Netherlands (Korthals Altes 1995; Roodbol-Mekkes, Van der Valk, and Korthals Altes 2012).

Those two conditions—the presence of professionals and a doctrine—have been met in The Netherlands for at least 40 years, and the momentum has not yet died out. Ironically, the latest national spatial strategy, through which the current government wants to break with the past, is clearly in the same line as the previous strategies. In particular, the professionalism with which the current national spatial strategy has been prepared would not have been possible without being able to build on the previous planning culture.

The third lesson is that national spatial planning is more effective if the provincial and municipal governments share the ideas and commitment of the national government. However, that consensus cannot be imposed, and there is no reason to expect that all levels of government will have the same ideas about how a particular location should be developed. In that case, open and critical discussion among the various levels is easier and more productive if it is based on clear and explicit ideas (an accepted discourse) about how spatial planning could and should be divided among those levels. Moreover, many of the policy responsibilities of national government have consequences for the distribution of people and activities throughout the national space. How the national government takes account of those consequences is a political decision. At one extreme, it can ignore them. If it decides to take account of them, it is pursuing some kind of national spatial strategy. This question requires serious, open, and explicit consideration, which an accepted discourse will facilitate.

Fourth, the national government must be prepared to commit substantial funds, first to develop the policy (consultation and research) and subsequently to get that policy implemented (building the infrastructure and giving subsidies to provincial and municipal governments). Money is the fuel and the lubrication that the process needs. Enterprising local governments will thwart national governments that try to achieve their spatial

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<sup>17</sup> Buitelaar (2007) estimated from a sample of eight Dutch cities that for every 500 citizens, there was, on average, one official working on planning and related policies.



planning policies primarily by saying no (no building in certain locations, no new housing without new schools, no industrial sites without public transport). National planning should be active rather than reactive.

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The experience of The Netherlands shows that national spatial planning is not a hopeless cause. It can work well, but it needs to be thought through very carefully. In particular, the national government needs to decide which position it will take between the poles of centralized planning and decentralized planning, and it needs to work this position out consistently. The national government should also be aware of the variety of instruments available to it for implementing whatever national spatial strategy it decides to pursue. There can be much more to that strategy than making a kind of national plan.

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The National Environment and Planning Act, mentioned in the text as being in preparation, was presented to Parliament in October 2014.

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## *Commentary*

HENRIËTTE BERSEE

**B**arrie Needham gives an impressive overview of the rich spatial planning tradition that has shaped The Netherlands. He defines the lessons learned and poses some critical questions about the new approach being pursued in The Netherlands. The following comments focus on actual government policies in The Netherlands and explain the (partial) shift from top-down national spatial planning to a more decentralized system, where national policies will be applied more selectively, and local and provincial authorities have been given more space to make locally appropriate arrangements.

### **National Challenges Regarding Land Use**

As Needham points out, The Netherlands has been shaped by a long spatial planning tradition. As a result of the country's location in Europe's main delta region, the Dutch have been forced for centuries to work together on effective water management. Also, in a small and densely populated country with a strong democratic tradition, integrated planning proved to be a very appropriate tool to divide scarce and expensive land and to ensure an optimal mix of essential functions in the living environment. The following sections discuss the main current challenges in The Netherlands regarding the use of land.

### Demographic Changes

Although the population of the world as a whole is still rising, demographic growth in Europe and The Netherlands is stabilizing. The potential workforce is shrinking (in absolute terms), and the overall population will age considerably until about 2040. The demographic picture within The Netherlands displays significant regional differences. The country's urban population is still growing, with Amsterdam taking the lead. However, the population of a number of regions is already shrinking. This will have consequences for spatial decisions. Planning and building for growth, as was the common practice in The Netherlands for many decades, is no longer feasible throughout the whole country. In addition, many locations in The Netherlands are built up or are dominated by one specific type of building, as illustrated by the many empty office buildings along the country's motorways. Many of these office buildings will never be used again because of lack of demand. For those sites, there is no instant national solution, no national master plan to be made. As for the surplus of business parks and retail areas in some places, these sites will have to be transformed through organic local-area development.

### International Competitiveness

Despite the current economic crisis, The Netherlands has a strong economic system. Activity in the main sectors of industry—the so-called topsectors—is increasingly concentrated in the urban regions, especially around Amsterdam, Rotterdam, and Eindhoven, which have an above-average international orientation. Amsterdam was the world's financial and economic capital in the 17th century and still enjoys a strong position, thanks in part to the presence of Schiphol Airport. Rotterdam, served by Europe's largest port, is the logistical heart of The Netherlands. The Eindhoven region boasts a highly developed international ecosystem in the knowledge-intensive manufacturing industry and was named the world's Intelligent Community of the Year 2011 by the Intelligent Community Forum in New York. Because the development of these urban regions is essential if The Netherlands is to continue to be internationally competitive, the national government will continue to invest in excellent connections in these regions.

### Adaptation to Climate Change

As result of climate change, the risk of flooding, heat waves, and extreme drought will increase in The Netherlands. The western urban part (the

Randstad) is particularly vulnerable to flooding. Located mostly below sea level, it is the most densely populated urban area and is where two-thirds of the gross national product is earned and the main ports are located. In 2008, the national government started a study program called the Delta Program to develop options to protect this area from flooding in the future and at the same time guarantee high standards of living. This program is being carried out in close cooperation with the regions that will probably be most affected. Its results, which will be presented in 2014, will guide policy decision making on water management and urban and spatial development at all government levels.

### Renewable Energy

Not only adaptation to, but also mitigation of climate change is an important goal of the national government. In order for The Netherlands to contribute less to global climate change, the proportion of energy needs supplied by sustainable sources, such as wind, solar, biomass, and geothermal energy, will have to increase. This will require substantial space. Especially in a small and densely populated country like The Netherlands, this issue needs the attention of all government levels.

### A New Approach to National Planning

The ambitions of the national government are for The Netherlands to be competitive, accessible, livable, and safe. Spatial planning is organized to contribute to these goals. The Spatial Planning Act of 2008 distinguishes among municipal, provincial, and national spatial interests and provides that every tier of administration is responsible for its own level of interests.

As growth in financial resources and population has slowed, responsibilities for planning have increasingly been decentralized. The emphasis has shifted from producing in bulk (building ever more homes, offices, and industrial estates) to customized solutions focused on quality (i.e., transformation and greater sustainability).

The Ministry of Infrastructure and the Environment exerts both direct and indirect influence on spatial planning and development through its policies, legislation, and its investments in infrastructure and waterways. Because excessive layers of government, complex regulations, and compartmentalization have been felt to be all too common and to be hindering the development of The Netherlands, the ministry has brought spatial planning decision making closer to the stakeholders (citizens and the

private sector) by delegating more decisions to local and provincial authorities. The national policy is being applied more selectively, focusing on 13 national interests for which the national government will take responsibility and ensure that it achieves results. These national interests are listed in the *National Policy Strategy for Infrastructure and Spatial Planning (Structuurvisie Infrastructuur en Ruimte)*, sent to Parliament in 2012 (Ministerie van Infrastructuur en Milieu, 2012). They include the following:

1. An outstanding, internationally accessible business climate in the urban regions.
2. Space for the main energy supply network and the energy transition toward renewable energy.
3. Space for the main pipeline network for the transport of hazardous and other substances.
4. Efficient use of the subsurface.
5. A robust main road, rail, and waterway network around and between the most important urban regions.
6. Better use of the capacity of existing road, rail, and waterway networks.
7. Preservation of the existing network of roads, rails, and waterways.
8. Improvement of environmental quality.
9. Adaptation to climate change (flood protection, drinking-water supply, climate-safe urban development).
10. Preservation and strengthening of the unique cultural heritage and natural values.
11. Space for a national network of wildlife habitats.
12. Space for military sites and activities.
13. Careful consideration and transparent decision making in all spatial plans.

Outside these 13 national interests, local and regional authorities are able to make their own policy decisions, but national interest number 13 indicates that the national government continues to be responsible for ensuring that the country has a good spatial planning system, based on clear national legislation.

## **The Environment and Planning Act**

In The Netherlands, legislation on housing, infrastructure, spatial planning, the environment, nature, and water has generally developed over several decades. This process has resulted in dozens of laws, hundreds of regulations, and dozens of different types of plans relating to the human environment, each with its own principles, procedures, and requirements. Because these regulations were developed for specific sectors, the current system is not efficient enough to resolve problems in an integrated manner.

In 2010, the Simpler and Better Legislation Program was started with the aim of writing a new, comprehensive National Environment and Planning Act. This new act will regulate all activities affecting the living environment and will cover land use planning, environmental protection, nature conservation, construction of buildings, cultural heritage, water management, urban and rural redevelopment, development of major public and private works, and mining and earth removal. The new Environment and Planning Act is aimed at more transparency, predictability, and practicality in applying the law. It should ensure a more integrated approach to the living environment and greater administrative discretion to allow for variation, making it easier to respond to regional and local differences. Last, but not least, it should promote quicker decision making on projects. After extensive consultations with the provinces and municipalities, the draft law has been sent to the Council of State for comments and advice as a last step before being published and sent to Parliament.

## **Area-Focused Investment**

In 2009, the central government and the regions adopted the first of the so-called regional agendas. These agendas bring together national and regional spatial policy strategies and challenges relating to mobility, water, urbanization, nature, and the landscape. They explore the interrelationships among the different challenges and how they can be tackled, as well as how solutions might be financed jointly. Based on the regional agendas, the Multi-Year Program for Infrastructure, Spatial Planning, and Transport (Meerjarenprogramma infrastructuur, ruimte en transport, MIRT) defines when and how the various challenges are to be jointly addressed in each region. This process can start with a MIRT investigation or exploratory analysis. If financial involvement of the national government is a possibility, a MIRT exploratory analysis is performed to establish the financial contributions to be made by the different parties. The MIRT program is submitted to the lower house of Parliament once a year



as an appendix to the budget of the Ministry of Infrastructure and the Environment.

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As Professor Needham describes, The Netherlands has a long spatial planning tradition. Over the past several years, the national government has changed its approach in order to meet new societal challenges. The world is developing rapidly, public financial constraints are more stringent, and private initiatives need more space to keep up. National master plans are more and more being replaced by organic and adaptive planning. The national government focuses on a limited set of national interests, on integrated regional plans that steer national and regional investments in infrastructure, and on simplifying the law concerning the living environment. Spatial planning in The Netherlands no longer means designing a national plan. Instead, it is the creation of conditions under which development is promoted and investment decisions can be made, while at the same time, national law protects the property rights of the citizens.



## The Danish National Spatial Planning Framework

### *Fluctuating Capacities of Planning Policies and Institutions*

DANIEL GALLAND AND STIG ENEMARK

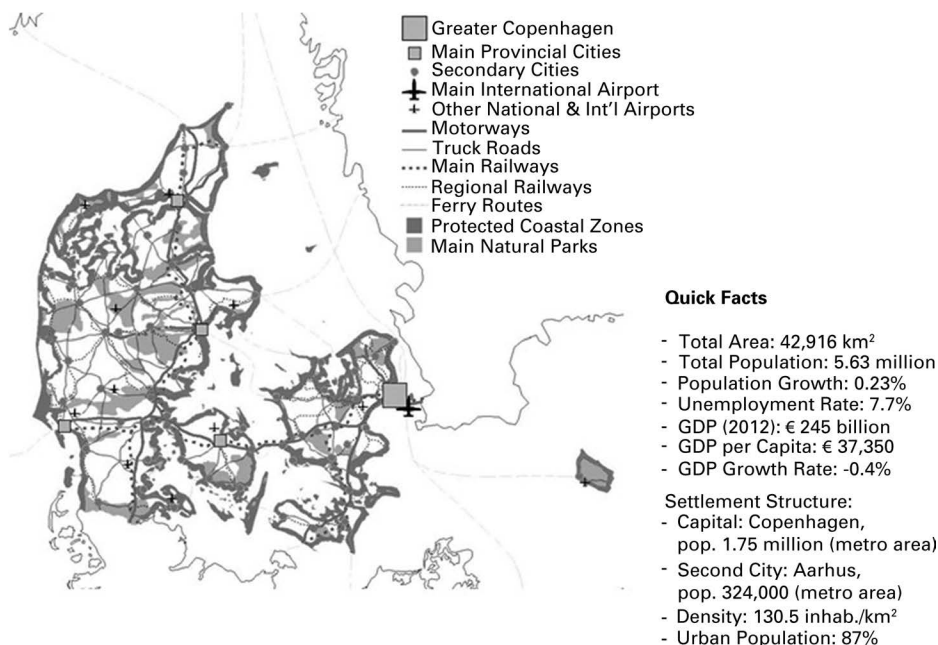
#### **Geography, Population, and Economy**

Located in northern Europe, Denmark is the southernmost of the Nordic countries and consists of the Jutland peninsula and an archipelago of several hundred islands situated in the Baltic Sea (figure 9.1). Excluding the overseas, self-governing territories of Greenland and the Faroe Islands, Denmark proper covers an area of approximately 42,916 square kilometers, roughly the same as the sum of the areas of Maryland, Delaware, and Rhode Island in the United States. A total of 66 percent of the land is used for farming and agriculture, while forests and heathland cover 16 percent. Urban zones and transport infrastructure make up about 10 percent of the country's area, and the remaining 7 percent consists of bodies of water, such as lakes, marshes, and wetlands (Statistics Denmark 2014a).

As of 2014, Denmark's population was about 5.63 million, with a density of 130.5 inhabitants per square kilometer. The population is predominantly urban. Approximately one-third of the population lives in the Greater Copenhagen Region (1.75 million), while an additional one-fifth resides in the country's next three largest urban areas: Århus (324,000),

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The authors would like to thank Niels Østergård, former director general at the Agency for Spatial and Environmental Planning in the Danish Ministry of the Environment, for providing critical feedback on an earlier version of this chapter.



**Figure 9.1** Map of Denmark

Source: Statistics Denmark (2014a, b).

Aalborg (205,000) and Odense (195,000).<sup>1</sup> Current demographic projections are that these four urban areas will continue growing in the coming decades (Statistics Denmark 2014b).

In 2012, Denmark's GDP was €245 billion. Public and market services accounted for 77 percent of the GDP, manufacturing and construction for 22 percent, and agriculture for 1.5 percent. Denmark has been traditionally characterized by high employment rates (72.6 percent in 2012 for those 15 to 64 years old) and low unemployment (2.1 percent long-term unemployed, defined as one year and over) (OECD 2014).

Denmark has a large public sector that should be viewed as the counterpart of the Danish welfare system, which offers free and wide access to education and healthcare. Subsidized by one of the highest taxation levels in the world (48 percent of the GDP), the welfare system has long succeeded in providing the population with a high level of well-being in material conditions and quality of life. Moreover, Denmark has an active labor market characterized by its so-called flexicurity model, which combines flexibility for companies to hire and fire employees with security for the

<sup>1</sup> These data refer to municipality populations.

unemployed at relatively high levels. This model has helped the country adjust to shocks while limiting the social cost of unemployment. The Danish welfare system, combined with labor-market flexicurity, has ensured low poverty and inequality rates over time.

### **System of Government and Administrative Structure**

Since the enactment of its first constitution in 1849, Denmark has functioned as a parliamentary democracy headed by a prime minister and exercising executive, legislative, and judicial powers. The cabinet carries out the executive functions of the country and is composed of several ministers whose core responsibility is to head specific government departments (ministries) in charge of particular sectors of government administration (there are normally between 18 and 20 ministries). Among other tasks, the cabinet deals with draft legislation; proposals for parliamentary resolution; reports to Parliament; appointments to boards, councils, and committees; decisions on proposals from the opposition for legislation; and parliamentary resolution (Folketinget, 2014).

The Parliament exercises legislative power and is the only branch of power enabled to adopt legislation. Consisting of 179 members (MPs) (175 elected in Denmark, 2 in the Faroe Islands, and 2 in Greenland), the Parliament is responsible for adopting and approving the state's budgets and accounts. It also exercises control of the government and takes part in international cooperation. At the practice level, the Parliament is organized into 26 standing committees dealing with bills and proposals for parliamentary resolution. Among them, the Parliament's Environment and Planning Committee takes care of planning-related affairs.

Denmark has traditionally had minority governments consisting of two or more political parties, which have established coalition governments occasionally supported by nongovernment parties. The election system is based on the concept of proportional representation, and elections are carried out every fourth year, although the prime minister may call for elections more frequently. Since October 2011, a left-wing coalition has been in power, originally formed by the Social Democratic Party, the Danish Social-Liberal Party, and the Socialist People's Party; the last withdrew in February 2014.

Judicial powers are exercised by the Danish courts, which since 2007 have consisted of the Supreme Court, the two high courts, the Maritime and Commercial Court, the Land Registration Court, 24 district courts, the courts of the Faroe Islands and Greenland, the Appeals Permission Board, the Special Court of Indictment and Revision, the Danish Judicial Appointments Council, and the Danish Court Administration. The Nature

**TABLE 9.1**  
*Five New Administrative Regions in Denmark*

Region	Population	Area (Km <sup>2</sup> )	Number of Municipalities	Largest Urban Area (Population)
Capital Region of Denmark (Region Hovedstaden)	1,749,155	2,546	29	Greater Copenhagen (1.75 million)
Region Zealand (Region Sjælland)	813,795	7,217	17	Roskilde (84,000)
Region South Denmark (Region Syddanmark)	1,200,956	12,256	22	Odense (195,000)
Region Central Denmark (Region Midtjylland)	1,278,480	13,000	19	Århus (324,000)
Region North Denmark (Region Nordjylland)	579,972	7,874	11	Aalborg (205,000)
Total	5,622,358	42,893	98	

SOURCE: Based on data from Statistics Denmark (2014b).

and Environmental Board of Appeals is concerned with planning-related matters.

In 2007, the liberal-conservative coalition government then in power implemented a reform of local-government structure that changed the geographies of intergovernmental arrangements in Denmark. The reform merged 275 municipalities into 98 larger units, abolished the county level, and created five administrative regions whose main task is to undertake healthcare administration (table 9.1). This territorial and administrative restructuring generated a major redistribution of tasks and responsibilities among levels of government that had a profound impact on the Danish planning system (Galland and Enemark 2013).

Denmark has a decentralized system of public administration whereby local authorities administer most of the total public expenditure. The municipalities are authorized to levy taxes and are currently responsible for numerous tasks related to employment, education, social services, culture, and physical planning, among other areas. The regions have no legal authority to levy taxes and are dependent on central government and municipal funding. Both municipalities and regions are led by elected councils, which are elected every four years.

### **Evolution of National Spatial Planning in Denmark**

In 1997, the Commission of the European Communities (CEC) contended in its *EU Compendium of Spatial Planning Systems and Policies* that spatial

planning in Denmark had a comprehensive-integrated character, a label normally attributed to “mature” planning systems (CEC 1997). This assertion essentially derived from the statement that the planning domain in Denmark consisted of a “systematic and formal hierarchy of plans from national to local level, which coordinate public sector activity across different sectors but focus more specifically on spatial co-ordination than economic development” (CEC 1997, 36–37). Accordingly, the Danish planning system distinguished itself from several other European planning systems by its harmonized and coherent institutional and policy framework across different levels of planning administration. Table 9.2 presents the milestones in the history of national planning in Denmark.

### Brief History of Danish Spatial Planning

The comprehensive-integrated tradition of planning systems and policies is mainly associated with Scandinavian countries. It explicitly seeks to deliver a certain degree of horizontal and vertical integration of policies across sectors and jurisdictions (CEC 1997). In this sense, comprehensive-integrated planning aims to achieve spatial coordination through a hierarchy of plans occurring at multiple scales. In Denmark, the birth of comprehensive planning should be understood as a direct response to the significant sociospatial challenges posed by the country’s industrial development and rapid economic growth after the Second World War. The most significant of these were urban sprawl, industry requirements for extra land, and a general decline in the living conditions of a considerable part of the population. Population distribution also became a relevant issue, particularly at a time when a high migration rate to Copenhagen left several other regions of the country lagging behind. This lack of balance and these challenges required the design of solid planning capacities and schemes aimed at rethinking the spatial arrangement of Denmark’s urban centers (Gaardmand 1993).

During the 1960s, planning per se was mainly a private exercise that dealt with the preparation of land development plans for single-family housing in suburban areas, as well as cottage areas along the coasts. The establishment of the National Planning Committee during that decade, however, led to the publication of an indicative planning exercise that specified areas for urban and industrial development, environmental preservation, summer housing, and agricultural production. In the 1970s, a territorial reconfiguration of the administrative division of counties and municipalities took place through a reform of local-government structure. The rationale behind this reform was that every new municipality embraced a single town and its hinterland. Based on the provision of goods and services, coupled with a hierarchical positioning of each center in

relation to others, this spatial pattern eventually replaced the former land demarcation that made a sharp distinction between urban and rural areas. Furthermore, this structural reform also led to the institutionalization of Danish planning based on the social democratic ideology of equal development, which called for decentralization as the means by which development needs (e.g., better access to public and private services that would have otherwise remained in a few urban centers) could be met throughout the entire country. In this sense, the Danish planning domain in the 1970s could be portrayed as “the spatial expression of the welfare state” (Jensen and Jørgensen 2000, 31).

Spatial planning underwent a period of ambiguity during the 1980s. The 1981 national planning report signified the peak of the long-term welfarist planning exercise developed in accordance with an urban hierarchy pattern aimed at securing and enabling equal resource distribution throughout the whole territory (Ministry of the Environment 1981). Toward the end of the decade, subsequent national planning reports were based on a neoliberal vocabulary that reinterpreted the notion of equality. Influenced by international agendas, the center-right government at the end of the 1980s thus played an important role in shaping national spatial planning policy along the lines of diversity and modernization (Ministry of the Environment 1987, 1989; Nielsen and Olsen 1990).

As national planning moved away from welfarist logics, regional planning remained confronted with the task of spatial coordination, as well as the implementation of the hierarchical urban pattern. The counties therefore continued to delegate key roles to specific cities and towns as providers of services and infrastructure development. Additionally, the counties assumed a cross-sectoral focus stemming from the need to balance multiple interests and objectives by delivering a sound spatial planning framework for municipalities to advance their own land use regulations. Binding regional plans defined urban development zones (e.g., for infrastructure, traffic, business development), countryside regulations (e.g., for recreational areas, nature protection, environmental resource management), and regional facility-siting objectives (e.g., for waste or energy facilities) (Galland 2012a).

During the 1990s, the objectives and contents of Danish spatial planning were significantly reframed. The Planning Act that came into force in 1992 replaced equal development with the aim to achieve “appropriate development in the whole country and in the individual administrative regions and municipalities, based on overall planning and economic considerations” (Ministry of the Environment 2007b, 5). This new catchphrase could be interpreted as an outcome of the agenda of international competitiveness promoted by European spatial planning policies at the

time (Amin and Thrift 1994; Newman and Thornley 1996). Spatial structuring and positioning of Denmark became influenced by more market-oriented and polycentric growth thinking. Notions inspired by a language of competitiveness replaced spatial concepts that were based on the logic of urban hierarchy (Ministry of Environment and Energy 1997, 2000; Ministry of the Environment 1992, 2003). Despite this policy discourse, planning at the national level continued to adopt regulatory measures in the form of planning directives on such issues as coastal protection and out-of-town retail development, as well as the EU directive on environmental impact assessments. These directives are still legally binding on local planning authorities.

A significant shift in Danish spatial planning was linked to the enactment of the 2007 reform of local governments, which radically reconfigured the political and administrative map of Denmark. In regard to planning practice, the reform transferred the counties' tasks and responsibilities to both national and municipal authorities. The new municipalities acquired responsibilities for town and country land use planning, while responsibilities for sectoral planning were transferred to the national level.<sup>2</sup>

After the structural reform, national planning clearly positioned itself in accordance with globalization. The 2006 national planning report stressed the need to renew spatial planning as a prerequisite for pursuing competitiveness demands (Ministry of the Environment 2006). In responding to these challenges, the report focused on promoting differentiated settlement regions, most notably on creating two metropolitan regions—the Greater Copenhagen and the Øresund Region—as one cohesive urban region, and to the Eastern Jutland Region, consisting of multiple cities along a single urban corridor. In principle, then, Danish spatial planning continued the strategic turn of the previous decade. At the same time, the reform brought an unprecedented planning directive for Greater Copenhagen, which could be understood as a case of recentralization that enabled the Ministry of the Environment to assume planning powers in that metropolitan region (Ministry of the Environment 2007a).

The 2010 Danish national planning report did not explicitly exhibit any particular spatial development tendency. The diverse settlement patterns and strategic spatial approaches adopted by former national planning reports during the previous two decades were abandoned (Ministry of the Environment 2010). Thus, the planning approach at the national level

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<sup>2</sup> National and municipal planning were “strengthened” by one-third and two-thirds, respectively, in relation to the tasks formerly run by the counties, as calculated by the total number of civil servants who were transferred to these entities (Galland 2012b, 1390).



**TABLE 9.2***Milestones in Denmark's National Spatial Planning*

1925	The first Planning Act is approved, but it is barely applied because the use of planning regulations involves an economic risk of liability for compensation to landowners.
1938	A new Town Planning Act is approved, which requires towns with more than 1,000 inhabitants to prepare land use plans that do not imply a duty to pay compensation to landowners.
1947	The Finger Plan is published, an advisory plan prepared by the Danish Town Planning Institute to coordinate the planning of 29 municipalities making up the Greater Copenhagen Area.
1949	An updated Town Planning Act is approved that is aimed at controlling urban sprawl. Urban development committees are set up for all expanding urban districts to provide urban development plans dividing the expanding areas into zones and preserving open country areas. This zoning forms the basis for the present zoning division of the whole country. Over the following 20 years, this zoning also forms the basis for many master plans of Danish cities and towns, and district and regional plans are voluntarily prepared for several development areas.
1959	Projection of the Great-H, a motorway system aimed at connecting the Jutland Peninsula with the islands of Funen and Zealand.
1962	The National Planning Committee is established. It publishes the National Zone Plan for Denmark, based on the zoning from 1949 onward and in accordance with land use areas.
1966	The Physical Planning Secretariat under the Ministry of Housing suggests a hierarchical urban settlement pattern based on central places in which cities and towns are assigned specific service functions.
1970	A reform of local governments abolishes 25 regional and about 1,400 local administrations and creates instead 14 counties and 275 municipalities. The idea of equal development is adopted in response to a discourse of an "unbalanced Denmark." The new counties and municipalities are empowered to levy taxes and to use the revenue to undertake a range of responsibilities that are transferred from the national to the regional and especially the local level through decentralization.
1970	The Urban and Rural Zones Act is approved. It divides the country's territory into three zones: urban, summer cottage, and rural. In urban and summer cottage zones, development is allowed in accordance with adopted planning regulations, while in rural zones, covering about 90 percent of the country, developments or any changes of land use for purposes other than agriculture and forestry are prohibited or require special permission according to planning and zoning regulations.
1973	The National and Regional Planning Act is approved, which specifies responsibilities and procedures for providing national and comprehensive regional planning.
1974	The Greater Copenhagen Council is created, but is given quite limited powers.

TABLE 9.2 (continued)

1975	The National Agency for Physical Planning is created under the Ministry of the Environment, and the first (annual) national planning report is published.
1977	The Municipal Planning Act is approved, with duties and procedures providing for comprehensive municipal planning and also local plans before implementation of any major development proposal. The planning procedures at the regional and local levels are based on the principles of decentralization, comprehensive planning, and public participation.
1979	On the basis of the spatial logic suggested in 1966, the National Agency for Physical Planning publishes the influential <i>Report on the Future Urban Settlement Pattern for Denmark</i> .
1981	In accordance with the 1979 report, the national planning report officially designates a hierarchy of urban centers for the whole country.
1982	A conservative government influenced by Thatcherite neoliberalism assumes office, and national planning enters a standby period.
1989	The national planning report asserts that the notion of equal development is outdated. Instead, the regions of Denmark should develop differentially to strengthen the country's position internationally.
1992	A revised and modernized Planning Act is approved that merges the regulation of the former acts on urban and rural zones, national and regional planning, and municipal planning into one piece of legislation. The National Planning Report <i>Denmark Towards the Year 2018</i> promotes the Øresund Region as the international gateway and leading urban region in Scandinavia. International competitiveness is promoted, and other Danish provincial cities are portrayed from such framing.
1994	A national planning directive on coastal protection is adopted. The directive establishes a protection zone of three kilometers along the coastline where any development activities are subject to specific coastal planning considerations.
1997	A national planning directive on retail trade is adopted that limits large-scale, out-of-town retail development. The national planning report <i>Denmark and European Spatial Planning Policy</i> adopts the idea of polycentricity, which creates new planning concepts based on the merger of former and updated spatial logics.
2001	A liberal-conservative coalition government assumes office and attempts to adapt the scope of planning to fulfill growth-oriented agendas.
2006	Influenced by the preparation of a structural reform, the national planning report <i>The New Map of Denmark—Spatial Planning Under New Conditions</i> portrays spatial planning as a tool to meet growth and competitiveness demands. The Ministry of the Environment advances initiatives to create partnership and dialogue among municipal councils, regional councils, and the state on the future development of two metropolitan regions.

(continued)

TABLE 9.2 (continued)

2007	A structural reform is implemented in Denmark that modifies intergovernmental arrangements by creating larger municipalities (98 instead of 275) and five new administrative regions. The county level is abolished, and its spatial planning tasks are redistributed to the national and especially the municipal levels. The former comprehensive regional plans are replaced by visionary regional development plans, while the land use content of the former regional plans is transferred to municipal plans. As part of the structural reform, the Finger Plan is adopted as a national planning directive to regulate and control land use in the Greater Copenhagen Region.
2010	Planning at the national level is chiefly aligned with environmental sustainability and sectoral agendas. The first national planning report published since the structural reform exhibits no spatial development tendency.
2013	In response to a number of criticisms, mostly from municipalities, national planning takes a more spatial approach based on the concentration of growth in city-regions, although the national planning report largely remains an indicative document with limited capacity for implementation.

clearly broke away from the differentiated spatial reasoning associated with previous planning.

However, the national planning report published in 2013 does attempt to articulate a spatial approach based on the idea of concentrating growth in the Greater Copenhagen Region and within potential city-regions located along the national highway system, the so-called Great-H (see Ministry of the Environment 2013b) (figure 9.2). In so doing, the report provides a national spatial structure based on ad hoc spatial analyses (such as commuting patterns) and also adopts a “green growth” discourse in relation to climate and the environment. It can be argued, however, that this report is mainly indicative because it does not provide any direction to meet spatial coordination challenges at intermunicipal and regional levels. The national level formerly had the capacity and competence to coordinate spatial planning across scales through regional planning, but it currently has limited resources to adopt such coordinating roles. Hence, except for the 2013 Finger Plan Directive for Greater Copenhagen, Danish national spatial planning continues to have a limited say in the implementation of spatial planning policy within the national territory. The diminishing power of national planning suggests that plans, policies, and reports at this level of administration are likely to have less say in future spatial development decisions (Galland and Enemark 2013).



**Figure 9.2** Government Map of Denmark in the National Planning Report, 2013

Source: Ministry of the Environment (2013b, 19).

### Factors Shaping Danish Spatial Planning

Planning systems originally appeared in several Western European post-war welfare states during the 1960s and 1970s. Behind their emergence was the rise of “Keynesian welfarism,” under which capitalist states intervene to secure full employment and economic growth by linking the national economy, the national state, and national society (Jessop 1990, 2000). Planning systems and policies emerged in this context as spatial frameworks to tackle mounting socioeconomic disparities among regions. In regard to spatial concepts, these objectives were materialized within specific national territories (such as Denmark and Germany) on the basis of hierarchies of central places (Christaller 1966).

As the Danish case indicates, spatial planning agendas at the time were translated into plans, regulations, guidelines, and schemes dealing with land use allocation, urban expansion, infrastructure development, settlement improvements, and sectoral policy coordination, among other matters. The traditional conception of spatial planning in this and related European contexts could be understood as “the methods used largely by the public sector to influence the future distribution of activities in space . . . undertaken with the aims of creating a more rational territorial organization of land uses and the linkages between them, to balance demands for development and to achieve social and economic objectives” (CEC 1997, 24).

The downfall of welfarist regimes led to the establishment of neoliberalism, which sought to promote international competitiveness and socio-technical innovation in open economies. A result of this paradigm shift was that social policies became significantly subordinated to economic policies in allowing for greater labor-market flexibility. By the 1980s, spatial planning shifted to supporting new economic initiatives by replacing welfarist policy objectives with the promotion and regulation of distinct development projects, such as efforts aimed at revitalizing rundown areas of cities and city-regions (Healey et al. 1997).

In Denmark, however, this neoliberal turn took place more slowly than it did elsewhere in Europe (e.g., in the United Kingdom or The Netherlands). In contrast, the Danish social democratic state kept key policy sectors out of the market and introduced neoliberal policy adjustments in the mid-1980s to improve the performance of its accumulation regime (Harvey 2005; Jessop 2000). This fact helps explain why the underlying conception of Danish spatial planning at the national and regional levels remained essentially unchanged until the 1990s.

During the late 1990s and first years of the 21st century, in what was known as “the revival of strategic spatial planning” (Salet and Faludi 2000; see also Albrechts 2004, 743), spatial planning in diverse European settings

supplemented its focus on projects and land use regulation (Albrechts, 2001) with a new strategic emphasis on innovative place-making activities based on relational processes for decision making (Healey 2007). This new focus on place qualities meant that spatial planning policies were reframed as economic positioning to promote competitive cities and city-regions in European and global contexts. In Denmark, this shift was particularly obvious in the contents and orientation of national planning reports (Ministry of Environment and Energy 1997, 2000; Ministry of the Environment 1992, 2003, 2006), which were inspired by spatial planning concepts derived from *The European Spatial Development Perspective (ESDP)* (CEC 1999; Faludi 2004) that to a considerable extent replaced the former welfarist logic that was based on urban hierarchies (Galland 2012b).<sup>3</sup>

Table 9.3 shows a series of economic, sociocultural, and political factors that help explain how the planning domain in Denmark and elsewhere in Europe has been shaped since the 1990s (Albrechts, Healey, and Kunzmann 2003). It is worth noting that most of these factors are connected to the changing conception of national and regional spatial planning in Denmark. Danish land use planning has largely been delegated to the local level (except for Greater Copenhagen), but its contents have remained largely unchanged. Moreover, political factors are intrinsically related to changing institutional arrangements, which have influenced all levels of government in Denmark, particularly since the structural reform.

The institutional arrangements of the Danish planning system have changed considerably compared to its original structure even though, in principle, the framework under which the national level steers local levels remains in place. The former steering role of the state should be understood in light of the welfarist conception of spatial planning and of the emergence of “classical-modernist” institutions, which sought to attain “territorial synchrony” during the postwar decades (Hajer 2003, 176, 182). In the transition from welfarist to neoliberal regimes, the state’s planning tasks and responsibilities have been transferred to an array of various actors operating at different administrative levels.

The abolition of the Danish counties and of land use planning functions at the regional level illustrates how the progressive loss of territorial synchrony and the “hollowing out” of nation-states (Jessop 2000, 352) have been “filled in” (Jones et al. 2005, 337) by “soft spaces” of governance (Allmendinger and Haughton 2009, 619; see also Haughton et al. 2010) occurring at regional and local scales. Examples of soft spaces are formal and

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<sup>3</sup> Denmark was the main Nordic contributor to the *ESDP* (Böhme 2002). Several concepts derived from this initiative were incorporated into Danish national planning policies.

**TABLE 9.3***Factors Shaping Spatial Planning in European Contexts since the 1990s**Economic*

- Restructuring of production relations
- Global positioning of city regions through competitiveness agendas
- Widening of economic relations from local networks toward global relationships
- Rules applied by the European Union (e.g., rules for use of EU regional development funds)
- Fiscal stress of governments and the consequent search for partnerships to increase investment capacities

*Environmental*

- Ecological vulnerabilities and environmental constraints on economic growth
- Concern for quality of life and environmental consciousness

*Political*

- Decentralization of governance functions and new forms of governance and government reorganization (e.g., structural reforms of local government)
- Changes in financing local governments (need for budget sharing)
- Political/cultural emphasis on regional and local identity and cohesion
- New modes of territorial policy integration
- Discourses and practices of a European spatial planning policy community

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SOURCE: Galland (2012b), based on Albrechts, Healey, and Kunzmann (2003, 115).

informal bottom-up initiatives that include public and private stakeholders working across policy sectors and administrative scales. Such initiatives in Denmark include regional growth forums and municipal contact councils influencing regional development planning, both of which are discussed in this chapter.

Several interrelated factors that stem from the implementation of the structural reform have put an end to decades of statutory (legally binding) regional planning. The most obvious factors are the rescaling of land use functions and policies, the softening of the Danish planning system, the emerging governance dynamics associated with filling in the regional scale, the emergence of soft spaces of planning and governance based on urban clusters and polycentricity (e.g., national planning reports of the Ministry of Environment and Energy 1997, 2000, and Ministry of the Environment 2003), the promotion of settlement and commuting regions at different scales (e.g., national planning report of the Ministry of the Environment 2006), and the explicit alignment of national planning with competitiveness objectives and nature-protection agendas (Galland 2012a, 2012b).

## The Danish Planning System

The Danish planning system is characterized by a decentralized division of tasks and responsibilities. Since the structural reform in 2007, the Planning Act has delegated responsibility for comprehensive land use planning and regulation to municipal councils. The regional councils are in charge of preparing regional development plans to support spatial development strategies at the municipal level. The Ministry of the Environment is responsible for safeguarding national interests through national planning (figure 9.3).

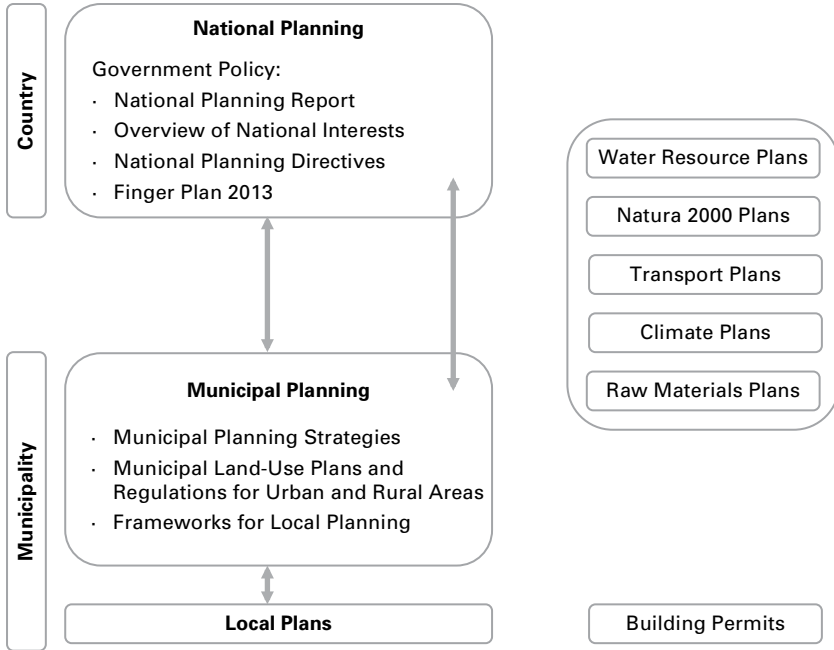
The Planning Act is intended to ensure that planning meets the interests of society with respect to land use and helps protect nature and the environment. It specifies the following aims (Ministry of the Environment 2007b, 5):

- To ensure appropriate development in the whole country and in the individual administrative regions and municipalities, based on overall planning and economic considerations.
- To create and conserve valuable buildings, settlements, urban environments, and landscapes.
- To ensure that the open coasts continue to be an important natural and landscape resource.
- To prevent pollution of air, water, and soil and noise nuisance.
- To involve the public in the planning process as much as possible.

### Planning System Principles

Since its inception in the 1970s, the Danish planning system has been characterized by three core principles: decentralization, framework control, and public participation. The principle of decentralization has long been established as a cultural institution that strives for broad political and social consensus. As such, this principle is meant to ensure a fine-tuned relationship between national authorities and municipal councils. In this light, Denmark has a long tradition of delegating responsibility and decision-making authority to local governments. The decentralization of planning tasks is based on trust in the municipal councils, which must provide, adopt, monitor, and revise comprehensive spatial planning. The municipal councils are also responsible for delivering legally binding local plans before the execution of development projects, and for the control of land use, which is implemented through the granting of building permits.





**Figure 9.3** Danish Planning System, 2015

*Note: The county level of planning administration, together with regional land use plans, was repealed in 2007. The so-called regional spatial development plans of 2007 were repealed in February 2015.*

The principle of framework control is that planning decisions made at lower levels must not conflict with planning decisions established at higher levels. This principle is in line with the idea of coordinating interests across different institutional scales through dialogue and partnership. In doing so, framework control is operationalized through dialogue and veto. On behalf of the national government, the minister for the environment is required to veto municipal plan proposals that do not abide by the stipulations and interests put forward at the national level. At the same time, any municipality may object to plan proposals of neighboring municipalities if such proposals conflict with its development objectives.

Public participation is an important part of the planning process and is a significant democratic means through which objectives for economic development and environmental improvement are met. Together with local plans, planning proposals at the local level must be submitted for public debate, inspection, and potential objection for at least eight weeks before they are finally adopted. Particularly in the case of binding local plans,

public participation provides opportunities for public scrutiny before local changes of the spatial environment are made. Once a plan is adopted, it cannot be appealed, because the procedures of public participation are regarded as adequate to ensure the legitimacy of the political decision.

### Zoning System

The zoning system, established in the 1970s, divides the country into three types of zones: urban, rural, and summer cottage areas. Development is allowed in accordance with planning regulations in both urban and summer cottage zones. Developments or any land use changes for other purposes than agriculture and forestry either are banned in rural areas or are subject to special permission according to planning and zoning regulations. Changing a rural area into an urban zone requires the provision of a binding local plan.

The Planning Act defines urban zones as (1) areas allocated to urban development as part of an urban development plan; (2) areas allocated as construction zones for urban development by a building bylaw (according to pre-1970 building legislation); (3) areas allocated to urban development or public use by a town planning bylaw (according to pre-1970 building legislation); and (4) areas transferred to an urban zone by a local plan. The act defines summer cottage areas as special zones allocated for development for such purposes by a building bylaw or a town planning bylaw, and areas transferred to a summer cottage area by a local plan. Finally, rural zones are defined as any areas other than urban and summer cottage zones (Ministry of the Environment 2007b).

### Structure of Land Use Governance

The Danish planning system divides governance into national, regional, and local levels with a decentralized delegation of planning responsibilities that places most decision-making authority and its associated administrative powers mainly at the local level. Since the implementation of the latest structural reform in 2007, the Planning Act has transferred most spatial planning tasks and responsibilities to the 98 municipalities by giving them a high degree of planning control of urban and rural areas. At the same time, specific planning responsibilities have been reassigned to the national level. Table 9.4 presents the different policy institutions and policy instruments that constitute the Danish planning system.

#### National Level

The Nature Agency at the Ministry of the Environment has been the national administrative authority for spatial planning functions since 2011.

**TABLE 9.4**

*Overview of the Danish National Spatial Planning Policy Framework after the Reform of Local Government Structure, 2007*

Level	Policy Institutions		Policy Instruments			Legal effect
	Planning authority	Number of inhabitants	Type of plan or instrument	Description		
National	Ministry of the Environment	5.63 million	National planning report	National visions regarding functional physical development	Advisory guidelines and recommendations	
			Overview of national interests regarding municipal plans	National interests arising from legislation, action plans, sector plans, and agreements between national authorities	Binding for local authorities. Right to veto municipal plan proposals when contradicting national interests	
			Greater Copenhagen Finger Plan Directive	Establishes a framework for the spatial development of the metropolitan region according to spatial principles and land-use concepts	Binding for local authorities	
			Other national planning directives	Maps and legal provisions (i.e., coastal zone planning; siting for wind turbines; location of natural gas pipelines and transmission lines)	Binding for local authorities	
			Sectorial plans	Water and Natura 2000 plans, climate plans, and traffic plans, etc.	Binding for local authorities	
Regional	5 administrative regions	~ 1,000,000 (wide deviations)	Regional spatial development plans (repealed in 2014)	Advisory and visionary plans	Binding for local authorities (until February 2014)	
Local	98 municipal councils	~ 30,000 (wide deviations)	Municipal plans	Policies, maps, and land-use regulations	Binding for local authorities	
			Local plans	Maps and detailed legal land-use regulations	Binding for landowners	

**TABLE 9.5**

*Timeline of the Reconfiguration of National-Level Planning Authorities within the Ministry of the Environment*

National-Level Planning Institution	Period
National Agency for Physical Planning	1975–1992
Spatial Planning Department	1993–2002
Forest and Nature Agency (Spatial Planning Office)	2003–2007
Agency for Spatial and Environmental Planning (Planning Office)	2008–2010
Nature Agency (Planning Office)	2011–present

It is responsible for facilitating the planning system and for monitoring land use planning tasks carried out at the local level. It advises the minister for the environment on planning issues and is in charge of preparing planning legislation. The institutional setup associated with national planning has been reconfigured several times since the Ministry of the Environment assumed spatial planning responsibilities in 1975 (table 9.5). Like its predecessors, the Nature Agency aims at using spatial planning to strengthen the implementation of the country's environmental policies while fostering spatial development through planning.

The Nature Agency represents Denmark in international cooperation on spatial planning and on the environmental impact assessment of projects, policies, plans, and programs. This cooperation takes place within the European Union, the United Nations, the Council of Europe, and the Organization for Economic Cooperation and Development, as well as with planning authorities in the Nordic and Baltic countries.

The Spatial Planning Department is also consulted on planning projects outside Denmark. Besides the Nature Agency, two other entities within the Ministry of the Environment deal with planning matters, namely the Environmental Protection Agency and the Nature Protection and Environmental Board of Appeal. The former is responsible for implementing national policies regarding pollution and environmental control of air, water and soil, waste management, and environmental technology by administering the Environmental Protection Act, the Water Supply Act, and the Contaminated Soils Act. The latter is in charge of processing appeals of decisions made by municipalities under these acts.

Other ministries involved directly or indirectly in spatial planning decisions through policy intervention are the Ministry of Transport; the Ministry of Climate, Energy, and Building; the Ministry of Food, Agriculture, and Fisheries; the Ministry of Housing, Urban, and Rural Affairs; and the Ministry of Business and Growth. Since the implementation of the

latest structural reform, the capacities of national planning to intervene in local planning and projects of international, national, or regional relevance have been reinforced.

### Regional Level

The regional level lost most of its clout after the abolition of the counties in the structural reform in 2007. Regional councils were deprived of their power in spatial planning and were mainly left with tasks and responsibilities associated with healthcare administration. In the area of planning, the administrative regions were tasked with facilitating the preparation of regional spatial development plans (RSDPs), which were meant to emerge from bottom-up, multi-stakeholder processes in collaboration with municipalities and other regional actors. The regions also handle responsibilities regarding soil pollution and raw-materials planning.

Appointed by the regional councils since 2007, regional growth forums (RGFs) are partnership-based bodies that have emerged as important arenas to influence the spatial development of the regions by fostering economic growth. Consisting of representatives from the business community, educational institutions, and labor-market entities and politicians from the regional and municipal levels, growth forums are intended to make recommendations to regional councils and the state on questions regarding the allocation of European Union structural funds. RGFs prepare business development strategies based on local conditions for economic growth, including the development of peripheral areas. These strategies are meant to be part of the foundation of RSDPs.

Since the implementation of the structural reform, an interest organization known as Local Government Denmark (LGDK) has acquired influence in planning matters at the regional level. As the member authority of Danish municipalities, LGDK instituted municipal contact councils at the regional level, which to some extent have functioned as competing planning arenas by developing political initiatives that foster intermunicipal collaboration. Municipal contact councils can be conceived as soft spaces of governance that serve to promote economic growth initiatives to influence spatial development at the regional level (Galland 2012a).

### Local Level

Since the implementation of the structural reform, the municipal councils have assumed spatial planning and land use tasks and responsibilities, although the 34 municipalities within Greater Copenhagen must comply with the Finger Plan Directive discussed in this chapter. The newly assembled and larger local authorities have been further empowered to pro-

vide local solutions to local needs and to combine responsibility for decision making with accountability for financial, social, and environmental consequences of their decisions. Each municipality is obligated to prepare a comprehensive municipal plan covering its whole territory. In addition, municipal authorities have the right to prepare detailed and binding local plans for specific (neighborhood) areas in order to impose planning regulations. Moreover, municipalities must also provide local plans before implementation of major development projects. Altogether, the municipal plan comprises a framework for detailed local plans and for processing individual cases pursuant to the Planning Act, as well as other sectoral acts.

### **Key Planning and Land Use Policy Instruments**

The Danish spatial planning framework consists of an array of planning and land use policy instruments that are developed by planning policy institutions at different levels. Table 9.6 provides a synthesis of these instruments.

#### **National Level**

The rules on national planning were originally introduced in 1974 and were significantly reinforced after the structural reform in 2007. As a whole, the national planning policy framework for comprehensive spatial planning and land use decision making is made up of planning reports, binding directives, rules, guidelines, and intervention in municipal planning for themes and projects of international, national, regional, and local interest.

#### **NATIONAL PLANNING REPORTS**

National planning reports set out overall spatial policies and objectives after each government election. The Nature Agency prepares these reports in cooperation with other relevant ministries and submits them as proposals with several thematic alternatives. Before the minister for the environment submits a report to Parliament on behalf of the government, a period of public debate is held during which municipalities and other stakeholders react to the proposal. The objectives of these reports are to provide guidance to the regions and municipalities and to set forth national planning policies on specific issues.

The contents of national planning reports and the discourses associated with them indicate that national spatial planning adopts distinctive roles and development orientations in pursuit of growth and development. Galland (2012b) shows how national planning reports, in liaison with other

**TABLE 9.6**  
*Planning and Land Use Policy Instruments*

Plan	Status and Duration	Objectives, Form, and Use	Production
National planning reports	Statutory reports providing general guidance and policies; compulsory preparation after every national election	Sets out the current national planning policies and provides guidance for regional and local planning authorities. Their rationale, scope, and development orientation have varied widely over the past four decades.	Prepared by the Ministry of the Environment and adopted by the government
National planning directives	Statutory directives providing binding regulations on specific issues of national interest	Sets out legal provisions on specific issues of national interest, e.g., determining the path of natural gas pipelines and the siting of wind turbines and electrical transmission lines.	Prepared and adopted by the minister for the environment; binding on regional and local authorities
Finger Plan Directive	Statutory directive providing binding planning regulations; prepared in 2007 and updated in 2013	Establishes a spatial framework for the whole region by delimiting areas for urban development, green areas, transport corridors, noise-impact areas, technical installations, and other uses.	Prepared by the Ministry of the Environment; binding on 34 local authorities in Greater Copenhagen
<i>Overview of National Interests on Municipal Plans and the Right to Veto</i>	Statutory report prepared every four years before the process of revising the municipal plans begins	Determines the interests and considerations arising from politically adopted decisions in the form of legislation, action plans, sector plans, national planning decisions, and agreements among public authorities.	Prepared by the Ministry of the Environment in cooperation with other relevant ministries; binding on local authorities. The minister for the environment has the right to veto a municipal plan proposal if it conflicts with national interests

Regional spatial development plans (RSDPs)	Advisory, visionary development plans that describe the desired future spatial development for each administrative region; repealed from the Planning Act in early 2014	Portrayed as umbrella tools to inspire growth and development initiatives at the municipal level. In practice, RSDPs reject the aspiration to manage and control spatial development at lower scales.	Framed to emerge from bottom-up, multi-stakeholder processes facilitated by the administrative regions in collaboration with municipalities and other regional actors
Municipal plans	Statutory plans providing land use regulation; compulsory revision every four years, covering the whole area of the municipality with a twelve-year horizon	Sets out general and specific policies and regulations for land use in urban and rural areas and is the main political instrument for development control at the municipal level.	Prepared and adopted by municipal councils; subject to public consultation at two formal stages: before preparation of the plan proposal and before adoption; binding on local authorities
Local plans	Statutory plans providing binding regulations for local or neighborhood areas; compulsory preparation before implementation of development proposals	Sets out detailed regulations for future land use, including written statements and maps with scale between 1:500 and 1:5,000.	Prepared and adopted by municipal councils; subject to public consultation and objections for at least eight weeks before adoption; no possibility for appeals except in regard to legal issues; must comply with municipal plans; binding on landowners



national policies, have assumed steering, balancing, and strategic roles over various time frames since the inception of national planning in Denmark. For instance, by aligning with welfarist logics, national planning played a steering role from the 1970s until the late 1980s. However, steering was largely supplemented or even replaced by balancing and strategic roles during the 1990s and the first years of the 21st century. The balancing role can be interpreted as the reinvention of spatial planning as a policy domain characterized by the introduction of ad hoc economic and environmental agendas. In parallel, the strategic role arose after the adoption of European spatial planning concepts, which advocated competitiveness measures based on visionary strategies for spatial development.<sup>4</sup>

#### NATIONAL PLANNING DIRECTIVES AND RULES

The minister for the environment prepares and adopts national planning directives, which are binding on regional and local authorities. These instruments set out legal provisions on specific issues of national interest, for example, determining the path of natural-gas pipelines and the siting of wind turbines and electrical transmission lines. Planning directives can be used in different ways, such as planning for specific infrastructure projects and stating siting regulations for energy facilities.

In addition, national planning directives may also be used to regulate more thematic issues. For instance, after the introduction of planning directives for coastal-area protection and retail trade in 1994 and 1997, respectively, the Planning Act adopted straightforward and simplified rules for both domains. The overall rule for retail planning is that land designated for retail trade must be located in town and city centers in such a way that shops are accessible by all means of transport, particularly walking, cycling, and public transportation. Regarding coastal protection, construction within 300 meters of the shoreline is banned, and no new summer cottage areas may be designated. Within a protected coastal zone extending 3 kilometers from the shoreline, the transfer of land to an urban zone and planning for development in a rural zone are prohibited unless there is a specific planning-related or functional justification for location near the coast.<sup>5</sup>

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<sup>4</sup> Galland (2012b) provides a descriptive analysis of the history and evolution of national planning policy in Denmark.

<sup>5</sup> An amendment to the Planning Act, effective in September 2011, has loosened planning rules and directives in 29 so-called peripheral municipalities to allow for more developments in rural areas and coastal zones. To a certain extent, this measure reflects the former (liberal-conservative) government's intention to minimize planning constraints.

## GREATER COPENHAGEN FINGER PLAN DIRECTIVE

A special directive aimed at guiding the development of Greater Copenhagen was issued in 2007. It establishes a spatial framework for the whole region by promoting urban development in accordance with the principle of station proximity (figure 9.4). Greater Copenhagen can be conceived as one integrated region, including one cohesive labor market and common green areas. However, its governance has historically been complex because the region contains numerous municipalities (currently 34) responsible for their own spatial planning (Galland and Ferdinandsen 2013). The directive is based on the spatial conception of the first Finger Plan published in 1947 (Egnsplankontoret 1947), which vividly portrayed Greater Copenhagen in the shape of a hand that outwardly projected an ordered urban expansion along five corridors (the fingers) into rural areas to the west and north of the inner city (the palm) and in the direction of relatively nearby towns. This expansion was based on the idea of moderate population increase and housing stock positioned in function of suburban railway lines. The spaces between the corridors were to be preserved for agricultural and recreational purposes.<sup>6</sup>

In line with its predecessor, the 2007 Finger Plan Directive regulates land use in all 34 municipalities in Greater Copenhagen by delimiting areas for urban development, green areas, transport corridors, noise-impact areas, technical installations, and other uses. The directive and the Planning Act state that Greater Copenhagen is subdivided into four geographic zones: (1) the core urban region (the palm of the hand); (2) the peripheral urban region (the fingers); (3) the green wedges (located between and across the urban fingers); and (4) the rest of the urban region (where urban development is allowed only in connection with municipal centers) (Ministry of the Environment 2007b, 9–10).

Although the directive itself is not strategic, it does make explicit the overall objective of ensuring a well-functioning metropolitan area to enhance international competitiveness. The binding nature of the 2007 Finger Plan Directive and the handover of its direction and execution to the Nature Agency after the structural reform illustrate how spatial planning tasks and responsibilities have been recentralized. In 2013, an amendment to the directive expressed the overall political aim to convert Greater Copenhagen into a greener urban region.

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<sup>6</sup> The 1947 Finger Plan for Greater Copenhagen was the first comprehensive planning attempt in Denmark to address matters such as mass transport, industry development, housing, and nature preservation coherently above the urban level.



- Inner Metropolitan Area (the palm)
- Outer Metropolitan Area (city fingers)
- Outer Metropolitan Area (rural area)
- Transportation Corridor
- Green Wedges (inner wedges and coast wedges)
- Green Wedges (outer wedges)
- Rest of the Metropolitan Area (city area)
- Rest of the Metropolitan Area (summer house area)
- Rest of the Metropolitan Area (rural area)

**Figure 9.4** Finger Plan Directive for Greater Copenhagen, 2013

Source: Ministry of the Environment (2013a, 13).

## OVERVIEW OF NATIONAL INTERESTS ON MUNICIPAL PLANNING AND THE RIGHT TO VETO

Prepared by the Ministry of the Environment in cooperation with other relevant public authorities, the *Overview of National Interests on Municipal Planning* outlines the aims and requirements of the government with respect to municipal planning (Ministry of the Environment 2011). Arising from political decisions based on legislation, sector plans, and agreements with other ministries, the report addresses urban development (including special considerations for Greater Copenhagen), energy supply, green transport, green growth, tourism and recreation, use of rural areas, and aspects of nature protection. These issues are discussed and dealt with every four years before the municipal plans are revised.

Published every fourth year since 2007, this overview should be understood as a core national planning instrument that municipalities should abide by in order to avoid a veto. As stated earlier, the minister for the environment has the right to veto a proposed municipal plan on behalf of all the government ministers if such proposal conflicts with national interests. Vetoes are made during the public hearing period, and the municipal council cannot adopt the proposal until the minister agrees to its content. A committee of state civil servants assesses each proposed municipal plan during the period of public comment to coordinate the state's viewpoints. A national veto can also be imposed on a local plan when national interests are at stake. Thus, monitoring, dialogue, and veto work to achieve a sustainable balance between the two levels of administration.

### Regional Level

Introduced in 2007, but repealed from the Planning Act in early 2014, regional spatial development plans aimed to foster spatial development in close connection with business development. The RSDPs differed notably from the former physical, land use regional plans because they were only visionary, which constrained them to offer a simple overview of growth possibilities at the regional level. Thus, RSDPs focused on potential regional strengths within diverse sectoral areas, namely, business and the labor market, education, tourism and recreation, culture, nature, and the environment. As stated in the section on the structure of land use governance, RSDPs emerged from bottom-up, multistakeholder processes in dialogue with municipalities. The role of the administrative region was thus to facilitate the process of generating such plans. Moreover, RSDPs were meant to ensure the cohesion of a series of sectoral plans and strategies, including those for business development, employment, Local Agenda 21, education, and culture.

Business development strategies are prepared by partnership-oriented RGFs and aim at improving local conditions for economic growth. RSDPs were intended to ensure the cohesion of these strategic documents, which continue to be based on the strengths of local businesses within each administrative region. Prepared every four years, these strategies center on drivers of economic growth: innovation, entrepreneurship, education, and new technology. On the basis of these strategies, RGFs are intended to make recommendations to the state and the regional councils on support of European Union funds and regional development projects.

### Local Level

The municipal plan is the main political instrument of the council for development control and serves as a strategy for both social and economic development and environmental improvement. The plan combines political objectives, land use policies, and the more detailed land use regulations within a municipal jurisdiction. Altogether, the municipal plan provides the linkage between national planning interests and detailed local plans. Municipal plans must be revised every four years.

Procedures for public participation are ensured both before and after the issuance of the plan proposal. Appeals can be made only in regard to legal and procedural issues; the content of the plans cannot be appealed. This also applies to local plans.

The municipal plan is not binding on landowners, but the municipal council must strive to implement the adopted plan. Proposals for local plans, as well as land use decisions in general, must be consistent with the adopted planning regulations. The Planning Act determines the procedures, the structure of the plan, and the minimum content of regulations, but municipal authorities still have wide latitude in their planning approach. Traditional land use regulation is the basic element in order to provide the framework for control of development and implementation, but the plan can also serve as a strategic means to link sectors and coordinate municipal activities, for example, in relation to urban regeneration, environmental resilience, and policies on attracting commercial development or improving the living conditions of specific population groups. The municipal plan thus summarizes the overall political objectives and development priorities of the municipality.

Beyond land use planning functions and regulations, ad hoc municipal policies address aspects of urban master planning (such as urban regeneration, waterfront redevelopment, and strategic planning for suburban areas). More recently, municipal councils have also begun to adopt climate plans.

The local plan is the main instrument through which the municipal authority issues detailed planning regulations while also the basic means for planning control through the issuing of building permits. The plans are legally binding on landowners and hence determine development possibilities and influence property values. However, local plans regulate only future transactions and thus do not require property owners to act. Regulations through local plans are hence not subject to claims for compensation, as they may adversely affect property value.

Local plans must be provided before implementation of any major development and construction works. This power and duty of the municipal authority is a crucial element of the planning system because it ensures that larger developments are subjected to the regulation of the planning system and the provisions for public participation before implementation. The legal provisions of local plans can include a wide range of detailed regulations as determined in the Planning Act, such as zoning status; use of land and buildings; size and extent of properties; roads, tracks, and transmission lines; building density and design; and landscape features.

Before a municipal authority adopts a local plan, it must provide at least eight weeks for public inspection and comments. During this period, state authorities may veto a local plan if the proposal conflicts with national interests. The municipal council then processes the comments and objections and may make any relevant changes before adopting the plan. Municipal councils publish the adopted plans in their websites and make them available on the national planning information system, PlansystemDK.<sup>7</sup>

### **Plan Implementation Tools and Processes**

The Danish planning system is mainly plan led (rather than market led). Development possibilities are determined in the general planning regulations at the municipal level and are further detailed in the legally binding local plans. However, planning regulations established by the planning system are mainly restrictive. Although the system is designed to prevent undesirable development from occurring at any time, it cannot guarantee that politically desirable development will actually occur at the right place and time.

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<sup>7</sup> The e-planning portal (<http://plansystemdk.dk>) provides public access to all municipal plans and local plans (either adopted or proposed) across Denmark. The map-based interface provides a range of navigation tools, including address, cadastral parcel number, municipality, and area polygons. The system provides direct access to an electronic copy of the local plans. The e-planning portal also enables citizens to provide direct feedback on proposed development plans during the statutory eight-week consultation period.

When a municipality adopts a local plan, the development possibilities are legally determined, and development proposals that conform to the planning regulation are easily implemented without any delay. When no local plan is adopted, the basic condition for approval and implementation of development proposals is the extent to which the proposal conforms to the adopted planning regulations in the municipal plan. The legal means of planning control are sufficient in the sense that the system is able to ensure that undesirable development does not occur, but it also makes it possible for desirable development to take place even if it does not comply with adopted planning regulations.

Even if the means of planning control are in place, implementation may not automatically take place as intended by the municipal plan, because most development is implemented through private developers and investments. However, the municipal authority may, in some cases and under certain conditions, use compulsory purchase (expropriation with full compensation) as a means to implement a local plan. Expropriation can also be used to implement planning for public institutions and infrastructure facilities. The municipal authority may also adopt a more active role by purchasing land and property in the free market to achieve planning objectives in a longer perspective. In this way, the municipal council becomes the developer and can take full control of the implementation process (see, e.g., Galland and Hansen 2012).

The Building Act determines the final control of implementation through the granting of building permits, which must be consistent with adopted planning regulations (Ministry of Housing and Urban Affairs 1998). The building permit thus functions as the final stage in the planning control system. The Building Act also provides a range of detailed regulations of construction works. Larger development proposals are subject to adoption of a local plan that will set the planning regulations. When a municipal authority is processing a building permit to implement the construction works, it checks whether the project conforms to the adopted planning regulations and other relevant legislation, as well as the detailed demands for construction works listed in the Building Act.

If there is no local plan and there are no precise regulations in the municipal plan concerning the specific area for development, the development proposal must comply with the general building provisions stated in the Building Act. These regulations imply a minimum plot size, a maximum building density and building height, and a minimum distance from a building to a neighbor's boundary. These general building provisions serve as basic safeguards for appropriate development; they do not apply when a local plan states otherwise. It should be noted that the Building Act in Denmark belongs to the Ministry of Housing, Urban and Rural Affairs (formerly the Ministry of Housing and Urban Affairs) and therefore is not

fully coordinated with the Planning Act, in contrast to many other countries where planning and building control are integrated under the same Ministry.

Zoning and sectoral land use control provides additional means of development control. Development is allowed in urban and summer cottage zones in accordance with the current planning regulations. In rural zones, which cover about 90 percent of the country, developments and any change of land use for purposes other than agriculture and forestry are prohibited or are subject to special permission from the municipal authority according to planning and zoning regulations. These provisions are intended to prevent urban sprawl and uncontrolled development and installations in the countryside. In addition to the regulations already mentioned, there are a range of other rules that may affect the possible use of land, for example, the Agricultural Holdings Act, the Nature Protection Act, and the Environmental Protection Act.

In summary, the planning system in Denmark is a mix of vertical and horizontal connections through which national and sectoral policies are implemented from the top down and are integrated at the local level through comprehensive spatial planning. Monitoring, dialogue, and the national power of vetoing a proposal for a municipal or a local plan constitute the core means that make the planning system function.

### **Key Outcomes and Lessons**

The discussion in this chapter suggests that the Danish national spatial planning framework has diverged from the comprehensive-integrated tradition that originally characterized it. In principle, a comprehensive-integrated planning system is meant to exhibit coherent conceptual orientations, as well as stable and coordinated institutional structures within and across the various levels of planning administration. However, the Danish case has shown that planning policies and practices embedded within the system are prone to constant shifts, as illustrated by the divergence of policy agendas across levels of planning administration. Since the latest structural reform, national-level planning has been mainly concerned with promoting specific sectoral issues; regional-level planning has focused on fostering growth-oriented strategies to facilitate regional development; and municipal planning has undertaken physical land use tasks and responsibilities in both urban and rural areas, including planning for climate change. The divergence in policy themes suggests a decreasing degree of spatial coordination and policy coherence.

On the institutional side, Danish spatial planning also seems to have shifted from its comprehensive-integrated character. The institutional setup of the Danish spatial planning system originally displayed institutional



comprehensiveness and territorial synchrony. In principle, these qualities seem to have remained constant in the graphic representation and the structural configuration of the planning system (figure 9.3). However, it is evident that the welfarist scope of this former state spatial project has been significantly altered since the abolition of the county level and the redistribution of planning tasks and responsibilities to the national and local levels. In this sense, the formal institutional structures of planning within and across administrative levels have become less consistent.

At the national level, spatial planning has gradually lost an important share of its former institutional clout, particularly under the rule of the liberal-conservative coalition government during the previous decade. This is illustrated by the changing institutional arrangements within the Ministry of the Environment whereby spatial planning tasks were abridged and transferred from the now-extinct Spatial Planning Agency to an office within the Nature Agency whose agendas certainly diverge from those that former planning authorities promoted. At the regional level, a fuzzy governance landscape characterized by the emergence of soft spaces of planning lessened the narrow reach of RSDPs, which were finally eliminated from the planning system in 2014. Last, the local level continues to be the core land use actor with strong legal means of planning control, although it is still subordinate to national-level interests and planning directives. A new hierarchical relationship has been generated between national and local planning authorities, one that relies on regulatory intervention rather than spatial coordination.

These policy and institutional shifts, as well as the softening of the principle of framework control, suggest that the comprehensive-integrated approach of Danish spatial planning is worn out. Whereas the scope of the former comprehensive-integrated version of Danish spatial planning was self-evident by definition, the current version entails ambiguous conceptual orientations and unrelated institutional capacities across levels of planning administration. To an important degree, the somewhat incoherent policy framework and the partial institutional fragmentation associated with the Danish planning system—demonstrated by its less related plans and less connected administrative levels—imply that Danish spatial planning can be exercised only through a local land use regulatory framework.

To understand Danish spatial planning as a whole, it is necessary to examine the changing planning rationale and governance arrangements through which shifting policies and competing institutional capacities seem to diverge from the inherited synchronized logic of the former planning system. Although the Planning Act continues to adhere to its former systematic logic based on the principle of framework control, there is a

need to redefine or at least readjust the institutional and policy framework of Danish spatial planning.

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The governance structures and policy instruments of the Danish national spatial planning framework have been considerably transformed during the past two decades. Although it can be argued that spatial planning in Denmark is currently in crisis at the national and regional levels (especially in comparison with the domain's former clout and capacities), the legacy of planning is still embedded at the local level, albeit under quite challenging conditions.

From a broader political economy perspective, this chapter has addressed a series of factors that seem to shape the performance of the Danish planning system in light of its more recent structural reorientations. It has stressed that the comprehensive-integrated character of Danish spatial planning has gradually dissolved. This argument is supported by the impression that there is less spatial coordination and coherence across different levels of planning administration, and less spatial consciousness in most policy instruments (except for municipal plans and the Greater Copenhagen directive). In contrast to its predecessor, the current planning system pays less attention to the integration and coordination of policy strategies put forward by other sectors (i.e., the tasks and responsibilities associated with the now-extinct regional plans). This absence of spatial reasoning has evidently reduced the possibility for the planning domain to have a say in present and future spatial development processes. Hence, in contrast with the configuration of its forerunner, the current Danish planning system has less power to make plans matter.

Furthermore, Danish spatial planning has proved to have the capacity to align itself with prevailing government agendas. In this respect, spatial planning ends up reflecting the ideologies and interests of the government in power. Influenced by a wave of globalization and competitiveness agendas, neoliberal-minded governments have evidently favored the relative strength of specific economic sectors within the country since the late 1980s. In contrast with the social welfarist objectives of the 1970s, these governmental preferences in support of new sectors have indirectly caused spatial planning to be regarded more as a cost than as an asset. Therefore, it is evident that the Danish planning domain has progressively lost political clout.

The 2007–2008 credit crunch and the subsequent recession seem to have diminished further the significance and weight of spatial planning in Denmark. In view of the ongoing global economic restructuring, there is evidently a common perception among governmental actors that there

is less need for comprehensive spatial planning at higher levels of planning administration. Globalization and the accompanying liberalization of world markets have led to radical changes in Denmark's role in the international division of labor. As has happened elsewhere in Europe, the Danish manufacturing industry (which traditionally played a fundamental role in the country's economy) has become more equally distributed, and a considerable part of it has been outsourced to Asia. At the same time, other sectors, such as finance, tourism, and transport, have grown significantly. These economic shifts imply that the overall profits associated with the Danish economy relate much more to international monetary flows than they do to local production. Consequently, the need for spatial planning seems to have radically diminished (except for transport and infrastructure planning). It is also in this context that the recent structural reform can be understood as a state initiative to mobilize national institutions toward different forms of economic growth promotion.

The center-left coalition government that came to power in late 2011 continues to face the challenge of dealing with the economic recession. Therefore, a continued focus on economic growth agendas is very likely to remain in place. Based on these assertions, Danish spatial planning as conceived before the structural reform is unlikely to persist under its temporary setback status during the 2010s. At the national level, planning will probably remain less spatial and be deprived of its former societal and distributive capabilities. Instead, it will be understood as an all-purpose tool designed to promote specific sectoral agendas, such as the pursuit of environmental sustainability and economic growth at different scales.

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## *Commentary*

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Denmark is well planned and has high-quality surroundings in nature, the environment, landscapes, and cities and towns. At the same time, the government in Denmark wishes to focus on a green transformation of the economy and the creation of jobs and cities that are attractive, green, and well functioning.

Today, Denmark has a simple and clear spatial planning system that is well described by Daniel Galland and Stig Enemark. The Planning Act ensures that the overall planning synthesizes the interests of society with respect to land use and contributes to protecting nature and environment so that sustainable development is secured to improve people's living conditions and to conserve of wildlife and vegetation.

Denmark has thoroughly reformed its public sector in recent years. The latest reform in 2007 of the Danish Planning Act changed Denmark's spatial planning system. Municipalities are now responsible for planning both town and country, and municipal plans thus have a new role as the key plans for development and land use. The recent modernization of the Planning Act has focused on promoting strategic planning and reinforcing public participation in planning, improving the opportunities for converting disused industrial sites into mixed-used urban districts, promoting environmentally sound location policies, protecting attractive and vibrant town centers, and protecting the open stretches of the coast.

A municipal plan summarizes the overall political objectives for the development of a municipality, both in towns and cities and in the countryside. It contains guidelines for land use and a framework for the content of local plans. The municipal council publishes a strategy for municipal planning within the first two years of the municipal election period, as well as information on the planning that has occurred since the last time the municipal plan was revised. The municipal councils are responsible for comprehensive land use regulation at the municipal and local levels through legally binding guidelines for property owners. Local plans are the foundation of Denmark's spatial planning system. They concretize the political strategy and objectives of the municipal plan.

The regional councils prepare plans that present strategic visions for the spatial development of each region. The regional spatial development plan comprehensively describes desired future spatial development for each administrative region's cities and towns, rural districts, and small-town regions. A map is to illustrate the general content of the plan.

The minister for the environment is responsible for upholding the national interest through national planning. National planning is formulated in government policy, the National Planning Report, the Overview of National Interests, the Finger Plan, and national planning directives. After each election to the Parliament, the minister for the environment submits a national planning report to be used in regional spatial planning and municipal planning. In June 2013, the Minister for the Environment submitted a national plan proposal that focused on seven topics regarding spatial planning. The plan proposal was debated in public for 13 weeks.

The Planning Act contains overall principles for urban development and recreational considerations, as well as special rules on planning in Greater Copenhagen. The Minister for the Environment has prepared a national planning directive that will be continually updated to implement these principles. At the national, regional, and municipal levels, the Planning Act has strengthened the strategic aspect of spatial planning and has raised the political interest in planning. Visions, strategies for action, and interaction between the planning authority and the public and the enterprises ensure that the current spatial planning system is able to deal with many different interests. The visions and strategies are transformed to regulation for areas in the municipal planning.

One priority of the 2007 planning reform was to coordinate local, regional, and national interests through dialogue, cooperation, and partnership. Municipalities benefit by cooperating in numerous spatial planning tasks, as shown in two examples: First, on the island of Fyn, nine municipalities, the Region of Southern Denmark, and the Danish Ministry of



the Environment are cooperating to develop and design a common spatial planning structure for the island of Fyn in order to support and promote sustainable development and regional economic growth. The structure will focus primarily on business development, housing, and accessibility. Second, seventeen municipalities, Region Zealand, Trafiksel-skabet Movia (the transportation agency), the Ministry of Transport, and the Ministry of the Environment have been involved in a dialogue regarding the future development of the towns and cities in the region. In this project, the partners have drawn a common picture of the structure of the region until the year of 2030. The structure shows a concentration of growth in the larger and most efficient towns and cities regarding transportation, placement of new urban growth as close as possible to stations, and use of existing buildings in the rural zone and in villages, but limits on new buildings in the rural zone.

These examples of cooperation among municipalities, regions, relevant partners, and ministries show the interest in dialogue and cooperation and underline the wish for a common regional perspective on development. Cooperation and dialogue do not necessarily result in a strategic spatial planning perspective, but they may be seen as a first step toward spatial planning that is capable of dealing with conflicting interests and ensuring such spatial planning in each of the municipalities on the basis of political decisions.

At the same time, the Planning Act promotes the national interest in decentralized planning. The state is responsible for upholding the national interest and for dealing with complex cases related to the environment, nature, and spatial planning. The municipalities are responsible for municipal planning, but they cannot adopt municipal plans that conflict with national interests. The regional councils may oppose a proposed municipal plan that conflicts with the regional spatial development plan. A municipality may object to the proposed plan of a neighboring municipality if the proposal would adversely affect the objecting municipality's development. Negotiation will be used in order to find a solution.

The Danish Planning Act involves the public in the planning process at municipal, regional, and national levels. Before a municipal plan, a regional spatial development plan, a national planning directive, or a national planning report may be adopted, a proposal and a report on the premises of the proposal must be published. Property owners, neighbors, nongovernmental organizations, public authorities, and others have at least eight weeks to submit their objections, comments, proposals, and protests. The planning authority decides whether it should distribute more material for discussion, arrange citizens' meetings, establish working groups, or create

electronic citizens' panels. The municipalities experiment with various ways of involving the public and others in the planning process.

It is surprising that Daniel Galland and Stig Enemark remark that spatial planning in Denmark is currently in crisis at the national and regional levels. The new challenges are being met by dialogue, cooperation, discussions of political visions, involvement of the public, and spatial planning based on strategic and political decisions. In other words, the planning system in Denmark still has political clout.





## Planning Without a Spatial Development Perspective?

*The French Case*

ANNA GEPPERT

To an international readership, France is known as the birthplace of *aménagement du territoire*, usually translated into English as spatial planning. It is considered the ideal “regional economic” approach to planning (European Commission 1997). To a certain extent, French planning may be seen as the model for the European Union’s cohesion policy (Faludi 2004). Paradoxically, today, France has no national spatial development perspective or any document that would serve as a guideline for its spatial policies. Is French spatial planning still alive?

In the past decades, the evolution of the French nation-state has led to a redefinition of the roles of different participants in the planning process, as well as the modes and the meaning of spatial planning. In the 1960s, *aménagement du territoire* was a set of policies implemented by the national government in order to counterbalance regional disparities. In the 1980s, planning powers were transferred to local governments. For the regions, planning addressed the issues of territorial competitiveness. Currently, the state is no longer a strong player in the field; rather, it is more a critical friend of local endeavors.

This chapter explains the evolution of the French planning system within its institutional and cultural context over the past five decades. In particular, it focuses on the changes in the conception of spatial planning and the role of the national government in the planning process. The

chapter is based on a review of planning policies and discourses from the 1960s until the present. It also incorporates the author's experience of French planning over the past two decades.

## **Emergence of *Aménagement du Territoire***

### Historical Context

The area of France is 550,000 square kilometers, halfway between the sizes of Texas and California. Its population of 65 million is about the same as that of these two largest states in the United States. As a consequence, at the national level, planning has to cope with a large variety of regional situations and issues. Also, France has territories outside the European continent. For example, French Guyana has 2 inhabitants per square kilometer in a territory the size of Austria. On the mainland, the distribution of population and wealth is uneven. Some regions are highly urbanized: Paris lies at the heart of a city-region of 11 million inhabitants with a density of almost 1,000 inhabitants per square kilometer. Other regions remain rural, remote, and scarcely populated. The Limousin region has a density of 42 inhabitants per square kilometer, and its largest city, Limoges, is home to some 140,000 people. France exhibits a variety of landscapes, regional cultures, and identities.

Building the nation-state has been an endeavor of more than a thousand years. Remembering the lost empire of Charlemagne in the 800s, French kings relentlessly expanded their domain. By weddings, alliances, and wars, they integrated many provinces into the kingdom. To keep the kingdom unified, senior road surveyors developed an efficient transportation network.<sup>1</sup> Also, this period witnessed an unremitting struggle between the kings and the local lords. To deal with the local striving for independence, the monarchy developed a strong, centralized administration. In each province, the representative of the Crown collected taxes and supervised justice and the police.<sup>2</sup> He had to contend with the power of local lords, parliaments, and assemblies. By the time the French Revolution erupted, kings had strongly centralized the country, but had not succeeded in eradicating local powers.

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<sup>1</sup> In 1599, King Henri IV (1589–1610) elevated this office to a ministerial level for Maximilien de Béthune, duc de Sully (1559–1641). His responsibilities concerned royal roads, public places, and the aesthetics of the cities. These surveyors existed until the French Revolution, foreshadowing the role of the future ministry of infrastructure, also in charge of planning. Today, it has come under the umbrella of ecology and sustainable development.

<sup>2</sup> The title of these state officials appeared around 1620. They foreshadowed the function of the prefect.

In 1789, the revolutionary regime completed this centralization. During the night of August 4, 1789, the National Assembly repealed all privileges, including all local regulations. The revolutionary regime suppressed all former provinces, counties, and earldoms. Instead, it established a new administrative division, the department, headed by a nominated representative of the state, the prefect, who took over the responsibilities, and often physically the office space, of the representative of the Crown. In the first years of the French Revolution, there was a struggle in the National Assembly between two parties. The Jacobins, more radical, favored of a strong central power, which they considered the best way to achieve equal treatment of all citizens. The Girondinists, more moderate, advocated local freedoms and what one might today call territorial diversity or multiculturalism. In 1793, the Jacobins won and instituted a new state organization that was unitary, strongly centralized, and hierarchical. The representative of the state, the prefect, was directly under the authority of the minister of the interior. He implemented policies defined at the national level, and exercised legal guardianship over locally elected representatives. This dominance lasted until 1982. *Aménagement du territoire* was designed by and for a unitary, centralized nation-state. Its goals, its decision making, and its implementation were typically Jacobin. A chronology of French planning can be found in table 10.1.

**TABLE 10.1**  
*Milestones in French Planning*

Year	Legislative and Institutional Changes	Significant Positions in Books, Reports, or Plans	National Policies
1607	<i>Edit de Sully</i> , the first planning regulation, is promulgated.		
1747	The École Royale des Ponts et Chaussées is created.		
1789	During the French Revolution, the nation-state is centralized. Local regulations are suppressed, and departments are created.		
1793	The Girondists are defeated and beheaded. The Jacobin model of a centralized, egalitarian republic is instituted.		

(continued)

**TABLE 10.1** (continued)

Year	Legislative and Institutional Changes	Significant Positions in Books, Reports, or Plans	National Policies
1794	The École Polytechnique is created.		
1852–1870			Georges-Eugène Haussmann works in Paris.
1947		<i>Paris et le désert français</i> , by Jean-Francois Gravier, denounces the hegemony of Paris, the leading principle for French spatial planning.	
1955–1985			The industrial decentralization policy supports the relocation of firms outside Paris.
1963	The Délégation à l'Aménagement du Territoire et à l'Action Régionale (DATAR), an interministerial think tank that elaborates, promotes, and coordinates planning policies, is created.	<i>Le niveau supérieur de l'armature urbaine française</i> , by Hautreux and Rochefort, designates metropolises to counterbalance Paris.	Policy of counterweight metropolises promotes the largest French cities as a counterbalance to Paris through infrastructure and equipment (1963 to mid-1970s).
1965		<i>Schéma Directeur d'Aménagement et d'Urbanisme de la Région Parisienne</i> (the Plan Delouvrier) opts for a polycentric development of the region Île-de-France.	Construction of the New Towns starts.
1967	Loi d'orientation foncière (LOF). This planning Act institutes local planning documents and their hierarchy.		
1971		DATAR publishes <i>Schéma général d'aménagement de la France</i> , which confirms the necessity to counteract regional disparities.	

**TABLE 10.1** (*continued*)

Year	Legislative and Institutional Changes	Significant Positions in Books, Reports, or Plans	National Policies
1973			The policy of regional centers promotes regional capitals in the regions next to the Île-de-France. The policy for middle-sized cities promotes them as centers for rural areas.
1982	In the first round of decentralization reform, the national government transfers planning powers to local governments and creates regions, a new, additional tier of local government.		
1991		<i>Europe 2000</i> , by the European Commission, advocates integrated European spatial planning.	Policy of networks of cities supports groups of neighboring cities willing to collaborate.
1992		<i>L'urbanisme, pour un droit plus efficace</i> , by the Conseil d'État, analyzes the dysfunction of statutory planning documents.	
1993		<i>Débat National pour l'aménagement du territoire: Document Introductif</i> , by DATAR, provides support to the public debate on spatial planning. It is the last national spatial vision promoted by the state.	
1994		<i>Europe 2000+</i> , by the European Commission, pleads for an integrated planning system and territorial collaboration.	

(*continued*)



**TABLE 10.1** (*continued*)

Year	Legislative and Institutional Changes	Significant Positions in Books, Reports, or Plans	National Policies
1995	Loi d'orientation pour l'aménagement et le développement du territoire (LOADT), also known as the Pasqua Act, reforms the planning system and institutes counties.		Counties are established as a soft spatial planning tool to foster urban-rural partnerships in urban areas.
1996		DATAR publishes a draft national scheme for spatial planning and development.	
1999	Loi d'orientation pour l'aménagement et le développement durable du territoire (LOADDT), also known as the Voynet Act, updates the Pasqua Act. Loi relative au renforcement et à la simplification de la coopération intercommunale, also known as the Chevènement Act, reforms municipal groupings.	<i>European Spatial Development Perspective</i> , by the Informal Council of Ministers Responsible for Spatial Planning of the European Union, disseminates key concepts, such as polycentricism.	
2000	Loi solidarité et renouvellement urbains, also known as the SRU Act, reforms local planning documents.	<i>Aménager la France de 2020</i> , by DATAR, presents a polycentric scenario.	
2002			State Funding for the counties is added to the funds of the programmatic period 2000–2006. The policy takes off.
2003	Loi urbanisme et habitat, also known as the UH Act, softens the requirements of the SRU Act.	<i>Métropoles et structuration du territoire</i> , also known as the Bury Report, but the Conseil Économique et Social argues that France needs cities of European dimension.	The French Government establishes a National Strategy for Sustainable Development (2003–2008), disconnected from planning.

**TABLE 10.1** (*continued*)

Year	Legislative and Institutional Changes	Significant Positions in Books, Reports, or Plans	National Policies
2004			The cluster policy is launched. DATAR issues a call for metropolitan collaborations to stimulate large city-regions.
2005		<i>L'intercommunalité en France</i> , by the Cour des comptes, analyzes the failure of the reform of municipal groupings.	
2007		<i>Territorial Agenda of the European Union</i> , by the Informal Council of Ministers Responsible for Spatial Planning of the European Union.	<i>Grenelle de l'environnement</i> . Permanent consultation on the ways to enter the environmental era.
2008			The President of the French Republic organizes an international competition envisioning future developments for the greater Paris.
2010	Loi portant engagement national pour l'environnement, also known as the Grenelle II Act, mandates the greening of local planning documents. Loi de réforme des collectivités territoriales, also known as the RCT Act, launches a process re-shaping municipal collaborative groupings.	<i>Europe 2020</i> , by the European Commission, promotes smart, sustainable, and inclusive growth.	<i>Towards a Green and Fair Economy</i> . The 2010–2013 national strategy for sustainable development is established.
2011			Grand Paris express, a 175-kilometer metro line circling Paris, with 57 new stations and 17 future clusters, is launched.

(*continued*)

TABLE 10.1 (continued)

Year	Legislative and Institutional Changes	Significant Positions in Books, Reports, or Plans	National Policies
2012			
2014	The loi de modernisation de l'action publique territoriale et d'affirmation des métropoles, also known as the Law Modernizing Territorial Public Action and Strengthening Metropolises, creates a new status for agglomerations of more than 400,000 inhabitants.	Proposal to aggregate the Alsace region and the departments of Haut-Rhin and Bas-Rhin is defeated in a referendum.	
2015	A bill proposes to reduce the number of regions.		

### Early Decades of *Aménagement du Territoire* (1960s and 1970s)

The trend of centralization has developed over the course of 1,000 years. It had strong effects on the geography of France. Paris is a true capital within the French urban hierarchy and dominates the system of cities. At present, the Île-de-France region contains 20 percent of the inhabitants of the country and accounts for 40 percent of its gross domestic product. Transportation networks are strongly centralized. Today, going from one major French city to another is still often faster via Paris, even if the distance is twice as great. Jean-François Gravier's famous essay *Paris and the French Desert* (Gravier 1947) vigorously protested the dominance of Paris, which he believed hampered the development of the rest of the territory. The discourse was prorural and was framed by a certain "hatred of the city" (Marchand 2001). Gravier recommended a redistribution of economic activities in order to counteract the excessive concentration of capital in the Île-de-France. His views were persuasive for the minister for reconstruction and urbanism, Eugène Claudius-Petit. Since 1955, the state has fostered the relocation of industries outside Paris. Investments in the capital region are submitted to a preliminary authorization process as a way to control their number. Companies that locate in provincial cities benefit from a state financial grant, the spatial planning grant.<sup>3</sup>

<sup>3</sup> Later, Jacques Delors used the spatial planning grant as a model for European structural funds regulations.

During the next decades, the discourse about the spatial imbalance of the country remained a key element of spatial planning. In 1971, the Délégation à l'Aménagement du Territoire et à l'Action Régionale (DATAR) published *Schéma général d'aménagement de la France*, which, despite its title, was a forecast, not a planning document (Monod 1971). Subtitled *Scénario de l'inacceptable*, it claimed that by the year 2000, spontaneous development would lead to an unacceptable concentration of population and growth in Paris. The capital region would be congested, while other parts of the country would be overlooked. The threat justified state intervention.

At this time, the state was the main, if not the only, player. DATAR was established in 1963 under the direct authority of the prime minister. With a small staff, DATAR was a think tank that developed spatial policies. It worked closely with academics from the social sciences (e.g., geographers and economists). Conceptually, DATAR officials were influenced by Walter Christaller's theory of central places (Christaller 1933) and François Perroux's theory of polarization (Boudeville 1968). Studies prepared for DATAR collected empirical evidence and looked for cities likely to counterbalance Paris (Hautreux and Rochefort 1963, 1964).

In the 1960s and 1970s, national policies in regard to cities aimed to reduce French regional disparities by addressing the hierarchy of its urban centers. At the national level, the policy of counterweight metropolises promoted the largest French cities as a counterbalance to Paris.<sup>4</sup> In the Île-de-France and its seven neighbor regions, a number of regional centers (*zones d'appui*) were supported in order for them to play a similar role.<sup>5</sup> As a second step, new policies addressed middle-sized cities and small rural centers. Although these policies were adapted to different scale levels, they shared a common conceptual framework. They aimed to influence regional spatial structures in urban areas and, whenever possible, in city systems rather than isolated cities. Policy strategies were similar as well: developing public infrastructure, such as transportation infrastructures; providing public services, such as higher education or healthcare; and encouraging economic specialization of spaces in certain sectors (for example, the aircraft industry in Toulouse).

At the local scale, the key feature of the discourse was the control of urbanization. In the "thirty glorious years" of industrialization and urbanization (Fourastié 1979), uncontrolled urban growth appeared to be a threat. Rumor has it that in 1961, General de Gaulle, flying above Paris,

<sup>4</sup> These cities and conurbations were: Lille-Roubaix-Tourcoing; Nancy-Metz; Strasbourg; Lyon-Saint-Etienne; Marseille-Aix; Toulouse; Bordeaux; and Nantes-Saint-Nazaire.

<sup>5</sup> These zones were Zone d'appui Nord Champenoise (Reims, Epernay, Châlons), Zone d'appui de la Basse Vallée de la Seine, Zone d'appui de la vallée de l'Oise, and Zone d'appui ligériane.

was upset about the chaotic development of the suburbs, so he commanded Paul Delouvrier, at the time the general delegate for the district of Paris (a quasi-ministerial position), to “put some order in this mess.” Details of the story vary, and some authors claim that it is an urban legend that shows the atmosphere of the time (Vadelorge 2005). In any case, the Urban Development Plan for the Region Ile-de-France, known as the Plan Delouvrier (1965), launched the construction of five new towns.<sup>6</sup> Created ex nihilo, they were expected to become new poles and were given particular functions, for instance, the role of administrative centers.

Local land use planning was also under the control of the representative of the state. In 1967, the regulatory planning system was established, with two sorts of planning documents in a hierarchical relation. At the upper level, the urban development plan set the overall guidelines for the future development of urban regions, that is, groups of municipalities. For each municipality, a detailed regulatory land use plan provided the legal basis for the issuance of building permits. Local governments may express their opinion about these plans, but the final decision belonged to the prefect.

The structure was very hierarchical. Decisions were made at the national level and implemented top-down. The central government defined the legislative framework, key objectives, and policies. Locally, the state administration prepared statutory plans for the municipalities. For large projects, the central government created specific public entities under state control. Public planning companies planned and built the new towns. Inter-ministerial planning companies executed major regional projects, such as the transformation of the Languedoc-Roussillon region. They were granted large budgets and broad prerogatives, such as expropriation. Metropolitan-area planning offices made plans for the development of the counterweight metropolises (Cohen 2002). The role of civil servants, in particular, graduates of the *École Nationale des Ponts et Chaussées*<sup>7</sup> and the *École Polytechnique*<sup>8</sup> (prestigious engineering schools), was dominant. The assumption was that the state apparatus would lead the nation into modernity.

The economic crisis of the mid-1970s generated strong criticism of planning. When the foreseen development did not happen, plans and

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<sup>6</sup> These towns were Cergy-Pontoise, Marne-la-Vallée, Saint-Quentin-en-Yvelines, Evry, and Melun-Sénart.

<sup>7</sup> The *École Royale des Ponts et Chaussées* was founded in 1747 under King Louis XV. Its mission was to educate the body of civil engineers in charge of the kingdom's bridges and roads. Today called the *École des Ponts ParisTech*, it is under the Ministry of Ecology, Sustainable Development and Energy. Students are selected by competition and, by being selected, become civil servants during their period of study.

<sup>8</sup> The *École Polytechnique* was created in 1794 for military engineers. Napoléon I (1769–1821) gave it its prestige. Nicknamed “the X,” it is under the Ministry of Defense. Students are selected by competition and thus become civil servants during their scholarship.

schemes were considered dubious. Planners were criticized as stubborn technocrats, unable to foresee the future or to make it happen. The top-down approach and the dominant role of the state were considered disconnected from local reality. A devolution of powers appeared necessary. In 1982, newly elected French president François Mitterrand instituted a major decentralization reform. The devolution of powers to local and regional governments concerned town and regional planning, among other issues. This reform created a new framework for planning.

### **The Contemporary French Planning System**

The 1982 reform devolved many powers to territorial governments of three levels. Municipalities (36,571 communes) are in charge of land use planning and urban development. Twenty-six regions, newly established for this purpose, are responsible for regional planning and economic development. There are also 96 departments, which, strictly speaking, have no spatial planning power, but exercise some planning-related powers, for example, over key infrastructure, such as roads.

The distribution of roles among the numerous tiers of local and regional governments is complex. First, there is no real specialization of the different tiers of territorial government. For example, all tiers have authority in economic development, housing, and culture. Second, in addition to its obligatory missions, any local government is free to contribute to any project. In short, most public investments involve the participation of many levels of government, from national to local, and eventually all of them. At each territorial level, the state administration acts alongside the elected representatives of the local governments. Therefore, the governance structure of public authorities concerned with planning is dual (table 10.2).

The state administration acts in two ways. First, it checks the legality of planning documents, a legal control that does not involve any power of qualitative appreciation. Second, it coordinates national policies and investments in the region with the investments and policies of the local governments.

In this multiactor governance system, coherence in spatial planning requires a high level of coordination and collaboration in matters ranging from the elaboration of planning documents and territorial strategies to the implementation of joint investments. Coherence in statutory land use planning among the different territorial levels is sought through the hierarchy of planning documents, which works well at the local level, but less well at the regional and national and levels. In policy making, the autonomy of the different local governments leads to a multiplication of strate-

**TABLE 10.2**  
*Dual Governance Structure at Territorial Levels*

Territorial Level	State Administration	Local Administration
France	Ministries concerned with planning: Ministry of Ecology, Sustainable Development and Energy (former Ministry of Infrastructure); Ministry of Housing, Equality of Territories and Rurality; Inter-ministerial Delegation for Spatial Planning and Regional Attractiveness (DATAR) under the prime minister	
Region	Officer: prefect of the region (position held by one of the prefects of departments in addition to that position)	Head: president of the regional council Assembly: regional council Competences in spatial planning: regional planning and economic development
Department	Officer: prefect	Head: president of the general council Assembly: general council
Commune	Officer: mayor (acts as the representative of the state in certain capacities, for example, as marriage officer)	Head: mayor Assembly: municipal council Competence in spatial planning: urbanism

gies, which are sometimes redundant, sometimes competing. Collaborations are established by cofinancing public investments. The coherence of the planning system remains incomplete (figure 10. 1).

In regard to land use planning (figure 10.1, first column), the hierarchy of planning documents is achieved through compatibility; that is, a lower-level document must follow the overall guidelines established by an upper-level one, with a margin for interpretation. This relation is binding, but flexible. An even more flexible relation has been established for other policy documents that planning documents must only “take into consideration.” In this case, a lower-level document does not have to follow an upper-level document as long as it does not interfere with the

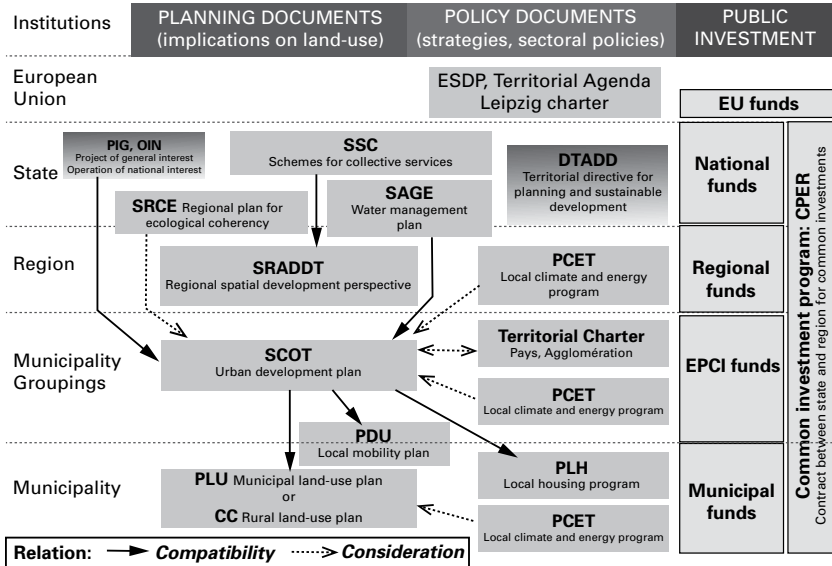


Figure 10.1 Incomplete Coherence of the Planning System, 2013

upper-level document’s realization. In this case, the relation is more one of broad coordination than of hierarchy.

At the national level, France has no comprehensive national spatial development perspective, only a series of sectoral schemes for collective services. Seven separate planning documents have been produced, summarizing national priorities in the following fields: higher education and research, information and communication, energy, natural and rural spaces, culture, health, and sport. Implementation is done through more detailed schemes, so the usefulness of the schemes is doubtful. For instance, in 2005, two schemes concerning transportation were abolished without further consequences. Still, the schemes remain binding on regional and local documents.

In specific situations, when the national interest is at stake, the national government may intervene directly. A project of general interest could be, for instance, a major piece of infrastructure. An operation of national interest is larger; it could be a new town or a port. In this case, local planning documents must be revised in order to comply with the project or operation. If local authorities do not do so, the state representative steps in. The national government makes little use of these procedures, not least because they require important investments and public money is scarce.

Two levels have been assigned the authority to elaborate planning documents: the regions, a tier of government established in 1982 explicitly to



perform regional planning; and the municipalities. Between these two government levels, there is a disruption of the hierarchy; local documents do not have to follow the guidelines provided by regional documents except in the capital region, where local documents must be compatible with the regional plan, the Urban Development Plan for the Region Île-de-France.<sup>9</sup>

Each region prepares a regional sustainable development perspective. The regions have little geographic, historical, and economic consistency. Their perimeters were defined hastily by aggregating departments,<sup>10</sup> which had become too small in a society of increased mobility. However, they did not replace the departments; instead, they constitute an additional layer. The regions' budgets remain modest. Because of the electoral system, regional representatives often act as lobbyists for their departments. Regional staffs have more experience in public administration than in spatial planning. As a consequence, although regions manage their modest budgets well, they tend to elaborate the regional sustainable development perspectives without a spatial vision. In the late 1980s, the first regional documents were merely lists of foreseen investments. Their quality has progressively improved, but they still seldom include, for instance, a comprehensive map.

At the local level, the communes prepare planning documents at two levels. Their perimeters, inherited from medieval parishes, remain narrow: the size of a village in the countryside and a small district in most cities. At the level of the urban area, voluntary groupings of communes elaborate the scheme for territorial consistency (*schéma de cohérence territoriale* [SCoT], the new name of the comprehensive urban development plan);<sup>11</sup> this document provides the general guidelines and the common development perspective of the area. But, because groupings are voluntary, the actual size of the area varies from a built agglomeration to a func-

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<sup>9</sup> In the Île-de-France, the urban development plan for the region (SDRIF) is binding on local documents. This is consistent with the highly urbanized profile of the region. The plan is much more precise and detailed than any other regional plan and, in addition to the vote of the regional assembly, needs the approval of the state government. Its 2008 version did not get this approval, so the 1994 version is still valid. On October 25, 2012, the region adopted a new version of the plan, which has finally been approved by the national government on December 27, 2013.

<sup>10</sup> The departments were established in 1789 to replace and erase provinces and counties of the monarchy. The *tabula rasa* policy is present in their perimeters and in their names, often taken from rivers. They were designed with the rule that every citizen should be able to go to and from the capital of the department in one day's horse ride. In 1982, with car mobility, the departments were quite small, but in the meantime, they had gained some administrative and political consistency.

<sup>11</sup> The SCoT is the successor of the former urban development plan (SD) *Schéma directeur*, earlier called *Schéma directeur d'Aménagement et d'Urbanisme*.

tional urban area. Each commune elaborates its local urban plan,<sup>12</sup> the land use plan that contains the zoning and all the regulations that have to be taken into account for the issuance of building permits.

In addition to statutory planning, sectoral policies have implications for land use (figure 10.1, second column). The urban mobility plan is mandatory for agglomerations of 80,000 inhabitants or more. It is elaborated by a specific grouping of municipalities responsible for public transportation, the Organizing Authority for Urban Transport, which aims to reduce car traffic and promote low-carbon mobility. The local program for housing is a more programmatic document that outlines the municipal strategy for housing and, in particular, the support provided to public housing. Since 2010, each level of local government has been required to elaborate a territorial plan for climate change and energy saving to show how it will address the issue of climate change. Finally, larger groups of municipalities may prepare common spatial visions. These are expressed in territorial charters that are not binding in regard to land use but give birth to common strategies. Different stakeholders prepare these strategies and documents with different priorities and in different time frames.

The planning system was reformed in 2000 by a new planning law. Today at the local level, the core document is the SCoT. It coordinates plans and policies. Sectoral documents, such as the urban mobility plan and the local program for housing, must be compatible with the SCoT, which must take environmental objectives into consideration. Broader strategies expressed by a territorial charter must be consistent with planning. The SCoT has become an instrument of horizontal coordination of public policies across sectors and jurisdictions (Geppert 2008b; Motte 2006).

In regard to public investment (figure 10.1, third column), autonomy prevails. Many projects receive contributions from several institutions, which often means complex partnerships, long negotiations, and implementation delays. On top of these ad hoc agreements, a common investment framework is prepared for longer programmatic periods, the framework agreement for joint projects between state and region (*contrat de projets état-régions*, CPER). Foreseen investments are shared not only by the state and the regions, but also by all levels of public institutions, from the municipalities to the use of European structural funds. Therefore, preparation of a CPER involves intensive negotiation among public stakeholders, where development strategies are consulted and discussed. Once decided, a CPER

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<sup>12</sup> The local urban plan (PLU) is the successor of the former land-use plan (POS) Plan d'Occupation des Sols (POS).

has a strong impact on the policies of local governments because it earmarks an important part of the public resources available for investment.

In this structure of land use governance, the roles of the different institutional actors may appear overlapping and redundant. Although spatial planning at the local level seems to have gained consistency, the framework is not optimal for national policies, the French *aménagement du territoire*. It is unclear whether national policy should result from the aggregation of regional visions, or whether the central government still has an active role. In the last years, the visions expressed by the national administration have been fragile and changing.

### **Disappearance of the National Spatial Strategy**

Since the 1990s, attempts to define a comprehensive spatial strategy for the country have fallen short. Paradoxically, despite playing a “pioneering role” in the European arena (Faludi and Peyrony 2001), France seems to have lost the ability to define a strong national vision. At the same time, new sectoral strategies and objectives have interfered with planning and have led to a redefinition, if not a dilution, of *aménagement du territoire*. The historical role of DATAR as an incubator of national policies has weakened. Even in the 1960s and 1970s, visions produced by DATAR were not legally binding, but, because the state was the key player and DATAR was the national body, policies defined and coordinated by DATAR were implemented. After the decentralization reform of 1982, the devolution of planning powers to local governments made the overall picture somewhat fuzzy. A national spatial development perspective would have been useful for domestic planning by defining common objectives and guidelines. It would also have been helpful in international relations, in particular with regard to cross-border planning issues. However, the attempt to create such a document was unsuccessful.

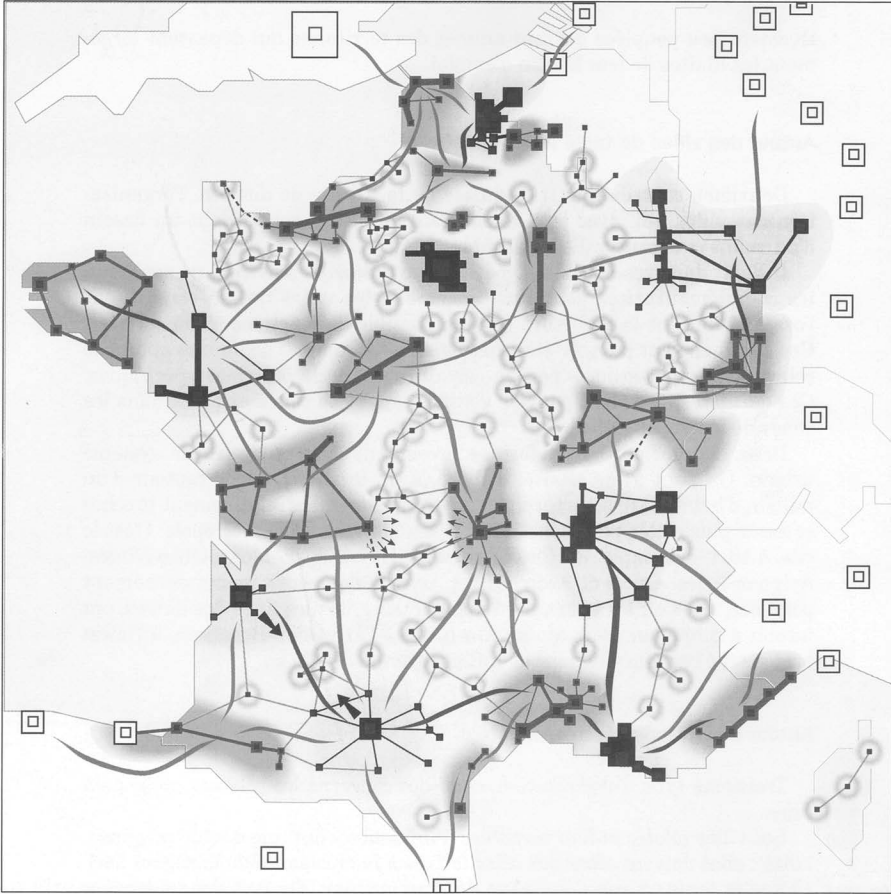
In the early 1990s, the significance of spatial planning was contested. Globalization increased international competition. From an instrument to influence the spatial structure of the country, planning became a way of fostering territorial competitiveness. Cities and regions engaged in territorial marketing and gave priority to investments that seemed to increase their attractiveness. Regional Planning Perspectives (SRADT) looked for economic profiles and niches for regional promotion. Local regulatory plans tried hard to provide land for possible investors. In this context, the rigidity of the planning system triggered an outburst of contests (Conseil d’État, 1992). Territorial rivalries arose and hampered the development of territorial strategies and visions at the scale of city-regions. The defense

of a classical approach to spatial planning came from the European Commission, which advocated “the need for a coherent Community approach” for the development of the European Community’s territory (European Commission 1991, 5). It spoke in favor of reducing territorial disparities: “It is the Commission’s firm opinion that the Union’s ultimate objective of sustained and balanced economic development can be achieved only through cooperation and joint action between all the interested parties at all levels, supported by a common framework for territorial planning” (European Commission 1994, 4).

In 1993–1994, the French government launched a national debate on spatial planning. The government sought input from a wide variety of organizations and persons. The consultation was even promoted through mass media, for the first time in French planning history. It addressed all issues linked with planning, from its purpose to its modalities. *Aménagement du territoire* was presented as the corollary of the French vision of society, “grounded in the very values of the Republic,” an implicit reference to the Jacobin discourse (Geppert 1995b). DATAR presented the state’s vision of a desirable future (figure 10.2). It pleaded that balanced spatial development must be supported by urban systems at different levels (metropolitan, intermediate, and rural). It advocated that the scale relevant for regional planning consisted of entities that were larger than both the departments and the regions (DATAR 1993). The debate was considered a first step in the reform of the planning system while a new planning act was being prepared.

In 1995, the French planning system was deeply reformed with a new planning Act (LOADT). This moment can be seen as the last attempt of the national government to keep control of regional planning. It created a hierarchy of planning documents at the upper level. The Act mandated that a national scheme for spatial planning and development would be submitted to the Parliament in the following year. This document was meant to stand over planning documents of all levels, as well as to improve the coordination of national sectoral policies. In 1996, a draft was made public. It included a number of principles; for instance, no place in France should be farther than 50 kilometers or more than 45 minutes from a rapid transportation system. However, it did not include a map showing the spatial dynamics. The national scheme never reached the parliamentary agenda.

At the next level, this Act created a possibility for the national government to plan locally when the national interest was at stake. The procedure, called the territorial planning directive, could be used where large physical entities were involved, such as mountains or rivers, or in cities confronted with a high level of social segregation. The state implemented



**Figure 10.2** DATAR's Vision of a Desirable National Development Perspective  
 Source: DATAR (1993).

them slowly and reluctantly; by 2010, only six of these directives had received the force of law.

In 1999, a new government reformed the planning system again. The new planning Act (LOADDT) abandoned the would-be national schemes and replaced them with a series of sectoral guidelines for national policies, the *Schémas de Services Collectifs* (Geppert 2001). It also abandoned the hierarchy between regional and local plans. In particular cases the national government may express a spatial strategy at the local level (DTADD). However, it has no regulatory effect on planning documents.

At the turn of the millennium, the impulse for discussing the French spatial development perspective came again from the European Union.

After 10 years of gestation (Faludi and Waterhout 2002), the Informal Council of Ministers Responsible for Spatial Planning of Potsdam adopted the *European Spatial Development Perspective (ESDP)* (European Commission 1999). In the domestic arena, DATAR echoed its concept of polycentric development in a forecasting exercise, *France for 2020* (DATAR 2002). The report presented a series of forecasts that might be used as an inspiration, both for national policies and for regional authorities. Following its tradition, DATAR presented four scenarios of possible, but unsuitable futures. The fifth scenario was a “plea for polycentricity,” considered the only way likely to spread development across the whole national territory. There has been no direct implementation of this idea, although the concept has entered the French planning discourse. However, few French planners know that it comes from the *ESDP* (Geppert 2009).

At the same time, new objectives arose that influenced French planning policies. The European slogan of switching to a sustainable and knowledge-based economy was translated into planning through the cohesion policy (Geppert 2007, 2008a). Since 2004, France has developed a cluster policy. Brought to maturity under the umbrella of DATAR, it claims a specific approach where territory is the breeding ground of the interaction among research, industry, and local decision makers (Darmon and Jacquet 2005; DATAR 2005). An economic dimension in planning is not new for France, which, according to the *EU Compendium of Spatial Planning Systems and Policies*, belongs to the “regional-economic ideal-type” (European Commission 1997). However, at present, the relation is inverted. In the tradition of *aménagement du territoire*, economic incentives were an instrument to modify spatial structures. In the cluster policy, territorial assets are the means for industrial development, which appears sectoral. Indeed, once the location of the 71 clusters is settled, the core of the policy will be to support research projects and platforms. Today, DATAR remains a partner in the policy, but other ministries with economic and industrial portfolios play more important roles.

The relation between sustainability and planning is even more one sided. French planning has claimed a relation with sustainability since the Voynet Act (1999). However, since 2003, the development of the National Strategy for Sustainable Development had been under the umbrella of the Ministry of the Environment. In 2007, President Nicolas Sarkozy launched the Grenelle de l’environnement,<sup>13</sup> a permanent consultation group to define how the French society could implement its “sustainable revolution.”

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<sup>13</sup> The name refers to the agreements that settled the social conflict in May 1968, which took place in the Rue de Grenelle.

Planning issues and planning stakeholders played a rather minor role. So far, the process has established new environmental requirements for the planning documents. Spatial considerations, however, come at the end and on the margin of the core process.

Today, the definition of *aménagement du territoire* hesitates between two poles: cohesion and competitiveness. This is well illustrated by the two core missions assigned to DATAR. It still prepares, initiates, and coordinates national spatial policies, but the objectives are twofold. On one hand, these policies pursue territorial cohesion, which one can consider equivalent to *aménagement du territoire*. Without an explicit strategy, local governments set and implement planning goals, with some support from the state. On the other hand, planning policies have to promote “territorial attractiveness,” helping French cities and regions face global competition. In 2006, to show this evolution, DATAR was renamed the Délégation à l’Aménagement et à la Compétitivité des Territoires and was merged with the French international investment agency. In 2009, DATAR recovered its former acronym, but it now stands for Délégation Interministérielle à l’Aménagement du Territoire et à l’Attractivité Régionale.

In the long run, cohesion and competitiveness are complementary. However, in the short term, they often conflict and lead to overlaps among sectoral ministerial departments. Also, their implementation requires a strong commitment from local authorities.

### **Policy Implementation: Top-Down and Bottom-Up Processes**

Going from Jacobin to Girondist culture is a major change. The state must adjust to its role of “modern state, modest state” (Crozier 1986). No longer the first actor, it has to define why and how it should intervene in spatial planning. The national level keeps the possibility to act top-down through legislative reforms. However, it also expects lower-level governments to build local and regional strategies and to enhance bottom-up approaches, which do not always arise.

#### **Top-Down Approach**

In a top-down approach, the state promotes its objectives through legislative changes. Shifting from a very mild approach that left planning decisions to the local level, the state has become slightly more normative. The control of urbanization is one example.

In France, as in other European countries, urban sprawl has become evident and has led to substantial increases in land consumption and greenhouse gas emissions. This phenomenon is related to the dynamics

in peripheral rural areas, in which lower-middle-class people settle in modest individual housing, and which appear socially and economically fragile. These small rural municipalities would like to attract new inhabitants. Therefore, they produce permissive local planning documents. The local plans allow for an accumulation of local decisions that foster urban sprawl. In 2000, to tackle this issue, the reform instituted a new territorial strategy (Goze 2002).

Local statutory plans were reformed and renamed. The larger urban development plans (SD) are now called Scheme for Territorial Coherence (SCoT). The key objective of the reform was to ensure that this overarching document would produce a cohesive spatial strategy, as is illustrated by its new name. The SCoT must include a sustainable development perspective and an environmental impact assessment. Urban agglomerations are obliged to have a SCoT, but small municipalities remain free to decide whether to join the common planning document. To avoid free-rider strategies, the reform established a 15-kilometer rule: if they are not covered by a SCoT, municipalities located within 15 kilometers of the outer limit of an urban agglomeration may no longer urbanize (they lose the right to prepare local planning documents and to issue building permits).

The first decade of implementation of the *Loi Solidarité et Renouvellement Urbains*, also known as the SRU Act, proved disappointing. Although SCoTs of the decade were less permissive with regard to urban sprawl, unexpected consequences appeared. First, rural municipalities affected by the 15-kilometer rule developed alternative strategies, for example, setting up alliances of peripheries; a number of them adopted quite permissive rural SCoTs. Second, urban sprawl spilled out to the second ring around municipalities, at a distance of 20 to 50 kilometers from urban agglomerations. The economic context fueled the spatial sprawl as land values skyrocketed early in the 21st century. Worse than sprawl in the immediate periphery, which the government tried to prevent, this second belt was located even farther from city centers and was even less connected by public transportation networks (Geppert 2008b).

In 2010, the Grenelle II Act increased the pressure on localities to block urban sprawl. By 2016, any municipality not covered by a SCoT will have to freeze urbanization. Every SCoT must define objectives for reduction of land consumption and must express them in measurable indicators. It may also establish preconditions for urbanization. For instance, it may decide that new areas will open to urbanization only if and when the potential of existing developable areas is fully used. It is too early to assess the results of this legislation and to see how local governments will implement it.



### Bottom-Up Approach

Since the 1990s, when the idea of structuring the territory through the urban system reemerged, the state has tried to catalyze bottom-up processes and to promote its goals to cities and regions. In 1991, DATAR invited French cities to establish collaborative networks of cities. The policy framework is open: networks are established voluntarily and remain informal. DATAR provides financial support for networking activities (Geppert 1995a). The results have been modest. Some 20 networks have been established, geographically quite heterogeneous. Territorial lobbying is usually the first and sometimes the only activity. A few networks have engaged in further collaboration in various areas, for example, tourism, culture, and economic development. But when public support ends, most networks become dormant. Mayors find little interest in issues reaching further than their own city. In a culture shaped by centralization, they leave the larger scale to the state (Geppert 1996).

However, the state has not given up and has tried to find new mechanisms for encouraging aggregation of local interests and initiatives. The national debate of 1993 stressed the fragmentation of French municipalities and called for a development of urban-rural partnerships (DATAR 1994). The 1995 reform instituted a new collaborative framework for “geographically relevant” spaces with the size of functional urban areas: the county.<sup>14</sup> To soothe the reluctance of mayors to pool decisions or budgets, the approach is very soft, and counties are not legal entities. Their governance has two levels. A development council gathers representatives of the “civic society”: people, NGOs, and private firms. It participates in the preparation of a territorial charter, which is a vision of the future development of the county. All final decisions and policy implementation remain in the hands of the mayors. The hope of the government is that after experiencing soft collaboration, mayors will be willing to share more and, in particular, to extend the perimeters of SCoTs to these larger areas.

At first, the counties were met with skepticism. Local representatives feared that they were a cover for some authoritative reform. Some counties were established in regions with a tradition of local collaborations, like the Bretagne region (Bazin and Geppert 2002). In 2002, the state relaunched the county policy, earmarking important state subsidies for investment projects supported by counties. Given this incentive, collaborations flourished, and, in a few years, counties covered almost all the French territory. The evolutions of counties have followed different trajectories.

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<sup>14</sup> The county must be understood as a geographic region with a cultural and historical connotation. It is not an administrative unit.

Some counties have become dormant or have vanished; others have a modest level of activity, tackling consensual issues such as touristic or cultural collaborations, but avoiding hard questions such as important investments or land use. Finally, a few have given birth to institutionalized municipal groupings, mostly in rural areas, embodying defensive alliances of small municipalities against core cities.

The French government has continued to focus on cities in the 21st century, but it is now working at the other end of the scale and responding to international pressures. In 2003, the state renewed its attempt to stimulate larger cities, which were considered too small to face European competition. DATAR issued a call for metropolitan cooperation that addressed networks of cities with a population of at least 500,000 and at least one city of more than 200,000 people. Elected metropolitan networks would formulate a strategy to foster their international dimension, and the state would support their investment programs (DATAR 2004).

In response, 23 proposals were submitted. The call mobilized all major French cities and led to aggregations of a number of middle-sized and smaller cities. Fifteen proposals were selected, with little concern for their territorial shape. They might cover large urban areas or metropolitan regions, or they might aggregate cities far apart from one another. The selection committee gave priority to governance issues. Candidates were asked to prove the support of various partners, public as well as private. They also had to announce how they intended to manage future decisions. Adopted solutions were inspired by the soft scheme of the county. Existing staffs constituted technical teams at minimal cost. All groupings featured development councils, with various actors, going from NGOs to universities or hospitals that could be partners for possible planning endeavors. Decision making rested with the mayors (Geppert 2005).

From 2005 to 2006, successful candidates prepared their strategic projects. The government suggested that they focus on five drivers of metropolitanization: economic development, strategic employment, international accessibility, research and higher education, and arts and culture. Instead, most projects focused on local issues and added other topics, such as public health or the environment (Geppert 2006; Motte 2007). Some metropolitan collaborations decided to prepare an SCoT covering the whole metropolitan area. Strasbourg and Toulon have adopted their SCoTs. Larger city-regions, such as Aix-Marseille, Lyon, and Toulouse have engaged in coordination and common monitoring of their documents.

A major obstacle to the implementation of this metropolitan coordination strategy has been the withdrawal of the state. Within the first two

years, it became clear that the support promised for public investments would not be provided. As a result, some networks become dormant, and one, the Métropole Normande, shut down. In contrast, some collaborations proved dynamic, for example, the Sillon lorrain, which in 2011 institutionalized as a collaborative grouping with a specific budget. However, when they remain active, metropolitan collaborations tend to focus on core cities. Links with the broader territory remain weak, as do collaborations with regional authorities, who feel endangered by the growing power of cities.

Therefore, a combination of authoritative and collaborative policies seems necessary. However, until now, both types of policies have been weak. First, in implementing legislative changes, the central government has often hesitated. For instance, in the implementation of the 15-kilometer rule, the state representatives issued many waivers for building permits. In 2003, these requirements were softened. Initially, the rule affected municipalities around agglomerations of 15,000 inhabitants; this threshold was changed to 50,000 inhabitants, exempting the surroundings of some 200 small cities. Second, in responding to local governments with collaborative proposals, the state has lacked continuity and has not kept its commitments. This has generated distrust, which in return will hamper the effectiveness of future policies. Last, but not least, coordination appears too weak, both between sectoral policies and between territorial levels. Is French spatial planning still efficient? What can be learned from past experiences?

### **Defining a National Spatial Planning Perspective**

Adjusting to multiactor governance, France has progressively abandoned the national spatial planning strategy that was its hallmark under the name *aménagement du territoire*. As a result, spatial planning oscillates among objectives of spatial cohesion, territorial competitiveness, and various conceptions of sustainability. There are three main reasons for this. First, local governments pursue diverse strategies without developing common spatial strategies. Second, the state has given up its role of providing an overarching vision and strong policy impulses. Third, the economic crisis has resulted in a focus on sectoral policies rather than spatial planning.

The hope that local governments would spontaneously coproduce coherent spatial planning has failed. In addition, the French institutional design lacks an efficient system of checks and balances among the different actors. Too many tiers of local government exist. In spite of numerous

reforms, they remain fragmented and their responsibilities redundant. Several reforms failed to improve the institutional design. In 1999, a reform tried to foster a more efficient organization of the municipal groupings,<sup>15</sup> but the outcomes did not meet expectations (Cour des comptes 2005). In 2010, a new reform followed, still with limited outcomes. A reform announced for 2015 would create a new status for the biggest city-regions.

At the next level, the existence of two levels, regions and departments, generates redundancies. However, attempts to suppress one of these levels remained unsuccessful. In 2012, the possibility was given to departments and regions to merge, on a voluntary base. The only attempt, made by the region Alsace, failed. In 2015, a new reform was announced. Rather than suppressing one of the levels, it would give each level a role of leader with respect to certain responsibilities. The number of regions would be diminished from 22 to 13. The project has generated much controversy. In the view of the author, it does not match the key issues at stake: the larger regions are not geographically consistent, while the duality of tiers will remain.

In such circumstances, very efficient coordination is necessary. However, coordination procedures remain ineffective and time-consuming. The accumulation of local strategies does not create an overall picture. The objectives of regional strategies do not converge. In regard to policy making, the multiactor CPERs juxtapose actions without defining a coherent investment program. In each negotiation, quite legitimately, regions have an important weight. As a result, the state administration tends to follow the local level. Little room is left for the promotion of national goals and for coordination among neighboring regions. Likewise, a real clarification of the roles of the different institutional actors involved is still missing. Many European countries have reorganized their institutions, but the French system seems mired in its complexity.

Meanwhile, the national government has abandoned its overarching vision, which has been diluted in a series of sectoral policies. This is partly due to a Girondist posture that is more respectful of local governments. State administrations avoid authoritative interventions even when laws grant that power. In implementing the institutional reforms of 1999 and 2010, prefects could reject municipal groupings with obviously irrelevant perimeters, for instance, ones that cut a city into two parts, but they

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<sup>15</sup> It reduced the categories of groupings to three possible types: communauté urbaine for cities above 500,000 inhabitants, communauté d'agglomération for cities above 50,000 inhabitants, and communauté de communes for smaller groupings. The larger the grouping, the stronger is its financial and political integration. Groupings may choose a status below their demographic threshold. Some have done so, because municipalities did not want to lose their powers.

made little use of this prerogative. Because the planning culture remains deeply influenced by the tradition of centralization, local governments often keep waiting for a stronger signal from the state and, in the meantime, continue to implement short-term strategies.

The low profile of the state also reflects the reorientation of its priorities in a context of a shortage of public funding. Calls for proposals co-managed by DATAR have addressed various issues. Some target specific kinds of spaces, like the metropolitan collaborations described in this chapter. Others address sectoral issues, such as information and communication technologies, public health, and scientific clusters. In the policy mix, spatial policies have received far less funding than sectoral interventions. At the same time, a specific law, outside the usual planning procedures, has instituted the circling metro for the Grand Paris project. A new state-owned company has been created for this purpose, the Société du Grand Paris, which will administer a flow of 25 billion euros in the next 20 years. State investments will support 17 clusters along the future metro line through so-called territorial development contracts.

The evolution of the role of DATAR illustrates the change in the approach to spatial planning. From a think tank for national policies, it has become a network administration supporting local development. DATAR performs a growing number of networking activities. It cofinances a number of specialized agencies that advise local stakeholders on specific issues. *Entreprises territoires et développement* deals with territorial development; *Mission opérationnelle transfrontalière* supports cross-border cooperation. These agencies provide methodological support and disseminate information.

Along the way, DATAR has lost its historical role of spokesperson, which used to be embodied in its forecasting. In 1971, *Schéma général d'aménagement de la France* was a legitimation of national policies (Monod 1971). In 2000, the polycentric scenario was a spatial vision proposed to the other stakeholders, without any national means of implementation. Since then, forecasting has continued in two consecutive research programs led by the DATAR, *Territoires 2030* (2004–2008) and *Territoires 2040* (2009–2012). However, it no longer delivers a national vision, even without implementation. Instead, it aims to stimulate debates on key planning issues (DATAR 2012).

In *Territoires 2040*, DATAR asked experts, often academics, and local representatives to reflect on trends affecting seven “spatial systems,” a nickname for different processes having a spatial impact (e.g., communication society, industrial transformations, metropolitanization). For each of them, DATAR produced several scenarios, 28 in all. They forecast

specific trends and processes, but none of them is a spatial development perspective.

However, territorial actors themselves question the lack of a national vision. For instance, the Association of Municipal Groupings states: “The rich French tradition of *aménagement du territoire* has been a laboratory for many innovations. Today, many local representatives feel that the state has no national strategy, or at least that the momentum is lost. The national strategy has become blurred because of the multiplication of calls for proposals, the proliferation of sectoral contracts, [and] the lack of strategic content of the generation of CPERs currently under execution” (ADCF 2012, 17; translated by Anna Geppert). The report further suggests that a national spatial development strategy for 2014 to 2020 should be defined jointly by the national and local levels.

In the contemporary context of economic crisis, defining a spatial development perspective is more difficult than it was when DATAR was established. In the short run, the state is the firefighter facing emergencies that arise suddenly and generate conflicting priorities. However, it is even more necessary that the state ensure that investments supporting strategic economic sectors and mitigating social difficulties prove efficient in the long run.

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## Commentary

JEAN PEYRONY

**A**nna Geppert's chapter is well documented and gives a clear picture of the evolution of the French planning system, which proves to be very complex. Her critical approach is logical for an academic; my comments will stand up for policy makers.

I have a general difficulty about the concept of planning itself. In French, my professional field can be defined as *aménagement du territoire*, which Délégation à l'aménagement du territoire et à l'action régionale (DATAR) itself translates as "spatial planning," but I doubt that "planning" is really a good translation.

The issue of territorial level is crucial for understanding the phenomenon of French planning. There is no doubt that urban planning is part of the picture, and that in France since 1982 (when the devolution laws have been passed) even within the national legal framework, local authorities have had the leading role in urban planning, as in most countries. At the local level, one needs to decide what areas will be developed or protected, and one must make the rules public. A binding plan in the narrow sense remains the best tool for local guidance and control.

At the national level, *aménagement du territoire* means something different. DATAR's role has always been one mainly of coordination, both horizontal (between different ministries) and vertical (between state and local authorities). Its first mission when it was created in 1963 was to organize the reallocation of activities from Paris to other French regions.

The state had tools, such as the power to fund major infrastructure (motorways and, later, high-speed trains), and the procedure of “agreement” led by the Decentralization Committee, making decisions on the location of plants. This was possible because of the very centralized character of the French economy at that time (with a leading role of civil servants, as Geppert explains), but also because of economic trends (what Philippe Aydalot has called “peripheral exploitation”).<sup>1</sup> Public policies complemented economic trends, rather than created them.

Geppert may be unfair to DATAR in presenting the cluster policy, which consists of calls for projects for economic clustering and was launched in 2003 with the active participation of DATAR. She suggests that it is an industrial policy under a territorial disguise. In fact, this policy has played a significant role in promoting new cooperation among businesses, research centers, and universities on a territorial basis.

These two examples—involvement in allocation of new plants and the coordination of economic clustering projects—show that DATAR is more an agency for regional policy than for planning, if planning is understood as the making of plans. Plans are tools, not ends in themselves. Even during the “thirty glorious years” of industrialization and urbanization mentioned by Geppert, there were national plans for infrastructure, such as motorways, but there was no national binding master plan.

It is clear that the planning activities of DATAR in the narrow sense of production of master plans cannot be considered a success. Geppert tells the story of the national scheme for planning and development; but it was abandoned for political reasons that had little to do with substantive planning considerations. In the socialist government of Lionel Jospin from 1997 onward, the Green minister Dominique Voynet replaced the national scheme by schemes for collective services. The latter approach was more modest, acknowledging that spatial planning is primarily for local and regional authorities. But schemes for collective services were not pure sectoral guidelines. DATAR produced them through interaction with sectoral ministries. This is, after all, the daily work of DATAR, which is a service of the prime minister, even if it is also supervised by another minister.

Once again, terminology is an issue. Depending on the period, at national or European level, the stress has been put on “schemes” (in the 1990s) or on softer tools such as “perspectives” (since 2002). This is likely why Geppert uses the term “spatial development perspective,” which was employed for the *European Spatial Development Perspective* (CEC, 1999), but

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<sup>1</sup> Philippe Aydalot, a pioneer of economic geography, has built a theory of spatial division of labor; he has shown that in industrialized countries, the delocalization of firms into peripheral regions in the 1960s has been the result of lower labor costs.

was nevertheless translated into French as *schéma de développement de l'espace communautaire*. Such documents may be no more than paper tigers, but they are part of the overall dynamics as tools to influence a decision process. In regard to DATAR's role, there has always been in DATAR a vision of what a more competitive, balanced, and sustainable development of the national territory would mean.

At the national level, planning in France is both procedural and substantive. One example is rail infrastructure, which is generally considered a structuring element for territorial development patterns. Cities that were left out of initial railway development in the 19th century, such as Albi, have developed less, and this story may repeat. In contrast, high-speed trains (HSTs) have a station in the center of Lille, not in the middle of fields, and, consequently, make Lille a central node in the emerging European HST network connecting London, Paris, and Amsterdam. This has been an important part of the revival of Lille and its region. In the French system, such decisions are the result of different factors, including negotiations among diverse national sectoral ministries and agencies (in the HST case, the Ministry of Transport, the rail operator SNCF, and the Ministry of Finance were the key players), as well as the actions of local politicians. In Lille, the commitment of Pierre Mauroy, a politician strongly devoted to his city and region as mayor of Lille and also a leader in national politics,<sup>2</sup> was the key.

In such processes, DATAR generally has a significant role, based on substantial input (whether in schemes or in perspectives) and on procedures, such as Interministerial committees for planning and spatial development, or, at a more day-to-day level, meetings among ministerial cabinets that prepare governmental decisions. More recently, projects such as the HST infrastructure for the Turin-Lyon connection (with a long tunnel under the Alps crossing the border between France and Italy) owe their survival so far, despite scarce public money and strong environmentalist resistance, more to bargaining, supported by the influence of DATAR at the national level and politicians at the local level, than to any binding master plan.<sup>3</sup>

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<sup>2</sup> As French prime minister in 1981, Mauroy had to persuade Margaret Thatcher to accept the digging of the tunnel under the English Channel. He was one of the fathers of devolution in 1982, and of the socialist conversion toward the European construction, together with Jacques Delors and Michel Rocard. Later, Mauroy was also one of the most influential promoters of cross-border local integration, launching in 2008 the first European Grouping of Territorial Cooperation to support the Eurométropole Lille Kortrijk-Tournai, and serving as the president of Mission opérationnelle transfrontalière (Transfrontier operational mission). Mauroy passed away in June 2013.

<sup>3</sup> This can be analyzed as an ongoing dialogue between politicians and engineers, this duet having been created by, among others, Louis XIV and Vauban themselves; see Boltanski and Thévenot (2006) and Peyroy (2007).

Geppert's chapter gives a clear and true depiction of the progress and limits of French planning legislation, but it sometimes misses things that are going on outside planning laws and documents. Over the past 30 years, major cities such as Lille, Bordeaux, Marseille, Lyon, Strasbourg, Nantes, and Toulouse have changed substantially, for example, with the introduction of new tramways and HST lines. These changes are fostered by a combination of factors similar to the example of Lille: the commitment of major politicians developing a career at both local and national levels, a new local consensus on urban renewal, and national financial support for their projects. Planning tools such as local schemes for territorial consistency (*schémas de cohérence territoriale*, SCoTs) certainly play a large role, but only as a complement to other resources, including urban planning public agencies producing soft planning (see, e.g., Faludi 2013); new institutions such as urban communities and now "metropolises," with their powerful technical staffs; the political influence of leaders sharing their time between Paris and their cities; and, not least, DATAR staging the decision in Paris. DATAR certainly does not always win in fights with sectoral ministries, but this does not mean that national policies have lost the spatial dimension.

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As Geppert says, to understand French spatial policies, one has to relate them to a vision where the unity of territory appears an integral part of the nation-state. The debate between Girondists and Jacobins is still ongoing, with Alain Rousset, socialist president of the Aquitaine region and of the Association of French Regions, as the leader of the Girondists,<sup>4</sup> lobbying hard to persuade President François Hollande to give a leading role to regions in *aménagement du territoire*. One of the issues is the status of regional schemes for spatial planning and sustainable development (*schémas régionaux d'aménagement et de développement durable du territoire*, SRADDT): SCoTs legally do not have to conform to, or even be consistent with, the SRADDT. Such a link exists only for the very specific case of the regional scheme for the Region Île-de-France (the Paris region), with which SCoTs have to be consistent.

Even though the present French government has launched a third round of devolution and a reform of state territorial action, it is not obvious that the Girondist view will fully prevail. Because this discussion is still ongoing, it would be premature to draw any conclusions, but the early history

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<sup>4</sup> Rousset is a Girondist in the strict sense, because the department of Gironde is part of the Aquitaine region.

of this polarity suggests that it is necessary to provide a bit more nuance to Geppert's view.

In regard to round one of decentralization in 1982, sociologists generally stress that the game between French prefects (representing the state at the level of departments and regions) and local politicians has not changed as much as one might think at first glance (see, e.g., Crozier and Thoenig 1975). Even before 1982, the main concern of prefects was not to frustrate local politicians, because they might complain to Paris, and prefects could be sacked every Wednesday during the meetings of the Council of Ministers. Under devolution, although the prefects have their say, final decisions belong to local representatives; but this might have been true even before devolution.

In any case, DATAR has actively supported the devolution to regions and the development of a local *aménagement du territoire* with framework agreements for joint projects between state and regions since the 1980s, and the policy of agglomerations and "pays" in the 1990s. "Pays" are a good example of DATAR's role. It launched this policy because it questioned, from functional and community-led-development points of view, the relevance of administrative patterns dating from the beginning of the 19th century. "Pays" have been experiments in softer planning and governance.

But France is, and will most probably remain, a unitary state, not only because of ideology (the French discourse about diversity and unity), but also because of economic, social, and geographic realities. The Paris region keeps its central role as the main pump of various flows: political decisions, interregional migrations, and financial flows of the welfare state, among many others. *Aménagement du territoire* has always been a dialectic between equity and efficiency; also, the rhetoric of equality has always been there. With regard to spatial policies, de Gaulle had two hands: DATAR, to develop regions outside Paris (e.g., through counterweight metropolises), but also a specific planning policy for the Paris region. In the same vein, Datar now depends on the minister of housing, territorial equality and rurality, also in charge of Greater Paris. Of course, the state had much more room to maneuver in de Gaulle's time than it has now, but this is true for public action in general because of the issue of public debt.

Change is possible; in fact, it is continuously happening. Perhaps one of the real challenges, beyond decentralization, is to move from "implicit negotiation" to "explicit negotiation," as Crozier and Friedberg (1980) explain in their theory of change within the government administration. A major political discussion is taking place at the moment in France: should the accumulation of political mandates be more limited than it is now? The government has committed itself to forbid a politician to be at the same

time a member of Parliament and mayor of a city, as Mauroy was for Lille. Some say that this would cut the local roots of politicians and eliminate a necessary counterweight to the power of the French president and the French national administration (e.g., civil servants of the *École des Ponts et Chaussées* or the *École Polytechnique*, mentioned by Geppert). The example of Mauroy has shown this for Lille. But many say that such a reform would lead to more democracy and would make necessary reforms easier. One example of such a reform is giving a clearer role to each level of local authority, for instance, giving regions' SRADDT a prescriptive effect. The ongoing discussions in the French Parliament show how difficult it is to pass such reforms, because a majority of members of Parliament are caught in entangled and contradictory local and national interests.

In any case, evidence basis, explicitness of facts, and alternative technical solutions certainly contribute to economic efficiency, responsibility of citizens, and political accountability. This requires technical objects such as perspectives and plans—soft or hard, depending on the territorial scale. Therefore, planning is certainly still worth discussing.

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In 2014 new developments occurred that deserve to be mentioned. The law forbidding a politician to be at the same time a member of Parliament and mayor of a city was passed in January 2014. In April 2014, DATAR has been merged with the administration in charge of urban deprived areas; the name of the new structure is General Commission for Territorial Equality, *Commissariat général à l'égalité des territoires*. The Parliament is in the process of adopting a law replacing the 22 regions by 13 regions, and in early 2015 a new bill will be discussed that, if it is voted, will give more power to these new regions, including prescriptive schemes for spatial planning. These two laws are governmental initiatives, being at the core of the reform pack President Hollande announced mid-2014 after bad electoral results in local and European elections during the first semester. This shows that “territories,” if not planning, are still a major concern for the national level in France.

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## National Planning in the United Kingdom

MARK TEWDWR-JONES

The United Kingdom is a constitutional monarchy with a parliamentary system; it is also a member of the European Union and has legislative commitments to European integration. Its capital is London. Although the United Kingdom is no longer the empire it was in the 18th and 19th centuries, it is the sixth-largest economy in the world in nominal gross domestic product. Its population of 62.3 million is crowded into urban areas: 90 per cent of the population is located on just 10 per cent of the land area. After London, the 10 largest urban areas are Manchester, Birmingham, Leeds, Glasgow, Newcastle, Liverpool, Nottingham, Sheffield, Bristol, and Belfast, which house approximately 40 per cent of the population. The predominant ethnicity is white British (86 per cent), but there are also significant numbers of Indian, Pakistani, Caribbean, African, and Bangladeshi citizens (over 7 per cent), some of whom are located in distinct urban areas.

There is no such thing as a national planning process or even a national plan in the United Kingdom, and no such process or plan has ever existed. The origins of what some see as this planning vacuum can be traced to the establishment of the United Kingdom itself. The United Kingdom is actually not one country but four: England, Scotland, Wales, and Northern Ireland (figure 11.1). Together, England, Scotland, and Wales constitute Great Britain, a political creation of Queen Anne's reign dating from 1707, when Scotland and England came together in the Act of Union;



**Figure 11.1** United Kingdom, 2014

*Source: National Center for Smart Growth Research and Education (2014).*

Wales had become allied to England under Henry VIII in the Act of Union of 1536. In 1801, England, Scotland, and Wales joined with the island of Ireland to create the United Kingdom of Great Britain and Ireland. After the Irish War of Independence of 1919–1921, most of Ireland seceded from the United Kingdom. The remainder then became known, and is still known to this day, as the United Kingdom of Great Britain and Northern Ireland.

This political-geographic history is a necessary preface to the main discussion in this chapter because it mirrors the ongoing tensions within the land use and spatial planning processes in the United Kingdom. Those tensions surround uncertainty about the appropriate scale of planning, the rights and responsibilities of the national government, the planning relationship between the national and subnational governments, and the degree of fluidity and discretion in the institutional apparatus within plan-

ning that, in turn, results in continuous reform of planning structures and implementation tools (Allmendinger and Haughton 2007). Planning traditionally has been a state activity split between central government and local governments, but the relationship has been fragile because both political tiers are elected independently, but have strong agency relationships in regard to formulation and implementation of policies. This dynamic relationship has been described as “a dual polity” (Bullpit 1983, 17). Since 1979, with the onset of the private sector and more public participation, the existing relationship of central and local governments in planning has been put under even greater strain (Rhodes 1988).

Lacking a written constitution, the United Kingdom negotiates the allocation of roles and responsibilities among different arms of government and among planning layers de rigueur. Discretion, a hallmark of U.K. planning, is somewhat nebulous; it can be inserted, removed, or reordered politically over short periods by the strong hand of the central state. That has significant implications for the form of the land use planning system (Booth 1996; Tewdwr-Jones 1999). The absence of rigid structures and set forms of planning has some benefits (ease and speed of adapting to changing needs and requirements), but there are also disadvantages (susceptibility to political ideological changes and constant arguments among different parts of the state about legitimacy to act). The pace of change and uncertainty about clear purposes and directions can also bewilder the planning profession (Clifford and Tewdwr-Jones 2013; Gunn and Vigar 2012).

Since 1999, political and institutional devolution to Wales, Scotland, and Northern Ireland has further fragmented the meaning of the term “national” in policy and planning terms (Tewdwr-Jones and Allmendinger 2006). During the first decade of the 21st century, the push toward regional spatial planning in England rebalanced national planning matters in favor of subnational interests, dubbed “regionalism” (Haughton et al. 2010, 24). Since 2010, devolution has occurred at the local level through a transfer of powers from national- and local-government levels to communities and neighborhoods, dubbed *localism*. Because of the strong push to make planning nonuniform throughout the United Kingdom over the past 30 years through devolution, decentralization, regionalism, localism, and privatization, it is increasingly questionable whether the United Kingdom now possesses anything that could be regarded singularly as a planning system, since so much has changed spatially and within policy-making institutions and processes across different parts of the country. The planning polity now comprises at least four different systems within the constituent parts of the United Kingdom. Planning in the United Kingdom is now plural and increasingly divergent as devolution from England to Scotland, Wales, and Northern Ireland enters a period of maturity and

even more differentiated planning arrangements, not just between the four countries, but also within them.

The United Kingdom still possesses a national government, of course, and policies are formulated within that government on certain topics for application across the whole of Great Britain and Northern Ireland; planning's relevance within government and politics should not be underestimated. But to what extent can the U.K. government now claim authority to secure national consistency and coordination within spatial planning policy and on land use matters, authority it previously possessed for over 75 years? Does central government really take its sticky fingers off matters relating to spatial development in the spirit of regionalism or localism? This is the theme of this chapter.

### **Historical Context**

Planning and land use, both in the United Kingdom and elsewhere, have historically been stretched in all directions to accommodate disparate agendas, changing needs, and political preferences (Beauregard 1989; Bruton 1974; Healey 1997; Wildavsky 1973). Planning has long been associated with different drivers of change as they affect land and land demand, and future trends in economic growth, transport, infrastructure, energy, and water supply. Governments have consistently employed land use and spatial planning to intervene in the management of land and to give shape and direction to change. Indeed, as in other parts of the industrialized world, such as the United States and Germany, the planning system in the United Kingdom was first created statutorily by central government; in the U.K. this occurred through the Housing, Town Planning Act 1909 to address key problems related to housing in inner-city locations and the welfare and health of citizens and to avoid overcrowding and high densities (Hall 1975). But, interestingly, in the United Kingdom in the early 1900s, Parliament did not award itself direct powers to plan. The power of intervention to instigate new state housing development and to regulate private housing development was handed over to local government, even though Parliament recognized the need for the state to become involved. In the following decades, central government did acquire its own planning powers, but only as a consequence of World War II and the need to rebuild cities, infrastructure, and the economy in the national interest. Since 1945, central government has retained these powers, allowing a minister of the Crown to set out legislation, make policy, and issue decisions on key development projects, while also permitting the monitoring of local authorities in their operation of the planning system. As table 11.1 illustrates, the purposes of U.K. planning have changed dramatically over

**TABLE 11.1***Changing Purposes of Planning, 1900–1980**The Original Purposes of Planning, 1900–1920s*

- Improve living conditions
- Create higher environmental standards and improved public health
- Improve housing standards and create new housing development
- Balance high-density development with open space, “green lungs”
- Respond to the socialist objective of creating mixed communities
- Influence and control new development in the wider interest
- End political differences over housing provision and provide subsidies for those in most need

*The Protectionist Agenda, 1920s–1930s*

- Protect the best landscapes, such as national parks
- Protect the coast against unsightly development
- Protect the most historic buildings or those of architectural merit
- Control advertisements
- Control suburban housing development
- Develop regional policy to address North-South differentials

*The Postwar Phase, 1940s–1970s*

- Create a major infrastructure and rebuilding program
  - Rebuild houses and flats, industry, and transportation links rapidly
  - Protect the Green Belt from “the octopus”
  - Decentralize plans from inner cities to the edge of cities through the New Towns program
  - Meet new spatial demands from increasing population and car ownership
  - Develop the motorway network and urban motorways
  - Clear slums through programs and comprehensive development
  - Increase council housing and high-rise flats
  - Consider and plan for the loss of heritage and historically significant buildings
  - Early identification of environmentalism
  - Introduce formal public consultation in the planning system
  - Attempt to introduce national planning, regional planning and city-region authorities falter
- 

the past 100 years, and planning’s fortunes have ebbed and flowed according to political ideology, the condition of the state and the public sector more generally, and the changing role of government and the relationships among different arms and layers of the state (Tewdwr-Jones 2002, 2012).

Since 1980, the planning system has been subject to intense bouts of political intervention from successive national governments and to institutional and democratic changes (table 11.2). In the 1980s, as part of a political ideological conviction to roll back the state and the public sector,

**TABLE 11.2**

*Changes in Planning Since 1980*

- Urban planning was achieved through private sector property development.
- Local-authority development plans and decision making were bypassed.
- Public sector planning-free areas were introduced through enterprise zones, simplified planning zones, and UDCs.
- The principal policy agenda was job creation and economic development.
- Development of out-of-town retailing and edge-of-center business parks and housing was encouraged.
- Building of council housing was replaced by reliance on private residential development.
- Planning agendas were shaped by stronger central-government policies.

*The Sustainable Development Phase, 1990s*

- The focus shifted to balancing public sector and private sector interests in planning.
- Planning tackled economic growth, environmental protection, and social inclusion.
- Planning emphasized town centers and urban regeneration.
- Environmental protection and environmental considerations were brought into planning.
- The influence of the European Union on some planning issues grew.
- There was heightened interest in community involvement in planning and alternative approaches to participation.

*Planning's Renaissance, 2000–2009*

- Commitments were made to spatial planning and sustainable development.
- Stronger national decision making for infrastructure projects was implemented.
- A new regional tier of planning was introduced in England.
- Devolution to Scotland, Wales, Northern Ireland and London allowed start of distinct planning arrangements.
- Subnational planning models were devised in the South and North in England, and ecotowns.
- Attempts to integrate planning, environmental, and transport issues faltered.
- Stronger local development planning was introduced, and there were attempts to resolve planning and local-government service and delivery arrangements.
- An urban renaissance agenda was introduced, and commitments to brownfield development were made.
- Planning's role in enabling economic growth was questioned.

*Planning's Fragmentation, 2010–Present*

- Sustainable development has been defined politically as job creation.
- Agendas for major national development projects have changed.
- The regional tier of planning in England has been abandoned.
- Planning systems and differentiation in Scotland and Wales are increasing.
- Subnational planning models have been abandoned, local enterprise partnerships have been introduced.

TABLE 11.2 (continued)

- Enterprise zones have been reintroduced; brownfield development targets have been abandoned.
  - Local authorities retain development plan and integration powers.
  - There has been an ideological commitment to localism, the Big Society, and collaborative planning.
  - Neighborhood planning and neighborhood forums to determine local planning matters have been introduced.
  - Businesses are allowed to prepare local neighborhood plans.
- 

the government withdrew some of the provisions of the planning system to allow the market, rather than the state, to lead in development and land use matters, usually through property development and urban regeneration. Local authority powers were curtailed, while at the same time, central government actually centralized the parameters of planning by setting out the issues local planning had to address (Thornley 1991). Although this has been labeled a withdrawal of central government from being seen to lead the planning system, as previous governments had done in the spirit of late 1940s welfare-state legislation, central government actually awarded itself additional powers during the 1980s, albeit in a different style from the one that had existed before 1979. The irony here is that, in order to implement a 1980s program of permitting economic growth, giving a more prominent role to the market in land use and development interests, and bypassing local authority planning powers, central government had to adopt greater centralist tendencies in order to impose its market agenda against local public opposition.

The Labour government's (1997–2010) review of the planning system (DETR 1998) initially emphasized that the basic principles of the planning system at that time did not need to be fundamentally altered, but that certain dimensions were missing. These missing dimensions included the European context for planning at national and regional levels; a clearer statement of intent on nationally significant development projects; the strengthening of regional policy making; and the use of fiscal instruments, such as incentives and taxation, and their integration into the planning framework. In the years since this statement, a great deal has happened. The green paper on the future of the planning system released in December 2001 advocated the replacement of local development plans prepared by local governments and the formulation of enhanced regional spatial strategies (RSSs) in England. National planning policy in England would then increasingly focus on nationally and regionally significant projects and problems (DTLR 2001). In the ensuing legislation, the Planning



and Compulsory Purchase Act 2004, these new regional and local spatial frameworks were devised at the subnational level and were intended to be as much integrative strategies across various policy sectors as they were planning documents.

In the early to mid-2000s, the process of national planning policy became a matter unique to each of the three British countries, and this is the system currently retained. Since then, the Scottish government and the Welsh government have begun developing their own national policy perspectives, which diverge from that laid down in England. Wales had already strengthened its national spatial policy by preparing a revised version of the Wales Spatial Plan (WAG 2005). In Scotland, a similar exercise created the National Planning Framework (Scottish Government 2009) and, separately, the national Land Use Strategy (Scottish Government 2011). In Northern Ireland, a new Regional Development Strategy has addressed spatial unevenness, environmental resources, and infrastructure (DRDNI 2012). England, on the other hand, did not embark on an English spatial planning exercise; rather, it retained its narrow national planning policies, focused on land use (the Planning Policy Statements), but had no plans to develop anything stronger at the all-England level, preferring to rely on new broader post-2001 RSSs covering the standard regions of England and London (Swain, Marshall, and Baden 2012).

Since 2010, the Coalition Government's planning reform program has involved stripping away aspects of state-led strategic spatial planning coordination and decentralizing planning powers to neighborhood groups under the guise of localism and the Big Society (Lowndes and Pratchett 2012). The Localism Act 2011 in England abolished RSSs in England and introduced a new tier of neighborhood planning that transfers planning decision making from local government directly to communities (Gallent and Robinson 2012). This has been described as a fundamental shift in democracy away from top-down mechanisms and the state, but it is also, again somewhat ironically, an example of a centralized agenda imposed on all of England, irrespective of whether parts of England want the change.

It would be foolish to think that in the spirit of regionalism or localism, or because of a political commitment to enhance citizen involvement in land use decisions, central government is conveniently withdrawing from the picture. It is true that the national government has relinquished some powers and functions, but in other respects, it has merely adopted a different role. During these moments of political posturing, the key question is whether central government has relinquished the right sort of duties and has retained those issues of national interest on which it should act. More pertinently, in any shift by central government in favor of de-

centralization or localism, what serves as the national interest, and what conforms to the notion of planning as a matter of national significance?

### **Structure of Land Use Planning and Governance**

As outlined in the introduction of this chapter, the main actors in the structure of land use planning in the United Kingdom are governments, both in the United Kingdom and in the devolved bodies, but the market predominantly carries out implementation. Governments initiate legislation and policies and formulate strategies (the rules of the game), but it is the private sector or individual that applies for permission to develop or change land and instigate the strategies, often with state financial support for some infrastructure developments. The legislative framework for planning across the United Kingdom is fragmented and complex (table 11.3). Consolidating legislation was introduced in 1990 through the Town and Country Planning Act 1990, which remains the principal guiding legislation for planning in both England and Wales, although it has been amended several times since. Scotland possesses its own legislation; also, at the time of writing, Scotland, Wales, and Northern Ireland are creating their own planning acts for the first time under devolution. A considerable body of legislation on housing, economic development, and environmental protection has planning implications, but is not legally regarded as planning. Planning law is tightly defined predominantly in a procedural way and, crucially, differs from planning policy. Policy statements produced by ministers in the separate countries supplement the law and, in many ways, interpret it. These policy statements are political and planning interpretations of the legislation, reflect the policy preferences of individual ministers and administrations, and are prepared and revised relatively more frequently than pieces of legislation. Aside from the National Planning Framework in Scotland, the Wales Spatial Plan, the Regional Development Framework in Northern Ireland, and the RSSs in England (prepared from 2000 to 2010), policy was enshrined in Planning Policy Statements (PPSs); all four countries of the United Kingdom now have consolidated single documents that outline policies on issues ranging from housing, conservation, and nature to retailing, leisure, economic development, pollution, and waste, among others. England abolished its PPSs in 2012 and replaced them with one brief document, the National Planning Policy Framework. The devolved strategies for Scotland and Wales contained a variety of spatial maps (figures 11.2 and 11.3), but the policy documents for England have never contained any geographic reference or spatial explications.

**TABLE 11.3**

*Current Statutory Context of Planning in the United Kingdom*

*Primary Planning Legislation in England and Wales*

- Town and Country Planning Act 1990 (as amended)
- Planning and Compensation Act 1991
- Planning and Compulsory Purchase Act 2004
- Planning Act 2008
- Local Democracy, Economic Development and Construction Act 2009 (England)
- Localism Act 2011 (England)
- Growth and Infrastructure Act 2013 (England)

*Planning-Related Legislation in England and Wales*

- Caravan Sites and Control of Development Act 1960
- Environmental Protection Act 1990
- Planning (Conservation Areas and Listed Buildings Act) 1990
- Environment Act 1995
- Housing Act 1996
- Human Rights Act 1998
- Pollution Prevention and Control Act 1999
- Countryside and Rights of Way Act 2000
- Housing Act 2004

*Policy Framework in England*

- National infrastructure policy statements
- National Planning Policy Framework (2012)

*Primary Planning Legislation in Scotland*

- Town and Country Planning (Scotland) Act 1997
- Planning etc. (Scotland) Act 2006

*Related Legislation That Affects Planning in Scotland*

- Planning (Hazardous Substances) (Scotland) Act 1997
- Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
- National Parks (Scotland) Act 2000
- Climate Change (Scotland) Act 2009
- Flood Risk Management (Scotland) Act 2009

*Policy Framework in Scotland*

- National Planning Framework (2009)
- Scottish Planning Policy (2010)
- Land Use Strategy (2011)

*Primary Planning Legislation in Wales*

- Town and Country Planning Act 1990 (as amended)
- Planning Bill (in progress)

*Policy Framework in Wales*

- Wales Spatial Plan (2004)
- Planning Policy Wales (2012)

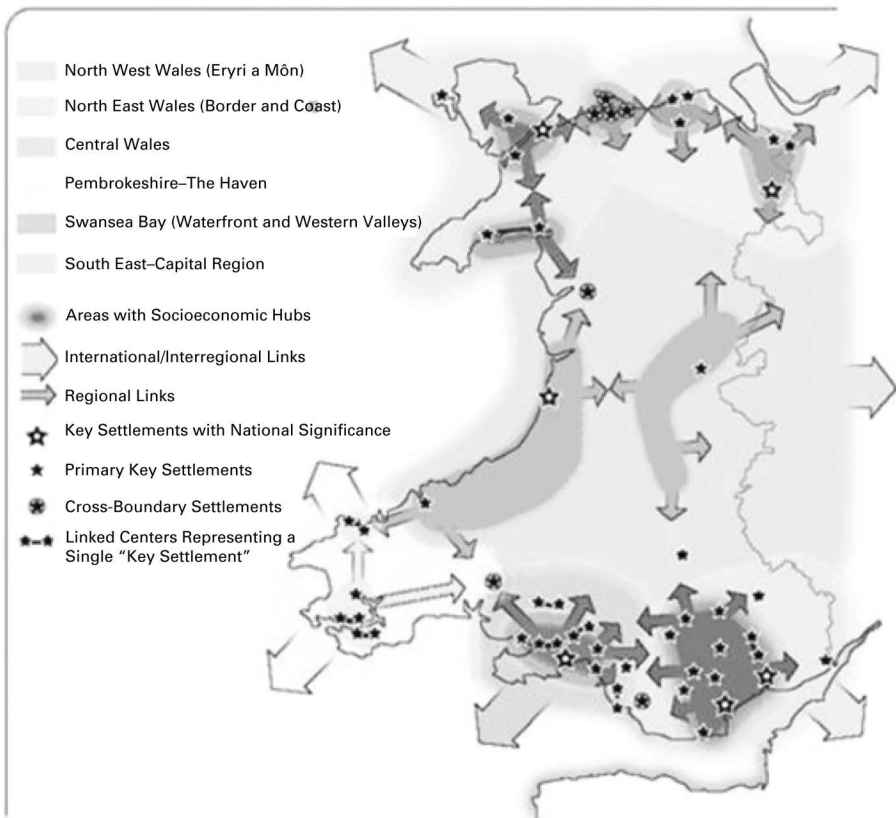
**TABLE 11.3** (continued)

*Primary Planning Legislation in Northern Ireland*

- Planning Act (Northern Ireland) 2011
- Planning Bill (in progress)

*Policy Framework in Northern Ireland*

- Planning Strategy for Rural Northern Ireland (1993)
  - Regional Development Strategy 2035 (2012)
  - Planning policy statements
- 



**Figure 11.2** National Vision for Wales, 2004

Source: Welsh Government (2005). <http://www.wales.gov.uk/walesspatialplan>



**Figure 11.3** National Vision for Scotland, 2009

*Source: Government of Scotland, National Planning Framework (2009).*

It is the policy statements rather than the legislation that have fleshed out the detailed sectoral interventions required and have acted as a frame or guide to planners operating and implementing the planning system on the ground in distinct parts of the United Kingdom. Legislation legitimizes the right to act; policy sets out the action required and justifies it. It is easy to identify differences in policy approaches to certain issues in the four countries; for example, policies on renewable energy, telecommunications, and housing are subtly different in various parts of the United Kingdom, resulting in planning either facilitating or impeding development opportunities. The benefit of this dual process is the ability to amend policy quickly, without a protracted parliamentary debate and primary legislation, and to retain the principal pieces of legislation as overarching legitimization vehicles allocating or denying rights, but devoid of discussion of broader needs and planning purposes. The disadvantage is that the direction and implementation of planning are prone to constant political intervention and policy changes preferred by different ministers, which make long-term planning strategizing increasingly difficult, if not impossible.

At the present time, further legislative changes are being enacted. England has seen the implementation of four significant legislative planning reforms since 2004, and a fifth piece of legislation, the Growth and Infrastructure Act, received royal assent in 2013. The 2013 act intends to prioritize economic growth as the overarching purpose of planning and to remove administrative burdens on businesses and householders in the belief that it is the planning system that is the barrier to economic recovery (Cameron 2011). These legislative changes have amended the regulation of planning and the institutions of governance and responsibilities within planning, and they have removed discretion or allocated rights; they do not directly relate to the national interest or long-term England-wide socioeconomic and environmental needs. Rather, they reflect the political preferences of successive governments about the scale of planning.

### **Interrelated Factors That Shape U.K. Planning and National Policy**

As discussed here, the role of central government in addressing spatial planning and land use change has undergone considerable amendments over the past 75 years and has affected the shape and form of planning at a frenetic pace in the past 30 years. This has been the consequence of the changing role of the state, an ideological preference of successive governments to roll back the central state in favor of subnational and local levels of governance. Also, central government has rarely provided national direction on spatial matters, but has relied on other means to influence

policies and decisions on land use change implemented by other tiers of government or even by the market. These other means have included specifically named legislative instruments to deliver infrastructure projects (e.g., high-speed rail lines, facilities for the 2012 Olympic Games, and nuclear power stations). Enacted during an era when top-down control and authoritarianism were not questioned as inappropriate and unnecessary, the postwar planning system in Britain was created in a deliberative way to bolster local democracy and accountability by awarding most planning powers to the level of government closest to the people. At a time when direct citizen involvement in planning remained decades away (public consultation on planning matters in the United Kingdom was introduced only after 1969), the issue of democracy and transparency would be revealed in planning through a reliance on planning committees of local government and the work of elected political representatives. Issues of more than local interest, such as major infrastructure issues, would be resolved through exceptional means where central government ministers could retrieve development proposals for their determination after public inquiry (the so-called call-in rule).

Although this system may seem like the ideal means by which issues could be dealt with locally, it did raise the question whether some matters were of national interest and required national policy, and how these matters would then be prescribed or actioned by a separate and independently elected tier of government. Step forward, then, central government's national planning policy: not only statements of national interest, but also national planning policies covering a wealth of planning and land use issues and projects that were actually the preserve of local government policy and decision making.

The provision of national planning policy from central government to local authorities and property developers to shape land use policy and practice has been a feature of the planning system in Britain since the 1940s (Tewdwr-Jones 2002). This policy, however, was never released in any consistent form and has occasionally been criticized by commentators (Bruton and Nicholson 1985). Although the original postwar role of national planning policy was to provide strategic direction, central government has modified its planning authority and for the most of the past 75 years has used its land use obligation to set parameters for detailed planning control and policy matters at the local level. The nature of central government intervention in local land use matters has therefore changed over time. Table 11.4 displays the most recent forms of national advice in England, Scotland, Wales, and Northern Ireland: the National Policy Planning Framework in England, which replaced PPSs (formerly planning policy guidance) in 2012; Scottish Planning Policy, which replaced national

planning policy guidelines in Scotland in 2010; Planning Policy Wales in Wales; and planning policy statements in Northern Ireland.

Between the 1940s and the 1980s, the architecture of the land use planning process in the United Kingdom changed very little. Different types of land use and development plans were introduced, while others were abolished; new scales of policy were initiated, and some were removed. But planning was primarily restricted to considering land use issues through the management and coordination of policy at various levels of administration by a variety of agencies and actors. Implicit in the operation of the land use planning system was a national coordinating level under a U.K. government minister, where the social, economic, and environmental needs of areas could be addressed in an integrated way. Although this suggested that planning could be operated effectively only when land use issues were considered strategically, the provision of a national element of strategic coordination by the central state was seen as an essential ingredient in physical development. Strategic planning sets out a frame of reference for the organization of planning at the lower tiers of administration. The planning process was managed and implemented by national and local tiers of government and was hierarchical as a policy framework (Tewdwr-Jones 1996). Although there was never a meaningful national plan covering England, Scotland, Wales, and Northern Ireland, central government always provided a clear approach in determining and promoting planning policy to be operated across the various government levels. Rather than developing a statutory national physical plan, the government preferred to rely on a system of discretion rather than prescription, a process where central government set up the legal framework and broad policy for local government to interpret.

When the United Kingdom was in the throes of World War II and the country was concerned about how it should commence rebuilding itself physically, economically, and socially, central government was charged with taking the lead in providing strong national direction and coordination. Indeed, it was during this period that planning was formally given a role in bringing about physical change, a response to the recognition that there was a need to start anew, and that those changes could be coordinated only by the state. One of the first pieces of planning-related legislation that emerged in the United Kingdom to secure this national planning lead was the Minister of Town and Country Planning Act 1943. Under the provisions of this act, a central government minister was charged with overall responsibility for development and physical rebuilding, and these essentially became the core building blocks on which statutory land use planning was based. The minister was charged with the duty of “securing consistency and continuity in the framing and execution of a



national policy with respect to the use and development of land throughout England and Wales” (HM Government 1943, Section 1). The role of central government in overseeing a national policy approach to physical planning and in ensuring that government planning agencies (the minister and central government departments) implemented national policy was therefore placed at the heart of the emerging statutory planning legislation. Whether the framers of this statute intended to extend this duty to encompass detailed local planning matters at this time, in addition to strategic direction, is difficult to determine.

Central government’s duty for land use planning has been fulfilled by successive planning ministers since the 1940s. Different ministers and governments of different political persuasions have used this obligation to define the role of the planning system by a variety of methods, including direct intervention in local planning issues, providing national policy advice, and passing planning-related legislation. Although Section 1 of the 1943 act was repealed in 1970 (when the office of Secretary of State for the Environment was created, later rechristened as Secretary of State for Communities), the duty of central government in planning did not change drastically. However, the interpretation of the duty has shifted according to how interventionist planning ministers have been when in office.

The exact role of central government in planning has therefore been modified. After the rebuilding of the British economy in the 1950s, there was no need for a minister of the Crown to frame national policy on planning, because local government agencies (charged with implementing land use planning at the local scale) could coordinate and develop future physical land use change by negotiating with developers and later the public without the necessity of heavy central-state intervention. However, as the British economy has ebbed and flowed in the period since then, central government has retained its overriding duty to intervene in the land use planning system both to achieve economic recovery and to reflect party political mandates, but not consistently. This explains why there has never been a consistent form of policy documentation to reflect central government’s planning agenda. This also applies in the current era, in which successive ministers have attempted both to devolve planning to lower government or community tiers and to deregulate development management to placate the market. Despite 30 years of planning reforms, planning has remained stubbornly resistant to abolition or weakening, but it remains an ideological target for economists, neoliberals, and the development sector. The reason that planning survives onslaughts, picks itself up, dusts itself off, and then continues as before is that it is remarkably resilient to changing needs over time. Even relatively antiplanning ministers sometimes recognize that the planning system can help achieve national agendas, and that it is a convenient and flexible mechanism to bring together

**TABLE 11.4***Planning in the United Kingdom Today**The Form of Planning*

- Planning is regulated and framed by the state, the central government, and local governments.
- Land ownership is private, but is regulated publicly.
- Planners devise master plans and control development in the wider interest.
- Planning is implemented by developers and private consultancies.
- Planning is an activity of the public and private sectors, working in partnership to design, develop, and deliver tomorrow's places.
- Powers of communities and neighborhoods to shape local areas are increasing.

*Key Agendas of Planning*

- Meeting national and subnational needs against a global backdrop
  - Balancing local and community desires with wider concerns
  - Balancing environmental costs with economic gains
  - Ensuring that transport infrastructure is tied to development phasing
  - Providing strategic visioning, master planning, and fast decision making
  - Mediating between conflicting users and allowing more people a voice in the development process
  - Reconciling conflicts and disputes
  - Protecting the past and planning the future
  - Delivering through policy, negotiation, and implementation
- 

divergent views and policies. A good illustration of this point is that over the 75 years of U.K. planning in its modern guise, the number of national policy objectives allocated as tasks to planning by government has increased fourfold (Tewdwr-Jones 2008). See table 11.4 for a list of the current objectives of planning.

### **Key Elements of National Planning**

A recurring theme of this chapter is the lack of planning for the United Kingdom as a whole and of any sort of national spatial plan. How, then, are projects of national significance formulated and decided within the context of a national planning vacuum? Examples from infrastructure and housing outline the tensions and apparent contradictions between the political determination not to be seen to be creating top-down structures and the need to address issues of national importance.

#### **Infrastructure**

Questions about the appropriateness of and the need for a stronger form of national planning approach, in England at least, surfaced in the mid-2000s. This period was marked by a renaissance of planning, with a new

type of planning, spatial planning, being enacted in Scotland, Wales, Northern Ireland, and London, and a new system of RSSs in each region of England (Tewdwr-Jones, Gallent, and Morphet 2010). The national agenda in England was considered initially in the white paper *Planning for a Sustainable Future* (HM Government 2007) and enacted through legislation the following year in the Planning Act 2008. This act created a new way of determining development and infrastructure projects of national significance, including new railways, motorways, airports, power stations, reservoirs, and power lines. The government proposed to establish an Infrastructure Planning Commission (IPC) to take charge of major planning projects that previously had been the subject of long, expensive, and adversarial planning inquiries on a project-by-project basis, such as determining the necessity of a new terminal building, Terminal 5, at London's Heathrow Airport. The second relevant provision was for an enhanced national strategic planning policy that set out medium- to long-term planning requirements over a 25-year period, cut back on detailed policy guidance, and focused more on nationally relevant issues. The intention at the time was to streamline the planning system. The proposals illustrated the degree to which central government still called the shots on the form of planning existing in the regions and locales of England, but they also set out a national case for government on spatial planning matters. Communities Secretary Ruth Kelly referred to the proposals as delivering "a planning system fit for the 21st century" (HM Government 2007, 1). But the reform proposals generated criticism from environmentalists and community representatives, who were concerned about the prospect of a free-for-all on development issues and about the state imposing its will on local areas while removing local discretion to determine planning projects. Business leaders, in contrast, welcomed the proposals that were intended to assist economic growth and build on a series of major government reports devoted to major sectoral changes under way, including those on planning and the economy (the Barker Report, HM Government 2006b), transport and infrastructure (the Eddington Report, HM Government 2006c), climate change (the Stern Report, HM Government 2006a), and local government management and finance (the Lyons Report, HM Government 2006d).

The 2007 white paper attempted to strike a balance between future environmental protection, economic growth, and sustainable development. Critics remarked that the proposed IPC would ride roughshod over local democratic processes because it would be an independent agency at arm's length from government and ministerial accountability and a structure separate from local government, which determine the majority of planning applications for change and development. But individual local author-

ities have rarely determined major infrastructure proposals; instead, the secretary of state has frequently called them in because the potential impacts of such development may be felt beyond the boundaries of one local authority area. In the context of stronger national policy guidance, the IPC would still be required to make recommendations to the minister who would ultimately be responsible to Parliament for the decisions taken. One can argue that developments in the national interest require national politicians to act; this is not necessarily a dent in the democratic process; rather, it is merely a different type of democratic process from that used to determine small household planning applications.

The IPC, approved under the Planning Act 2008, was formally established in 2009, but the Conservative Party in opposition had already announced its intention to abolish the body if it was elected to government (Conservative Party 2010). Thus, in June 2010, the IPC's abolition was announced, and the IPC's functions were transferred to the Planning Inspectorate Agency (responsible for planning appeals). The secretary of state was to make decisions on large development projects directly. The promised strategic national policy statements have been released, but they have been formulated by different government departments. The Department for Energy and Climate Change released policy statements on energy, fossil fuels, oil and gas supply and electricity, and nuclear power; the Department for Transport released statements on ports, transport networks, and aviation; and the Department for Environment, Food, and Rural Affairs released national policies on water supply, hazardous waste, and wastewater treatment. To date, all the statements except that on nuclear power lack a spatial dimension; they do not even contain a map identifying locations or the siting of new projects. Geography is completely absent. One can understand why central government may be reluctant to stipulate the selection of particular local sites, but this lack of spatial detail undermines the idea of a new central government lead on matters of national importance. Furthermore, under the provisions of the later Localism Act 2011, the national policy statements are now also subject to parliamentary approval. Thus, the determination to open up the process in the interests of democracy could well delay the implementation of major infrastructure projects, which is exactly what the proposals of the 2008 act and the Localism Act were attempting to avoid.

It is likely that ministers will come under the same pressure to make quick decisions on major development projects after public inquiries as their predecessors did in the 1980s and 1990s. A desire for both faster decision making and enhanced democratic opportunities may yet conspire to slow down the process even further. Without a geographic dimension either in the national policy statements or the National Planning Policy

Framework of 2012, decision making for major projects will remain adversarial and will combine issues of principle with issues of detail. This revised planning regime relates to projects of national significance. But an equally problematic situation can occur when the government or an individual minister wants to be seen to be doing something about a problem but is constrained from doing so by the governmental framework or by the principle of subsidiarity that successive governments have advocated. In 2013, the Labour Party opposition established a review to consider future planning for infrastructure. The resultant report, the Armitage Review (2013), called for the establishment of a new national infrastructure agency. If Labour gains office in 2015, there may be a return to an IPC-style arrangement and the promise of another planning act.

### Housing

On the vexed subject of affordable housing, Prime Minister Gordon Brown in 2007 publicly committed the government to providing over 300,000 new houses per year to meet demand and to deal with the unaffordability issue. On the surface, this is a fine objective. The problem is that it is not the government that builds houses or gives planning permission locally for new development schemes. The state's role in house building ended in the 1980s, so a planned provision of housing locally is always a matter for negotiation between house builders and local planning authorities. Although there were planning mechanisms in place until 2010 to ensure that the 300,000 figure would be cascaded down to regions, counties, and districts, once the local scale is reached, the issue becomes argumentation about a specific site, involving local people with diverse views about the merits or problems of building on greenfield and brownfield sites. New government incentives were offered to local authorities to allocate more land than has been earmarked for new housing both under Labour and under the Coalition, but such allocation may conflict with locally agreed-on plans that, by democratic virtue, attempt to restrict growth. The South East of England, already a development hot spot, has long been the focus of argumentation in this respect as local battles emerge over the fate of individual plots of land.

These contentions relate to England-wide matters. The position of any U.K. perspective also remains uncertain in light of the greater devolution of powers to the four countries. The Royal Town Planning Institute progressed a feasibility study into the provision of both a U.K. National Spatial Planning Framework (Wong, Ravetz, and Turner 2000) and a map for England (Wong et al. 2012), and although giving commitments to devolution this has always been thought of as potentially running counter

to political thought and developments. At the moment, however, the United Kingdom possesses a kaleidoscopic framework of planning policy processes in which the word “national” means different things in different contexts, both geographically and politically. This is compounded by a simultaneous emphasis on transnational and supranational spatial planning developments between the nations and regions of the United Kingdom and other parts of Europe (Alden 2001; Tewdwr-Jones 2001).

### **Key Outcomes and Lessons for U.K. Land Use Planning**

The role of central government in spatial planning and land use in the United Kingdom has changed as new parliamentary bills have progressed in each of the four countries simultaneously to reform the processes. These reforms have significant implications not only for national policy, but also for the role of the central state in relation to local government, the proclamation of central government preferences for land use, and, indeed, the opportunities for public involvement. In England, the Localism Act’s provision commenced in the spring of 2012, heralding what the minister promised to be a radical reform of the planning system. If those words seem familiar, it is because previous incumbents have described recent planning bills in much the same way (Stephen Byers in 2001 and Ruth Kelly in 2007). The bill was controversial and went through a tortuous process in both Houses of Parliament. The government agreed to over 240 amendments, more than was in the bill to begin with. The bill was supplemented by the Chancellor’s Budget Financial Statement of March 2011, with its focus on deregulation of the planning system and its economic interpretation of sustainable development that, in turn, heralded another bout of reform with the issuing of a new National Planning Policy Framework in 2012 and a new Growth and Infrastructure Act in 2013.

Despite the experiences of the 1980s, when central government successfully deregulated large parts of the planning process, allowing the market a more prominent role in land use decisions and an increasing reliance on alternative policy and decision mechanisms to local authorities and local development plans, it has been reluctant to let go of some responsibility for land use matters even if successive ministers have lamented publicly how much they detest planning (e.g., Pickles 2012). Previous attempts by central government to reform the planning process occurred under the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, and the Local Democracy, Economic Development, and Construction Act of 2009. The Localism Act promised to revise planning decision-making processes once again, introducing some bold ideas that have as much impact on forms of local democracy as they do on land use planning per se. Some

of these new revisions dismantle aspects of the processes put in place under the Labour administration from 2004 to 2010. These include the abolition of RSSs, national and regional housing targets of central government, and the Infrastructure Planning Commission, which had only recently been charged with assessing major development projects of national significance.

The bill, perhaps controversially, was not preceded by a white paper on planning issues per se; rather, it mirrored the *Open Source Green Paper on Planning* published by the Conservatives just before the general election (Conservative Party 2010). The *Green Paper* reflected the ideological belief in localism and the much-lauded Big Society and its application to planning: “We need a planning system that enables local people to shape their surroundings in a way that . . . is also sensitive to the history and character of a given location. . . . Our conception of local planning is rooted in civic engagement and collaborative democracy as the means of reconciling economic development with quality of life. . . . The planning system can play a major role in decentralising power and strengthening society” (Conservative Party 2010, 1).

At face value, then, these principles suggest potential reforms that support place-based distinctiveness, a deeper understanding of land locally, and an opening up of policy and decision making to wider sections of society. The government is in the process of dismantling high tiers of strategic spatial policy at the national level in England and in the English regions in favor of a rescaling of policy and decision making to the local authority or neighborhood levels. This fits ideologically with the notion that there has been too much top-down policy in the past, especially in addressing housing needs in the South East of England and in London, where many residents remain opposed to new development. But, of course, it also means that commitments of high policy tiers, such as renewable energy targets, will be much more difficult to achieve if decisions on wind turbine farms are to be left to incremental neighborhood decision making.

The other striking issue is two ideologically different approaches to planning occurring in central government simultaneously. This is not a feature of all recent administrations and possibly reflects an apparent ongoing frustration with planning or uncertainty on what to do about it. The Localism Act 2011, supported by community, voluntary, and environmental groups around England eager to take up the new promised decision-making powers that ministers trumpeted, is a fundamental shift away from not only the planners, but also local government representatives. That is one agenda. The Treasury’s perspective is, however, a little different and underlies the Growth and Infrastructure Act 2013. This agenda, naturally enough, reflects a market perspective and talks about the need for eco-

conomic growth after the recession; deregulating more of the planning system; allowing more housing development, especially on greenfield, edge-of-town land; and reintroducing a 30-year-old policy, enterprise zones, where planning permission and regulation are not required.

Clearly, there is a potential for contestation in a community, with neighborhoods and developers having two very different viewpoints about what should be done and by whom. Since the introduction of neighborhood planning, communities have become frustrated because the long-promised powers are set within tight parameters. The most noticeable constraint is that although communities are able to make decisions about future land release for new developments, they are not permitted to refuse development; they can only add to development proposals above and beyond that already proposed by the local authority plan. Battles are already raging over urban periphery land on greenfields in the South East of England; local people fiercely oppose new development, while the house builders say that their projects support economic growth. Both sides claim legitimacy in acting by referring to different pieces of planning legislation. Local planning authorities were not abolished under the Localism Act; in fact, they are still obligated to prepare local development plans and deliver public services in partnership with health bodies, transport providers, and other social infrastructure groups. A further limit on the ability of neighborhood groups to make decisions is a requirement that neighborhood plans be in conformity with local authority development plans, which, in turn, are to be in conformity with the National Planning Policy Framework. Nesting the planning scales is a convenient governance mechanism, but it does not meet the high expectations of individual scales or allow discretion within the system to make an appropriate decision given circumstances and location. There is even more frustration in communities over the acknowledgment that central government prioritizes economic growth and housing development, but little else. It is possible that, as a result of the policy process and tiered governmental relations, some of the local and neighborhood agenda will have already been determined by the time neighborhoods are asked to make judgments on schemes (Lord and Tewdwr-Jones 2014).

### **A National Remit in an Age of Decentralization and Anti-planning Sentiment**

The importance of the U.K. national policy context is recognized in facilitating government policy objectives relating to the economy, society, and the environment, and in complying with European Union directives and meeting global treaty commitments. The drivers of land use change



related to changing demographics, climate change, economic recovery, infrastructure provision, and energy needs are all of national importance and significance and warrant some form of central government involvement in addressing the issues both now and in the future. As the United Kingdom has become more concerned about global economic triggers, impacts of climate change, and population increases (both from within and possibly from migration overseas), the U.K. governmental and planning structures have fragmented practically and ideologically. This is only to be expected in devolution processes, but the fragmentation has been exacerbated by the hollowing out of subnational political and governance arrangements that make it more difficult to address the spatial and land use impacts of these changes over time. Reliance on the locality and the neighborhood in the revised English planning process may resolve site-specific issues and give local people a greater voice in determining the extent and pace of change in their own backyards, but it is hardly an effective arrangement to address regional differences in energy provision, water shortages, failing infrastructure provision, or the uneven spatial differences in unemployment.

Scotland, Wales, and Northern Ireland are in the process of creating country-specific planning and governance arrangements, comprising new national planning legislation alongside new spatial planning frameworks, land use change maps, and subnational plans to provide the evidence base and trends and potentially address these threats in an integrative and robust way. The same is not true of England, nor has it ever been the case with regard to the United Kingdom as a whole. The enhanced European context of spatial planning and territorial cohesion likely will strengthen the spatial policy processes within the new structures of governance currently being put in place as part of the implementation of devolved governments in Wales, Scotland, and Northern Ireland; it may also give these parts of the United Kingdom an institutional advantage over England. The dual push toward European spatial planning and devolution makes it necessary to assess whether a U.K.-wide approach to spatial planning and land use change will be required in the future, and how U.K. national policies and decisions could potentially affect devolved forms of spatial planning processes. This is not a question of devising some sort of grand national plan; rather, it is a matter of ensuring that the U.K.-wide effects of land use change and the territorial and spatial differences within the United Kingdom are recognized sufficiently and serve as a basis for possible future action. Today, these U.K.-wide assessments are largely off the radar.

Local uniqueness and diversity may start to underlie decisions. All places are different, so place assets may be considered in the future. The market will probably adjust to any new system, as the market always does,

and perhaps innovative arrangements will emerge that start to align incentives with regulations, linking land decisions, spatial change, and financial tools. Furthermore, this strengthens the need for local and strategic intelligence to underpin community decisions for two reasons. The first is to ensure a more robust decision process resilient to appeal and challenge from aggrieved individuals. The second reason centers on localism itself, by generating more information about places and how they change, analyzing the options available, and assessing the implications of those different options. This seems to be an essential prerequisite for local sustainability. Evidence and data generation become more important here to avoid incremental decision making and to assess the wider strategic implications of this. The difficulty remains how to discuss and address strategic intelligence issues relating to land use planning without being seen to be top-down or authoritarian, especially if the spatial strategy and national policy mechanisms previously available have been, to all intents and purposes, removed.

In recent years, local authorities and other bodies have collected and commissioned a significant amount of place-based information on such topics as social infrastructure, land use changes, biodiversity, and ecosystem services that could usefully support the transition to community decision making. Many local authorities have exhibited an entrepreneurial spirit, but more work is required, including the greater use of modeling that links science on environmental capacity to decision making. There could be a new and significant role here for planners and others to inform the decision process and also to ensure that all the hard work and resources accumulated over the past 15 years are not lost in the transition to the new system. Changing the process to allow different people to make decisions does not lessen the necessity for robust and resilient strategic and local intelligence. But, more worryingly, if these issues are left to local neighborhood groups, there is great uncertainty whether they could afford to commission studies or monitor the effects. What happens in the absence of policy evaluation and monitoring? And would the private sector step in?

The U.K. planning reforms could lead to a greater understanding and recognition of the diversity of places and their assets from both biodiversity and economic perspectives. Many organizations outside central government departments are undertaking deeper assessments of land and are using scenario and modeling work to inform choices and possibly, in some cases, to attempt to influence arguments. This could then lead to the promotion of place-based governance and growth, based on the realization of opportunities and assets and not led by government, but rather by a range of alternative organizations. This is an important point because of international interest. The Organization for Economic Cooperation and

Development is promoting place-based growth as a paradigm globally, while the European Union's 2020 agenda (Commission for European Communities, 2010) will soon require member states to address territorial impact assessments (TIAs). TIAs could link in well to place-based assets and ecosystem services. Above all, it is likely that a strategic overview of the implications for land use changes will still occur even if there are no formal strategic plans in place in England; academics, policy organizations, and environmental bodies will still consider the synoptic and wider matters of land use change even if doing so is unfashionable in government. If other groups are still performing that strategic and synoptic role at present, it may be useful for a future government.

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## *Commentary*

LEONORA ROZEE

**M**ark Tewdwr-Jones outlines the history of planning in the United Kingdom over many decades. He argues that since political and institutional devolution to Wales, Scotland, and Northern Ireland in 1999, and because of increasing emphasis on what is termed “localism” in England, planning in the various parts of the United Kingdom has diverged to such an extent that there is no longer a recognizable national planning process in the United Kingdom.

Tewdwr-Jones shows the extent to which it has become an increasingly powerful political tool used by successive governments to intervene and influence the way in which the planning system operates at the local level (see tables 11.1 and 11.2). He highlights the inherent contradiction between the ideological conviction of the governments of the past 30 years to reduce the role of the state and the actual effect of their interventions. These interventions have increasingly centralized planning, and communities have become ever more hostile to development that they see as imposed on them.

This tension between localism and centralism is being played out in the current government’s localism agenda, introduced with much fanfare in 2011 under the Localism Act (for England). However, because planning is seen as a continuing brake on economic growth, localism is increasingly sidelined by government decisions that leave local communities confused about their role in the planning system. The latest legislation to go through

Parliament—the Growth and Infrastructure Act, which received royal assent on April 26, 2013—along with other measures to reduce red tape by deregulating significant parts of the planning system, has the potential to markedly reduce the influence that local people can have over what happens in their areas. A good example of this is a proposal by ministers to allow householders to extend their houses by up to eight meters (substantially more than currently allowed as permitted development) without any consultation with neighbors or any involvement by the local planning authority. The House of Lords heavily criticized this proposal and threatened to throw it out, forcing the secretary of state to propose a new process of notification whereby neighbors must be consulted; if they object, the local authority will decide the acceptability of the scheme.

Tewdwr-Jones sets out the complex statutory and policy framework of planning systems in the UK (see table 11.3). These are especially complex in England, where there are six pieces of primary legislation and a further nine pieces of related legislation governing the planning process. All but one of these statutes date from 1990 or later; six have gained royal assent in the past nine years, and the array of statutes has become bewildering. Until March 2012, when they were largely replaced by the National Planning Policy Framework, a single document 49 pages in length, there were some 25 wordy and overlapping planning policy statements or guidance notes covering a range of land use topics. A further 200 documents totaling some 7,000 pages provided additional guidance on the operation of the planning system. The Taylor Review<sup>1</sup> was set up in 2012 with the aim of reducing this vast amount of material by identifying what the government must do to ensure the proper operation of the planning system and what can be removed entirely or left to others.

What seems evident is that in England, in particular, there has been a continuing and largely unhelpful focus at government level for several decades on the process of planning rather than the desired outcomes and how best to achieve them. Much of the rhetoric has concerned central control versus local empowerment, with politicians of all the main parties seeking to promote themselves as being firmly in the camp of letting the people decide how their areas should be planned. At the same time, they are putting in place mechanisms to control that process (such as the National Planning Policy Framework), the requirement that neighborhood plans (statutory plans generated by local communities) conform to the

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<sup>1</sup> External Review of Government Planning Practice Guidance Report submitted by Lord Matthew Taylor of Goss Moor, published by Department of Communities and Local Government, December 2012.

strategy of the local plan (the local-authority statutory plan), and the 2008 Planning Act relating to national infrastructure.

Nevertheless, Tewdwr-Jones notes that despite 30 years of planning reforms, U.K. planning remains central to any government as a mechanism to deliver policy across a range of national agendas. He states that planning is “remarkably resilient to changing needs over time.” The risk, however, is that as the planning system gets ever more complex, and it is charged with achieving an increasing range of national policy objectives (see table 11.4), the population at large will become more suspicious and less trusting of the ability of the planning system to operate in a socially just and environmentally acceptable way. This has led to an endemic conflict between the ability of the nation to meet its development needs (e.g., to build housing, create economic growth, and replace and update the fragile national infrastructure) and people’s acceptance of both the need for and the location of such development.

Politicians are sensitive to the accusations that planning delays development and that people have no influence over what is happening in their areas, but they have dealt with infrastructure projects of national importance in different ways. The Labour government delegated the decision on nationally significant infrastructure proposals to an independent body (the Independent Planning Commission) under the 2008 Planning Act with the idea that politicians would determine national policy and need (in the form of National Policy Statements) and would thus separate themselves from individual decisions; the new body was hardly in existence before the coalition government abolished it under the 2011 Localism Act and took back the decision-making power because of concerns about democratic accountability. However, as Tewdwr-Jones points out, the lack of any spatial dimension in national policy (other than for the development of nuclear power stations) leaves a large question mark about the effectiveness of a process designed to make decision-making quicker and clearer and to base it on effective early engagement with communities.

Tewdwr-Jones recounts the continuing search by successive governments for a faster, simpler planning system during 20 years of reform followed by reform. Similarly, there has been an ongoing search for a way to engage the public in a constructive dialogue about the way in which their places will change. The latest attempt devolves power to the lowest possible level with neighborhood planning, but what can be done at this level is constrained. For example, the plan must propose more development, not less, than the local authority proposes in its local plan. Nevertheless, this more localized process has the potential to produce a deeper understanding of local issues and create more locally distinctive places. But the gap



that Tewdwr-Jones exposes between high-tier policy commitments (e.g., those associated with responding to climate change) and the more locally focused planning process is likely to be a serious obstacle in planning the future of England. This contrasts strongly with devolution in nations in which a national or regional spatial plan of some kind provides a more coherent framework for addressing the myriad policy objectives modern governments face.

Tewdwr-Jones further identifies the potential for greater conflict, especially at the local level, where house builders who believe that the government's economic rhetoric supports them are pitted against local residents who may feel that they have been misled by the rhetoric of localism when the secretary of state, on appeal, allows decisions they bitterly oppose. There are regular reports in *Planning* (the planning profession's newspaper) of challenges and complaints about housing decisions being taken out of the hands of local people. Indeed, the 2013 Growth and Infrastructure Act allows developers in certain cases to bypass the local authority altogether and apply directly to the secretary of state for planning permission for major development.

Tewdwr-Jones reports that the current planning agenda of the coalition government has its origins in a Conservative discussion document published before the 2010 election (titled *Open Source Planning*<sup>2</sup>). Founding a set of major reforms of the planning system on such a document begs the question of the legitimacy of the process, especially when the political party associated with that ideology failed to gain a majority sufficient to form a government in its own right. The reforms could lead to a greater understanding and recognition of the diversity of places. However, in the absence of a national vision and strategy to provide a context for local development planning, there is a risk that the nation will not be able to achieve a much-needed rebalancing or to adequately address the global challenges it faces.

Tewdwr-Jones refers to the fragmentation of the governmental and planning structures in the United Kingdom. This is occurring at a time when all nations face major challenges, such as dealing with the economic chaos since 2008, planning for climate change, housing their populations, and protecting the ecological diversity of the planet. Meeting all these challenges requires strong leadership and strategic national planning. The chapter also refers to the potential impact on England of the European context of spatial planning and territorial cohesion because, unlike the rest

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<sup>2</sup> [www.conservatives.com/~media/Files/Green%20Papers/planning-green-paper.asbx](http://www.conservatives.com/~media/Files/Green%20Papers/planning-green-paper.asbx)

of the United Kingdom, England has no national spatial framework. Tewdwr-Jones points out the risk that the evidence and intelligence needed to inform the planning and decision processes will be lost because of the dismantling of the structures that previously collected such data (such as the regional assemblies) and the loss of strategic planning expertise. However, he suggests that whatever happens at the government level, other drivers exist, such as the Organization for Economic Cooperation and Development's promotion of place-based growth and the European Union's 2020 Agenda, to ensure that there will continue to be a strategic overview of the implications for land use changes.

Tewdwr-Jones's optimism is understandable, but there are a number of tensions within the system that continue to inhibit the effectiveness of U.K. planning (notably in England). These can be summarized as follows:

- **Hierarchical:** Who is responsible for what? The coalition government's hasty announcement of the abolition of regional spatial strategies in May 2010 led to lengthy and costly court battles and ultimately required a change in the law. It also created a lacuna in policy that at least in part has led to the lowest number of houses being built at any time in spite of ever-increasing demand.
- **Interdepartmental:** There is a tendency for national and local government departments to work in silos. At the local level, this was partly addressed in the 2000 Local Government Act, which required local authorities to produce a cross-authority policy document called a sustainable communities strategy.
- **Functional:** Planning issues do not respect administrative boundaries, and many local-authority areas are too small to plan strategically. Having abolished the regional strategy that helped manage this tension, the government introduced a duty to cooperate in the Localism Act that requires local authorities to work together on planning for their areas. It remains to be seen how effective this will be because the only sanction is that the promoting authority will lose its plan if a neighbor refuses to cooperate. For example, an independent examination found Stevenage Borough Council's plan unsound because a neighboring authority, North Hertfordshire, would not agree to accommodate housing that could not be provided within the constrained boundaries of Stevenage.<sup>3</sup> This led to legal challenges and a great deal of political fallout.

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<sup>3</sup> [www.planningportal.gov.uk/general/news/stories/2011/jun11/2jun11/020611\\_3](http://www.planningportal.gov.uk/general/news/stories/2011/jun11/2jun11/020611_3)

- **Political:** As noted in this commentary, there is a continuing and consistent tension between centralism and localism, with mutual distrust between national and local politicians.
- **Local:** Citizens lack trust in the planning system, which is increasingly seen as controlled by the development industry. In this context, the role of the planner becomes critical to building trust by adapting to the changing world and adopting new methods to avoid or manage disputes, such as mediation.

In conclusion, Tewdwr-Jones's chapter is a useful exposition of the confused state of the U.K. planning system as it adapts to devolved government and the different ideological makeup of the various nations. England appears to be somewhat out of step with the rest of the United Kingdom and, indeed, with many parts of Europe in its current mix of centralist and localist planning within a market-dominated political agenda, devoid of any national spatial plan. It will be interesting to see whether planning will become a more effective tool for creating places where people want to live, work, and play, providing the infrastructure the nation needs, and helping the United Kingdom meet its international obligations.



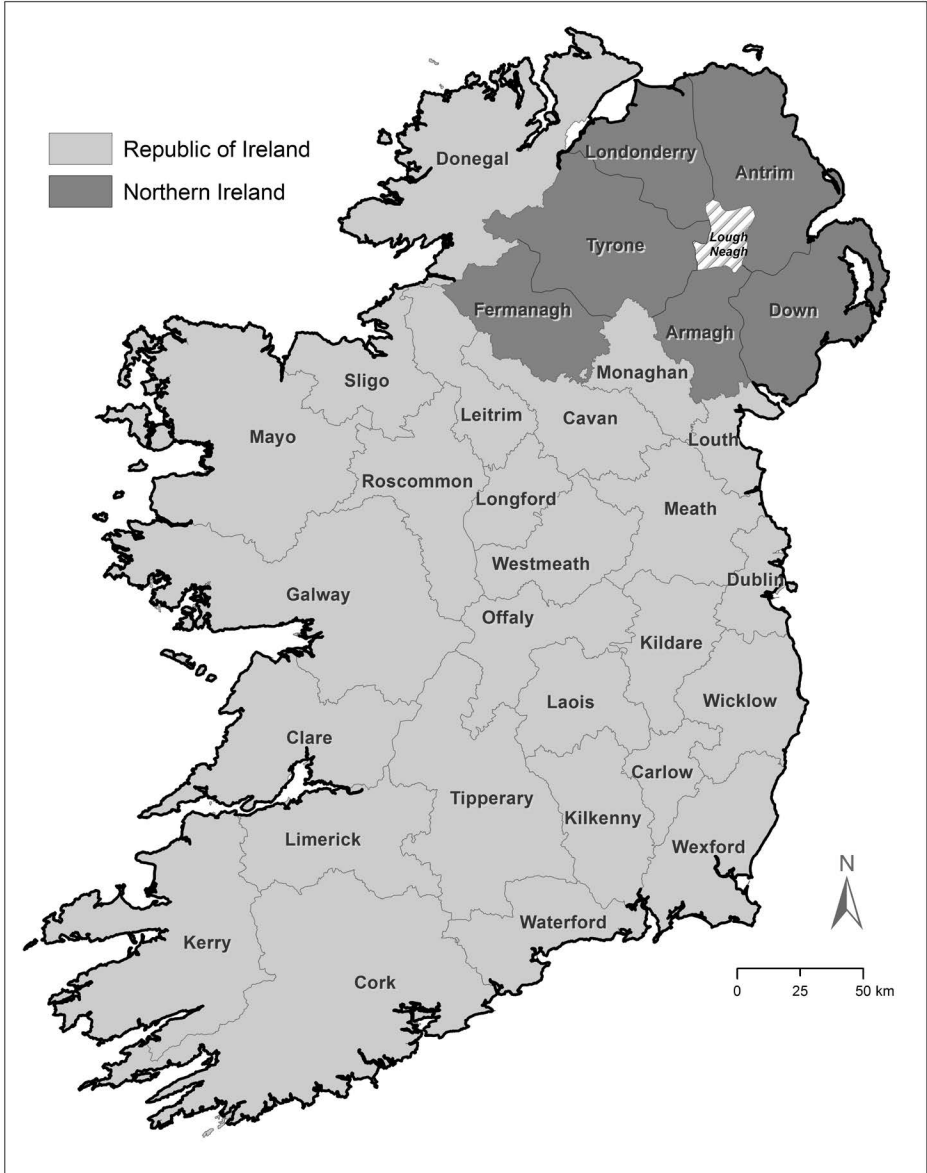
## The Irish National Spatial Strategy

BERNA GRIST

Ireland is an island, 32,524 square miles (84,421 square kilometers) in area, located on the northwestern extremity of the European continent between latitude 51.5° and 55.5° north and longitude 5° and 10° west. Figure 12.1 shows the island of Ireland and the existing county structure. Politically, the island is divided into:

1. the Republic of Ireland, consisting of 26 counties, with a land area of 26,959 square miles (69,825 square kilometers) and a population of 4.58 million at the time of the last census in April 2011; and
2. Northern Ireland, consisting of 6 counties in the province of Ulster, with a land area of 5,460 square miles (14,139 square kilometers) and a population of 1.81 million at the time of the last census in March 2011.

The term “Irish” is generally used in the context of matters relating to the nation-state, the Republic of Ireland (*Éire* in the Irish language or Gaelic). Ireland became a member of the European Union (EU) in 1973. Northern Ireland has been part of the United Kingdom since 1801. The *Regional Development Strategy for Northern Ireland 2001–2025* (Department for Regional Development 2001) was “the first of its kind in the British Isles” in that it took a high-level, strategic perspective and cast its gaze



**Figure 12.1** Island of Ireland, 2013

Sources: Republic of Ireland counties: Ordnance Survey Ireland, permit no. MP009006; Northern Ireland counties digitized by Dr. Harutyun Shahumyan.

beyond traditional physical or land use planning; it also broke new ground in acknowledging the need to consider Cross-Border planning issues (Warnock 2011, 103). This chapter provides background information on the institutional structures within which the comparable planning framework for the Republic of Ireland, *The National Spatial Strategy 2002–2020* (Government of Ireland 2002), is to be understood and evaluated. It then discusses the political and financial circumstances surrounding the gestation of the *Strategy* and the vicissitudes it has faced.

It is important to understand the historical development of the Irish legal and political systems in order to analyze cultural attitudes. Two national policies in particular have undermined the implementation of the Irish *National Spatial Strategy*; both can be linked to this historical context. The third factor working against the strategy is more easily addressed because it has its roots in the Planning Acts, which provided for almost complete local autonomy in the matter of zoning land.

### Political, Cultural, and Institutional Framework

The Republic of Ireland is a parliamentary democracy based on the Westminster model. The bicameral legislature, the *Oireachtas* (Parliament), is composed of a lower house, called the *Dáil* (House of Representatives), which is directly elected by universal suffrage; and an upper house, called the *Seanad* (Senate), members of which, in general terms, are elected by serving local- and national-level politicians.<sup>1</sup> The principal differences from the British model are, first, the absence of a theory of parliamentary supremacy because Ireland has a written Constitution, titled *Bunreacht na hÉireann* (Constitution of Ireland); and, second, the electoral system of proportional representation.

#### General Structure of Government

The Irish Constitution contains echoes of the Constitution of the United States of America.<sup>2</sup> However, as in Westminster, the executive or government is drawn from the members of the legislature, and the *Taoiseach* (prime minister) holds office subject to the approval of the *Dáil*. Unlike in the United States, the legislature is not elected for a fixed term, and the

<sup>1</sup> These terms are used in both the Irish- and the English-language versions of the Constitution and are never translated in speech or written materials. Likewise, the word *Taoiseach* and the abbreviation *TD* are used orally and in writing to refer, respectively, to the prime minister and members of the lower house.

<sup>2</sup> Examples are found in the Preamble, which declares the ultimate lawmaker to be “We, the people of Eire”; and in Articles 40 to 44, which are headed “Fundamental Rights” and are often compared to the Bill of Rights in the U.S. Constitution.

*Taoiseach* has the right to call an election at any time. Constitutional and electoral laws provide that the term of government is of uncertain duration, but cannot be longer than five years.

The Constitution also sets out the system of election to the *Dáil*. The geographic boundaries of constituencies must be revised at least every 12 years to ensure equality of representation as far as practicable. Strong population growth in recent years has resulted in a five-year revision cycle after the publication of the census of population. A significant factor in the way politics influences decision-making in practical terms is the Irish system of proportional representation. Each *Dáil* constituency must elect between three and five deputies, called *Teachtaí Dála* (*TDs*) (members of Parliament). Every elector has a single transferable vote. This electoral system, in contrast to the British straight vote or “first past the post” system, ensures that candidates from minority parties are elected as legislators in proportion to their parties’ overall vote, which is the system’s democratic strength. However, the system also encourages parties to strategically run candidates from different parts of the constituency to tap parochial support. Where more than one *TD* of a particular party is elected for the same constituency, there is intense competition between them to serve the voters’ interests and thereby secure their own re-election even if their party’s overall vote declines. Proportional representation by means of the single transferable vote (PR-STV) thrusts *TDs* into the role of brokers of political patronage (Lee 1989) and provides a strong incentive for ministers of the government, who also must keep an eye on their re-election prospects, to allocate projects and national lottery funding to their own political heartlands.

Since 1987, PR-STV has given Ireland coalition governments of various compositions, many of which have changed the allocation of functions among ministers and thus the titles of government departments. Responsibility for spatial planning and the supervision of local government has remained consistently with the Department of the Environment and Local Government, although the department has been allocated and subsequently relieved of related responsibilities, such as roads and heritage protection, during this period. With the transfer of community functions in May 2011, the title changed to Department of the Environment, Community, and Local Government.

PR-STV is also the electoral system used for local elections, where constituencies can have as many as seven councillors. Although the Constitution recognizes the role of local government “in providing a forum for the democratic representation of local communities” (Article 28A, inserted by the 20th Amendment to the Constitution, 1999), its structure and functions can be changed by legislation.

### Legal and Cultural Context

The Normans invaded Ireland from the southeast in 1169, just a century after Duke William of Normandy led them to victory at the Battle of Hastings (1066). The Irish system of Brehon law was displaced in the years after 1169, and Ireland eventually became part of the common-law tradition,<sup>3</sup> like many countries of the former British Empire, such as Australia, Canada, and the United States of America.

The Norman feudal system addressed more than land tenure; it was also an arrangement designed to centralize the administration of the country under the power of the king. This centralization was completely alien to the pre-existing Irish society, which was essentially decentralized, and there was constant tension between the two systems. Sub-infeudation and the writ of the king were confined largely to the area around Dublin and the East Coast, which became known as the Pale. Here, a fledgling centralized administration was established in the century after the invasion, which led to the summoning of an Irish Parliament in 1297. This can be considered the first step on the Irish road to democracy (Moody and Martin 1978). Figure 12.2 shows the Pale and later colonial spatial settlement patterns.

Disturbances were almost continuous from the 12th to the 17th centuries. After the Flight of the Earls in 1607, the plantation of Ulster began to grant lands to English and Scottish settlers, usually by creation of feudal tenure that made the Irish the tenants of these new landlords. The rest of Ireland continued to oppose attempts at resettlement until 1652, when Oliver Cromwell completed a campaign that led to large-scale confiscations and resettlement of lands. Some Irish cultural attitudes today can be traced back to this period in the history of the country. It is suggested that these attitudes form a strand in the shaping of the planning system and of what has been politically acceptable in terms of strategic planning. During

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<sup>3</sup> The Norman conquest of England was effected swiftly through the feudal system of landholding whereby the new king saw himself as the absolute owner of the land he had conquered. To reward his closest allies and supporters, he devised the doctrine of tenure, granting large tracts of land to them as tenants-in-chief, in return for feudal services, thus centralizing political and military control. As the new class of Norman landlords established themselves, a variety of issues concerning rights and responsibilities at each level in the feudal hierarchy had to be settled. High-ranking members of the Norman nobility traveled from London on circuits throughout the shires to decide disputes and settle administrative matters. Eventually, the administrative functions fell away, and these representatives of the Crown became itinerant judges who attempted to apply an amalgam of the Norman law they had brought from France and the local customs already in existence. On return to Westminster, they compared notes and decided to adopt the most reasonable principles that emerged from this fusion of French, Saxon, and Wessex law for future application throughout the conquered territory, declaring it to be the law common to England and Wales. In contrast to England, the legal and political transition in Ireland took some six centuries.



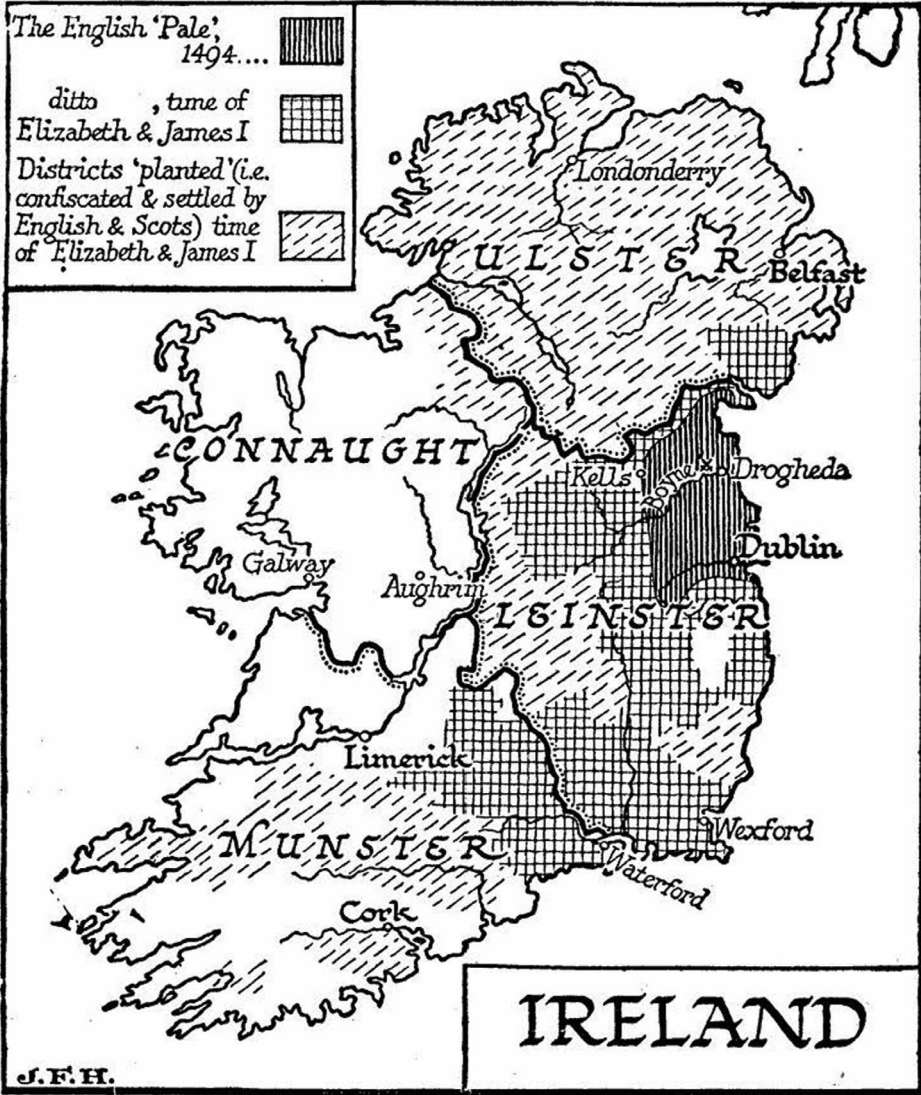


Figure 12.2 Settlement Patterns in Ireland, 15th–17th Centuries

Source: Florida Center for Instructional Technology. <http://etc.usf.edu/maps/pages/3600/3692/3692.htm>.

the 17th and 18th centuries, the British relegated the Irish to the western counties, where the poorest land is; completed the conquest of Ireland; and imposed English common law throughout the island (Wylie 1975).

Pockets of resistance continued. After the 1798 Rebellion, which, with French assistance, had almost succeeded, the Irish Parliament was dis-

solved. Ireland became part of the United Kingdom of Great Britain and Ireland under the 1800 Act of Union. From January 1, 1801, members were elected to the Houses of Parliament in Westminster, which legislated for the island of Ireland until 1922.<sup>4</sup> The standard procedure was for an act to be passed for Great Britain. Some five to ten years later, a corresponding piece of legislation would be passed for Ireland, with amendments to take account of the very different social and political situations. This is how in 1898, ten years after the adoption of a similar act for Britain, the Local Government (Ireland) Act established the two-tier structure of local government that was still largely in place<sup>5</sup> until the coming into operation of the 2014 Local Government Reform Act between January and July 2014.

### Local Government

Under the 1898 Act, the upper tier of local government consisted of 32 newly created county councils, members of which were elected under a franchise extended to the minor landowners. This brought a considerable element of democracy to the Irish countryside with dramatic suddenness, and the county councils became “centres of nationalism” (Chubb 1992, 269). The six largest boroughs, which already had a historic range of functions and royal charters, were created county borough corporations and given the same suite of powers as the councils. Because they were administrative counties in themselves, they were made independent of the counties in which they were geographically located. The lower tier of local government consisted of the remaining five smaller borough corporations, urban district councils, rural district councils (whose functions were later taken over by the county councils), and town commissioners. Counties and cities were granted the authority to manage their financial and administrative affairs, but bodies in the lower tier of local government had a

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<sup>4</sup> The Nationalist Party, founded in 1882, aspired to home rule. The descendants of the Ulster plantation holders did not share this wish and formed the Unionist Party shortly afterward to represent their cultural tradition. The 1920 Government of Ireland Act provided for parallel institutional arrangements for the twenty-six Southern counties and for six of the nine counties in Ulster. In January 1922, the twenty-six counties became an independent state within the British Commonwealth, while the six counties and two cities, Belfast and Londonderry (Derry), formed the separate Northern Ireland administration and remained part of the United Kingdom.

<sup>5</sup> The local government system given to Ireland by this act was modelled as closely as possible on that given to England, Scotland, and Wales by the 1888 Local Government Act, but it took into account the concerns of Irish landowners, most of whom were unionist supporters and Protestants. It provided for the government to subvent that portion of rates previously paid by them on behalf of their tenants, who in general were anti-unionist Catholics, and the new councils were not given control of education or the police, as they had been in Britain (Crossman 1994).

reduced range of functions and formed part of the county in which they were located for administrative purposes.

A pattern of opposition to the central control of the Local Government Board in Dublin developed over the next two decades because it was seen as the agent of a colonial administration. Political activity was far more important to county councillors than the provision of local services, so they discharged their functions inefficiently. This situation was exacerbated by their tendency to engage in nepotism to the point of corruption in their appointments (Lee 1989). Independence in 1922 did not change this culture, and the new ministers, together with their civil servants, took a very strict line with the local authorities, a number of which were dissolved during the 1920s for failing to discharge their duties. They were replaced by salaried commissioners who had administrative expertise and displayed complete impartiality in the solution of many urgent local problems. This experience was so successful that a group of business and professional men in the city of Cork, drawing on the example of city management systems in the United States, proposed having a permanent official, not to replace the elected members, but to share power with them. The 1929 Cork City Management Act created the post of city manager in Cork, and similar management systems were introduced to the other three cities (Dublin, Waterford, and Limerick), replacing committee administration. Finally, the 1940 County Management Act brought the management system to the county councils (that is, to the rest of the country) in 1942.

The duties and powers of local government were divided between the elected members and this newly created, permanent officeholder, who was centrally appointed by the impartial Local Appointments Commission in Dublin. Functions were designated “reserved” if they were seen as concerning policy, political, or financial matters. Such functions were to be discharged by a vote of the councillors on the proposal of a resolution by one or more of them. The manager was given responsibility for the administration of decided policy and, in particular, for decisions that might be open to personal or political influence. These were designated “executive” functions. The default position in Irish local government legislation is that if a function is not specified as “reserved,” it is to be discharged by the manager. The manager, therefore, is not only the chief executive, but also a statutory part of the local authority.

As can be imagined, the councillors did not easily accept this replacement of committee administration by a manager. Subsequent legislation went some way toward addressing their grievances at their loss of power and influence. In particular, the 1955 City and County Management (Amendment) Act gave the elected members the right to pass a resolution

directing the manager how to perform any of the executive functions. The relationship between the manager and the councillors can be strained to the point of fractiousness on occasion because they have different time horizons and imperatives, but, to a greater or lesser degree, depending on the personalities involved, they coexist through a process of compromise and cooperation.

The former Chief Justice, Ronan Keane, has described the introduction of the management system as the most important single development in the history of Irish local government in the twentieth century (Keane 1982). A number of significant innovations were contained in the 2001 and 2003 Local Government Acts. One of the aims of the 2001 Act was the modernization of local government legislation, and it replaced some of the arcane nomenclature used in the 1898 Act. County borough corporations became cities, borough corporations became boroughs, and urban district councils and town commissioners became towns. However, the 2001 Act did not fundamentally alter the 19th-century structures because this was considered politically unacceptable to entrenched positions and procedures at the local level.

#### Introduction of Land Use Planning

Not only do the overall political, administrative, and legislative landscapes of the Republic of Ireland bear strong resemblances to those of England, but also the Irish planning process has its origins in British planning. The 1947 Town and Country Planning Act provided the model for the 1963 Local Government (Planning and Development) Act, which introduced a system broadly similar to that in existence today (tables 12.1 and 12.2).

As with the 1898 Act, the British prototype was adapted to reflect local circumstances, in this case, the local government structure. The making of development plans was allocated to the elected members, and decisions on individual planning applications, which were recognized as susceptible to political patronage, were allocated to the manager. All local authorities except town commissioners were entrusted with the full range of planning responsibilities in 1963, which meant that there were 87 planning authorities for a population of 2.8 million. It is worth noting that the 1947 Act reduced from 1,441 to 145 the number of planning authorities in England and Wales (Hall and Tewdwr-Jones 2011), an area that had a population of 43.7 million according to the 1951 census. The number of planning authorities in Ireland was increased to 88 under local government reorganization in the 1990s.

The management system was intended to provide coordination and consistency within a county's boundaries, the county manager being also

**TABLE 12.1***Milestones in the Development of Ireland's National Planning System*

1934	The 1934 Town and Regional Planning Act introduces a system of positive and regulatory planning for the Republic of Ireland that is adoptive; that is, local authorities can pass a resolution giving themselves planning powers. Not all of them do so.
1964	A nationwide planning system is established on October 1 with the coming into force of the 1963 Local Government (Planning and Development) Act, which gives 87 local planning authorities responsibility for both positive and regulatory functions.
1977	An Bord Pleanála (the Planning Board) is established on January 1 to independently determine appeals against decisions by local authorities on planning applications.
1994	On January 1, regional planning is put on a statutory basis with the establishment of eight regional authorities (groups of city and county councils) for the purpose of promoting coordinated provision of public services in different areas of the state.
1997	<i>Sustainable Development: A Strategy for Ireland</i> , generally referred to as the <i>Sustainable Development Strategy</i> , responds to Ireland's commitments at the Rio Earth Summit by setting out policies for implementing sustainable development practices in regard to environmental quality, spatial planning and land use, and the built environment.
1999	<i>Strategic Planning Guidelines for the Greater Dublin Area</i> , a non-statutory guidance document that provides an overall context for the development plans of the capital city and surrounding counties where there is exceptional pressure for development, is launched to widespread acclaim. <i>Residential Density Guidelines for Planning Authorities</i> , issued by the Department of the Environment, shapes the policies of the <i>Sustainable Development Strategy</i> into a specific recommendation that planning authorities should promote increased densities at appropriate urban locations. <i>The 2000–2006 National Development Plan</i> , a multi-annual spending program, introduces the policy of designating large urban centers as development “Gateways” to drive growth in their zones of influence and mandates that the Department of the Environment prepare a national spatial strategy.
2000	The Planning and Development Act updates the planning system and provides for the preparation of statutory regional planning guidelines throughout the country.
2002	<i>The National Spatial Strategy 2002–2020</i> is published. Its purpose is to achieve balanced regional development; it retains the concept of designating urban centers as gateways and introduces the concepts of linked gateways and hubs.
2003	The judgment in <i>McEvoy v. Meath County Council</i> undermines the intended linkage between the <i>National Spatial Strategy</i> , regional planning guidelines, and development plans by interpreting the phrase “have regard to” as allowing considerable autonomy to local planning authorities.

TABLE 12.1 (continued)

	As part of the national annual budget, the Minister for Finance announces the Decentralisation Programme, under which more than 50% of government departments and a number of state agencies are to be moved to regional centers, only some of which have been designated as gateways or hubs in the <i>National Spatial Strategy</i> .
2005	<i>Sustainable Rural Housing Guidelines</i> , issued by the Department of the Environment, advises planning authorities to facilitate applications for one-off houses in the open countryside in a wide range of circumstances.
2008	The Irish economy, which has relied excessively on the construction industry and development, collapses.
2010	The intended linkage between national policies, regional guidelines, and development plans is restored by the provision in the 2010 Planning and Development (Amendment) Act that development plans must contain a core strategy that provides evidence that the plan is consistent with the <i>National Spatial Strategy</i> and the relevant regional planning guidelines. The Department of the Environment's publication <i>Implementing the National Spatial Strategy: 2010 Update and Outlook</i> finds that the bulk of population growth has not taken place in the gateways and hubs, but in the smaller settlements and rural areas within commuting distance of these designated urban centers.
2012	<i>Final Report of the Tribunal of Inquiry into Certain Planning Matters and Payments</i> (the Mahon Report) concludes over 14 years of investigation into alleged corruption in the planning process and makes a number of key recommendations for changes to the planning system. The government's action program titled <i>Putting People First</i> proposes reform of local government and a reduction in the number of planning authorities; these proposals are incorporated into the Local Government Bill, which is presented to the <i>Oireachtas</i> in October 2013, and are brought into effect in the 2014 Local Government Reform Act.

ex-officio the manager of each of the sub-county urban authorities. Nonetheless, this multiplicity of small planning units, each with the sole role of securing the proper development of its own functional area, has given rise to an undesirable level of fragmentation and has consistently militated against adoption of strategic spatial policies.

Unlike Britain, where the administrative boundaries of the counties have been altered on more than one occasion since the 19th century, Ireland hesitated to make significant geographic revisions to the organization of local government because of the recognized emotional attachment among the public to the county structure. This can be traced to the influence of the Gaelic Athletic Association (GAA), which was established in 1884 "for the preservation and cultivation of the national pastimes of the people," in particular, the traditional Irish sport of hurling (Corry 2005, 9).

**TABLE 12.2**

*Institutions, Agencies, and Organizations Active in Land Use Planning in Ireland*

**An Bord Pleanála (the Planning Board):** An Bord Pleanála is a statutory body corporate that was established on January 1, 1977, to decide appeals against decisions by local planning authorities on planning applications. Board members are appointed by the Minister for the Environment for terms of from five to seven years in a whole-time capacity. They are completely independent in the discharge of their functions; the Minister is precluded by law from exercising control in any particular case (i.e., there is no power of call-in).

**Economic and Social Research Institute:** The Economic and Social Research Institute is a limited liability company that is funded by an annual grant-in-aid from the Irish government and support for agreed programs from government departments and agencies, as well as competitive research grants (both Irish and international), payments for commissioned research projects, and sales of publications.

**City and County Councils:** City and county councils are the primary units of local government. The members (councillors) are elected every five years and share power with the city or county manager, a full-time, appointed administrator who holds office for a term of ten years. Within each county, there are a number of town councils (the second-tier units), all of which have elected members and the full range of planning powers. Planning is primarily discharged by local government and, with the steady transfer of other local government responsibilities to national organizations in recent decades, is recognized to be its most important function. Under the reform program proposed in *Putting People First*, the intention is to streamline local government in 2014, in particular by amalgamating the town councils into the county councils as municipal districts.

**Industrial Development Authority:** The Industrial Development Authority is a state-sponsored body that was established in 1949 to support and develop export-led business and enterprise, both Irish and foreign. Since 1994, it has focused exclusively on promotion of foreign direct investment in the manufacturing and international services sectors, while Enterprise Ireland has assumed responsibility for the development of indigenous commercial activity.

**Minister for the Environment, Community, and Local Government:** The Minister for the Environment, Community, and Local Government is the member of the government who has overall responsibility for policy on planning and environmental matters. Under current coalition arrangements, there are also two junior (non-cabinet) ministers in this minister's department, one of whom has been designated Minister of State for Housing and Planning by order of the *Taoiseach* (prime minister).

**Minister for Transport, Tourism, and Sport:** The Minister for Transport, Tourism, and Sport is responsible for the provision of the public transport system and oversees policy and funding for national roads, aviation, and ports. There are a number of state-sponsored bodies under the aegis of this minister's department, including *Iarnród Éireann* (Irish Rail) and the National Transport Authority.

TABLE 12.2 (continued)

**Oireachtas (Parliament):** The *Oireachtas* passes legislation, almost always on the initiative of the government (cabinet), which has a majority in both houses because of the electoral system set out in the Constitution.

**Regional Authorities:** Regional Authorities consist of elected politicians nominated by the city and county councils located in the region. They have coordinating and advisory (rather than executive) functions, which have been enlarged and strengthened in recent years. Like the city, county, and town councils, their number is to be reduced under the *Putting People First* program.

**Tribunal of Inquiry into Certain Planning Matters and Payments:** The Tribunal of Inquiry into Certain Planning Matters and Payments was established in 1997 to investigate allegations of bribery and corruption in the process of land zoning in the Dublin area. It carried out its work over a period of some 15 years, during which it was chaired in succession by two High Court judges (Mr. Justice Feargus Flood and Mr. Justice Alan Mahon) and produced three substantive reports containing findings of fact. Its final report, known generally as the Mahon Report after its chairman, contains a number of significant recommendations, almost all of which have been accepted by the government.

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Almost from its foundation, the GAA organized itself on a county basis. After the publication of the Barrington Report (Government of Ireland 1991), consideration was given to the need to retain all 80 smaller urban authorities (borough corporations, urban district councils, and town commissioners), the range of whose functions had dwindled over the years. In January 1994, the Minister for the Environment, in announcing details of the government's decision on local government reorganization at the sub-county level, confirmed the retention of the existing town-based system because of the strong sense of civic tradition, local identity, and loyalty in many urban areas, which the government perceived as a strength on which to build. This remained the position until the implementation of the reform program published in 2012, which is discussed in the final section of this chapter.

A further significant difference between the British and the Irish systems is the entitlement given to persons other than the applicant to appeal the decision of the planning authority on any planning application. Provided they have made a written submission during the currency of the application at the local level, third parties have the same status as disappointed applicants and can generate an appeal against a grant of permission or conditions attached thereto (Grist 2012). *An Bord Pleanála* (the Planning Board) is the independent national authority established under the 1976 Planning Act to determine appeals against decisions of local authorities on planning applications. The Board consists of a chairperson and



nine other members appointed by the state in a whole-time or executive capacity for terms of between five and seven years. Decisions are taken collegially by board members, who are prohibited from holding any other employment or position in respect of which emoluments are payable during their period of office to ensure that no conflicts of interest arise. The Board is probably the only organization with a remit in the development and construction sector to have emerged from the 2008 collapse of the Irish economy with its reputation enhanced rather than diminished.

### **Horizontal and Vertical Relationships**

The 1963 Planning Act did not require plans to be approved by the Minister for Local Government or any higher authority. The legislature and the sponsoring civil servants appear to have envisaged that local officials would prepare a plan in draft form that the manager would then present to the councillors (the manager's plan), who could make changes if they chose, but were unlikely to do so until after public display and receipt of submissions. Even at that stage, it was anticipated that a material alteration of a draft plan would be the exception. This local autonomy for a function considered to be of limited political potential was an innocuous element of the planning system for its first two decades, but has since proved to be its Achilles's heel (Grist 2011). The adoption of the development plan is the most significant local government function that councillors still exercise, and their focus of interest has been and continues to be two aspects: zoning and rural housing policy.

### **Establishment of Regional Planning**

Neither regionalization nor regional planning was mentioned in the 1963 Planning Act, and early attempts to combine areas for the coordination of physical planning were largely ineffectual. Within a couple of years, consultants were commissioned to undertake regional studies for the country based on the grouping of counties. Having examined the country's economic position and resource possibilities, Colin Buchanan and Partners (1968) concluded that the greater the degree of concentration, the larger would be the likely scale of employment growth, which, in turn, would stem the tide of emigration. However, the greater the concentration, the more widespread the pattern of loss would be elsewhere in the country. In an attempt to balance economic and social considerations, the report recommended a regional strategy based on an urban hierarchy with a limited number of growth centers (Bannon 1989).

Although the National Industrial and Economic Council, which saw a diffusion effect spreading out to the rest of the country, welcomed the pro-

posals, they met with general hostility because the selection of a limited number of growth centers imparted a strong urban bias to the form of future spatial development (Boylan 2005) in a country with a very large rural population (Walsh 2013). After a period of contentious and divisive debate, the government recognized the political realities of the situation and stated that it had difficulties accepting the Buchanan recommendations in full. The Industrial Development Authority was given the task of finding a compromise that would be politically acceptable. The failure to adopt the Buchanan strategy as government policy left a long shadow over future attempts to promote a new spatial development strategy.

Regional planning was finally given a statutory basis in 1994, when eight regional authorities were established by grouping cities and counties together (Regional Authorities Establishment Order 1993). Membership consists of city and county councillors selected by the constituent authorities, and a small administrative unit supports each regional authority. The culture of local autonomy was so strong that the Minister for the Environment had to reassure the councillors that these new bodies would not diminish or restrict their powers. The regional authorities were given two functions: (1) promoting the coordination of the provision of public services on a regional basis; and (2) advising on the implementation of programs for the delivery of European funding.

From these inauspicious beginnings, the regional authorities developed into a major component of the planning system. The economy began to grow rapidly in the mid-1990s, and the Dublin and Mid-East Regional Authorities responded to development pressures in the Greater Dublin Area (GDA) by preparing non-statutory strategic planning guidelines to provide an overall context for the development plans of the capital city and the six surrounding counties, which included eight urban district councils (as town councils were then styled). The *Strategic Planning Guidelines for the Greater Dublin Area* (Brady Shipman Martin et al. 1999) were of immense planning significance and were launched in 1999 to widespread acclaim as an exemplar of the best way to secure comprehensive and coordinated planning across local-authority boundaries. Subsequently, the principle of regional authorities having the power to prepare strategic guidelines was incorporated into the 2000 Planning and Development Act, while the GDA guidelines were given statutory recognition.

### Toward a Hierarchy of Spatial Plans

One of the three core principles underpinning the Minister's vision of a planning system appropriate for the 21st century was that it should be "strategic in approach and integrate the various layers of spatial planning which affect modern Ireland" (Dempsey 1997, 6). The 2000 Planning Act

secured this by introducing a hierarchy of land use plans, which replaced reliance on cooperation between adjoining local authorities and the coordinating role of the manager within the county boundary. The hierarchy consisted of regional planning guidelines, development plans, and local area plans, all of which were set within the context of the National Spatial Strategy.

Regional planning guidelines were to provide a long-term framework for the individual development plans of their constituent planning authorities. Having a time horizon of 12 to 20 years, they would address strategic matters, such as population projections, infrastructure provision (e.g., water services, waste disposal, and public transportation), and sustainable settlement strategies. Within the hierarchy, the development plan continued to be the basic policy document of each planning authority, setting out the development objectives for the area. Adoption of a development plan remained a function reserved to the elected members of the council, and the 2000 Act required planning authorities to “have regard to” regional planning guidelines when they were making and adopting their development plans.<sup>6</sup> This may simply have been loose wording, or it may have been a manifestation of reluctance on the part of both the Department and the Minister to grasp the nettle of local supervision.

In any event, the phraseology was revealed to have significant adverse consequences when Tony McEvoy, an elected member of Kildare County Council, mounted a legal challenge to the Meath County Development Plan, which had grossly over-provided zoned lands for the proportion of the projected regional population growth appropriate to County Meath’s primary urban development centers. During the process that had led to the adoption of the plan, the councillors had accepted extensive proposals for zoning in addition to that contained in the draft, which had resulted in the council providing for over 60 percent of the population projected for the hinterland of the Dublin metropolitan area (Counties Meath, Kildare, and Wicklow). The High Court held that the phrase did not require the planning authority to comply with the relevant guidelines but merely to give them “reasonable consideration” (*McEvoy v. Meath County Council* [2003] 1 I.R. 208). The effect of this decision was to sideline regional planning guidelines as an element in the strategic hierarchy of land use plans. Thereafter, planning authorities throughout the country over-zoned with impunity, which, of course, laid the foundations for unfinished housing estates, inappropriately located developments on the periphery of towns, and other related land use problems.

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<sup>6</sup> Section 27(1) of the 2000 Planning and Development Act.

### Restoration of Hierarchical Alignment

The 2010 Planning and Development (Amendment) Act re-established the intended linkage between national policies, regional guidelines, development plans, and local area plans by introducing a requirement that development plans include a core strategy, which is a statement containing specific information demonstrating that the development objectives in the plan are consistent with the national objectives set out in the *National Spatial Strategy* and the regional objectives contained in the relevant regional planning guidelines. A core strategy must contain details of the quantity of land already zoned for residential use and the number of housing units to be provided thereon, together with similar information about lands proposed to be zoned for residential purposes. It must also explain how account has been taken of the Minister's policies in regard to national and regional population targets. Put simply, the core strategy is designed to provide a warranty that zoning will be the logical outcome of an evidence-based process rather than a discrete and arbitrarily discharged reserved function, as it has been in the past. The 2010 Act also stated that, in providing the long-term strategic planning framework for the development of a region, the objective of regional planning guidelines is to support the implementation of the *National Spatial Strategy*, and that the guidelines must be consistent with it.<sup>7</sup>

### Evolution of the National Spatial Strategy

Walsh (2013) well describes the context in which the *National Spatial Strategy* was formulated as a time of unprecedented economic transformation in the Republic of Ireland. Yet, this growth was accompanied by tendencies toward regional divergence in both economic and physical development within the State itself. The *Strategic Planning Guidelines for the Greater Dublin Area* (Brady Shipman Martin et al. 1999) had been well received and encouraged the incorporation of a more strategic level into the hitherto locally focused planning system. There was consensus among key development agencies, such as the Industrial Development Authority and the Economic and Social Research Institute, that Ireland needed a longer-term spatial plan to organize strategic investment in infrastructure (Cussen 2011).

The *European Spatial Development Perspective (ESDP)* (Commission of the European Communities 1999), also published in 1999, reoriented

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<sup>7</sup> Section 14 of the 2010 Planning and Development (Amendment) Act.

thinking on regional policy away from the concept of distributional equity and toward sustainable development based on maximizing local potential. The Department of the Environment was involved in the development of the *ESDP* and considered that many of the policies contained in it were relevant to Ireland, in particular, the development of polycentric urban systems, which strengthened partnerships between urban and rural areas.

After the Good Friday Agreement was signed in Belfast in April 1998, attention on both sides of the Border was given to capturing the opportunities for growth that would arise from the peace dividend and normalization of the political climate on the island of Ireland. Cross-Border policies could now be more closely aligned, and it was desirable to complement the 2001 *Regional Development Strategy for Northern Ireland* with a similar strategy for the Republic of Ireland (Morgenroth 2013).

#### National Sustainable Development Strategy

In April 1997, the government published *Sustainable Development: A Strategy for Ireland* (Government of Ireland 1997) in response to the EU Fifth Action Programme for the Environment and Ireland's commitment to the principles and agenda agreed at the 1992 Earth Summit in Rio de Janeiro. It provided a comprehensive analysis and framework to enable sustainable development to be taken forward more systematically in the context of the strong growth the Irish economy was then experiencing. Recognizing that threats to the environment accompany growth, the overall aim of the strategy was "to ensure that economy and society in Ireland can develop to their full potential within a well protected environment, without compromising the quality of that environment, and with responsibility towards present and future generations and the wider international community"(25).

Generally referred to as the *Sustainable Development Strategy (SDS)*, this broad-based program set out a wide range of objectives and measures for eight key sectors of economic activity: agriculture, forestry, marine resources, energy, industry, transport, tourism, and trade. To support this framework, the *SDS* contained policies implementing sustainable development practices in respect of environmental quality, spatial planning and land use, and the built environment. It provided for the development of monitoring indicators and periodic review under new structural arrangements, including the establishment of a National Sustainable Development Council independently chaired, with broad representation from relevant government departments and agencies, the social partners, and environmental non-governmental organizations. The *SDS* had been prepared by the Department of the Environment, which also had responsibility for many of the key infrastructural investment areas, including water services,

housing, and roads. These programs were delivered at the local government level, and department officials were aware of the increasing importance of coordination to support efficient delivery (Cussen 2011).

### National Development Plans

Since 1989, development policy at the national level has been underpinned by the multi-annual spending program called the national development plan (*NDP*). Unlike its predecessors, the third *National Development Plan*, which covered the years 2000–2006, was not designed principally to attract European Union structural funds. These moneys had already done their job of lifting the Irish economy, and strong economic growth had started in the mid-1990s. By the end of the decade, macro-economic indicators were moving rapidly toward those of the most developed parts of the EU. The term “Celtic Tiger era” is commonly used to describe the period of burgeoning growth that preceded the 2008 collapse of the Irish economy, which grossly over-relied on the construction industry and development. Famously, financial analyst Kevin Gardiner first used this term two decades ago to compare the economy of Ireland to those of Southeast Asia in a report for the multinational investment corporation Morgan Stanley (Gardiner 1994).

Unlike the two previous national development plans, which were weak on regional development and spatial planning, the 2000–2006 *NDP* recognized that Ireland had a significant infrastructural deficit, compounded by unevenly distributed regional development. Of €22.4 billion allocated to economic and social infrastructure in the *NDP*, approximately 27 percent (€5,967.7 million) was to be invested in the national roads network. The very high dependency on roads as a transport mode (96 percent of passenger traffic, 90 percent of freight) meant that road development was seen as the key to sustaining levels of economic activity and promoting balanced regional growth. Chapter 3 of the *NDP* was titled “Regional Development.” It acknowledged that, while all areas had benefited from recent growth, there were significant variations between the east and the west of the country, with the greatest concentration around Dublin and its surrounding towns, although the western city of Galway had also performed strongly. Balanced regional development was to be a key objective over the six-year life of the *NDP*. The government’s policy to reduce disparities between and within the regions was to focus on the large urban centers that could serve as “development Gateways” because they were strategically placed to drive growth in their zones of influence (Government of Ireland 1999, 43). These gateways would be of pivotal importance in the economic performance of their surrounding smaller towns and rural hinterlands and would therefore be the locations where public and

private investment would be prioritized (Walsh 2013). The *NDP* identified the five main cities, each with its critical mass, as gateways, and the roads between Dublin and the four regional cities of Galway, Limerick, Cork, and Waterford were designated as the main inter-urban routes that would be upgraded to motorway or high quality dual carriageway standard during the period of the plan.

In order to bring balanced regional development and other elements of regional policy contained in the *NDP* to fruition, the government mandated that the Department of the Environment prepare a national spatial strategy that would translate policies into “a more detailed blueprint for spatial development over the longer term” (Government of Ireland 1999, 45). In addition to providing the promised blueprint, the strategy was also to provide a basis for long-term coordination and cooperation in decision making on major investment in infrastructure, which, together with both roads and public modes of transport, would include water and wastewater services, energy, and communications. With the commitment to prepare a national spatial strategy in the *NDP*, the word “where” was added to the lexicon of Irish government policy (Cussen 2011, 149).

#### Preparation of the National Spatial Strategy

The *National Development Plan 2000–2006* (Government of Ireland 1999) was published in November 1999. By the following February, a spatial planning unit had been established in the Department of the Environment, and a process of consultation with relevant local, regional, and sectoral interests had commenced in order to develop a high degree of consensus on the strategy that would eventually emerge.

Progress was rapid. The first round of consultations indicated that there should be a strong social dimension to the strategy, and that there were differing interpretations of the concept of balanced regional development. A technical working paper on this topic, circulated in June 2000, considered two alternatives: balance as equality (the traditional approach of Irish policy makers) and balance as full utilization of potential (Department of the Environment 2000). The spatial policy unit recommended acceptance of the latter interpretation, in which the concept of potential would encompass the interaction between socio-economic and locational factors to create the conditions and possibilities for economic development. Walsh points out that this approach had its roots in the “balanced competitiveness” concept used in the *ESDP* (Walsh 2013, 24). It was not without its difficulties, however, as evidenced by the cautious response of representatives of areas that would anticipate gaining more from the spatial equity model.

The final consultation paper proposed a targeted approach to balanced regional development, based on the focused strengthening of a small number of urban centers. To this end, the concept of functional areas was introduced. Twelve such areas were identified, covering the State; each contained one or more cities and towns central to the economic functioning of the area in question. This represented a radical step away from the use of city and county administrative units. Meredith, Walsh, and Foley assert that the boundaries of the functional areas were left imprecise and overlapping to draw attention to the “relational nature of economic space” (2013, 67). That may be so. More important, the approach was also intended to keep the focus on the high-level framework and avoid offending local sensitivities. However, reservations to the point of resistance emerged toward the concept, mainly because the boundaries of the functional areas were not aligned with county boundaries. Furthermore, rural interests saw the process as urban led and voiced concerns about issues relating to rural housing, which they claimed were not adequately addressed.

Contributors to the development of the strategy had different perspectives of places and spaces, reflecting the opposition to growth centers that had greeted the Buchanan Report in 1968. The “cultural antipathy to Dublin” (Meredith, Walsh, and Foley 2013, 67), which formed a significant undercurrent in the consultation process, can be traced back to the days of the Local Government Board (discussed above in this chapter) and reflects an anti-urban attitude described in one of the preparatory reports as “Dublin versus the rest” (Department of the Environment 2001, 12).

## Content

*The National Spatial Strategy 2002–2020 (NSS)* was published in November 2002 and was “designed to deliver more balanced social, economic and physical development between the regions” (Government of Ireland 2002, 10). It provides a national development framework to guide policies, programs, and investment and covers the period to 2020. The definition given to balanced regional development is “developing the full potential of each area to contribute to the optimal performance of the State as a whole—economically, socially and environmentally” (Government of Ireland 2002, 11).

## Key Elements

To accommodate the negative reaction to the concept of functional areas, the *NSS* adopted an approach that took account of place-specific sensitivities and divided the country into five zones, each with a strategic role.

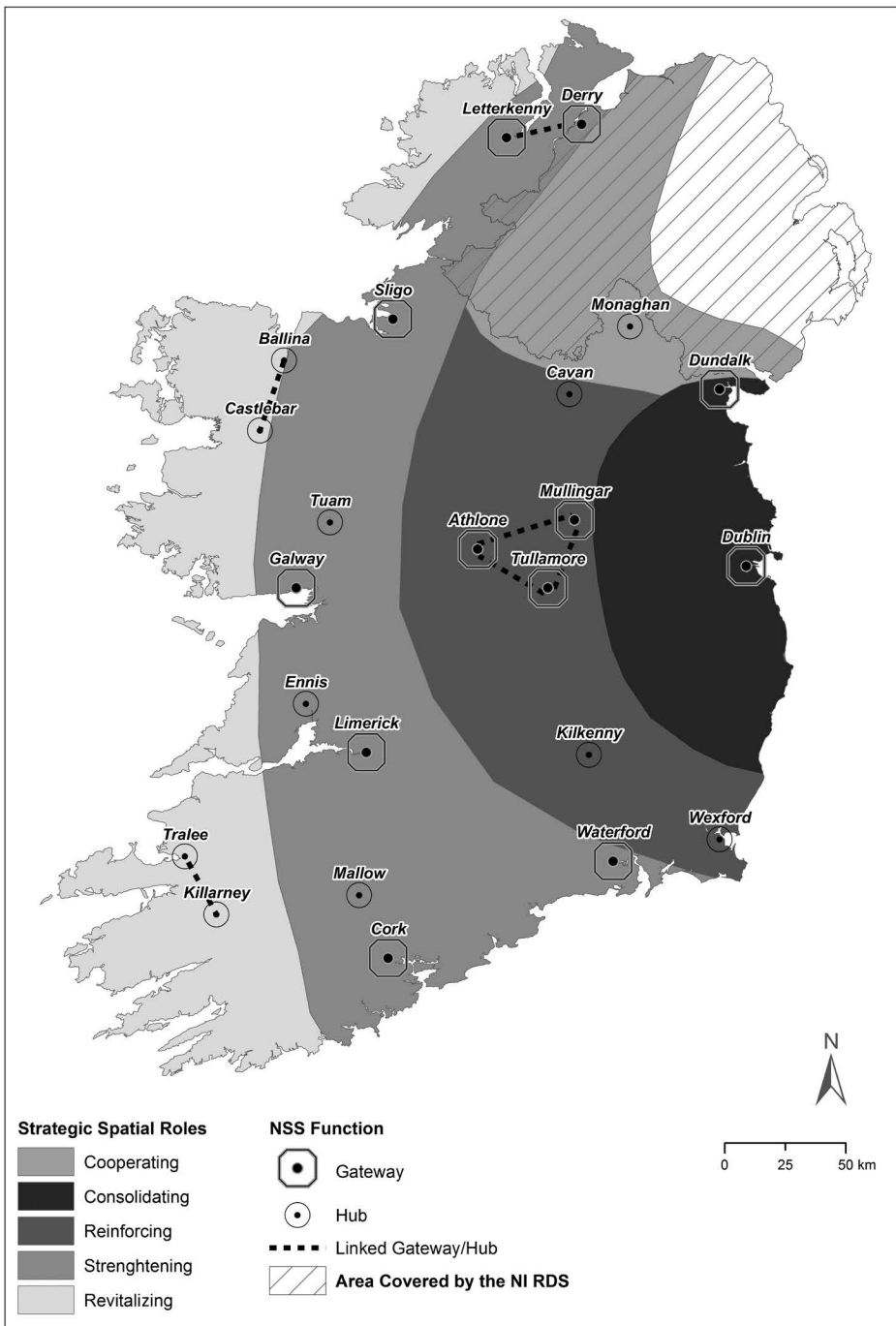


The Dublin city region would be consolidated, and an alternative development axis to the Dublin-Belfast corridor would be provided by strengthening the urban structure from Waterford through Cork, Limerick, and Galway to Letterkenny and then to Derry in Northern Ireland to complement Dublin. Western areas would be revitalized through urban-led economic diversification based on land and marine resources. The Midlands area, lying between the Greater Dublin Area (GDA) and the Atlantic corridor, would be reinforced, while the strategic spatial role of the Border area would be co-operation in improved north-south interaction. Figure 12.3, which is derived from the *NSS*, shows these zones together with the urban centers designated in the Strategy.

The *NSS* further developed the gateways policy, identifying two strategically located regional towns, Dundalk and Sligo, as additional gateways and introducing the new concept of a “linked” gateway, described as “one in which two or more strong towns work in partnership to promote economic and social development in their region” (Government of Ireland 2002, 38). Crossing the border with Northern Ireland, the Letterkenny/(Derry) linked gateway reflected the government’s commitment to enhance relationships on the island of Ireland, while the centrally located Athlone/Mullingar/Tullamore linked gateway was intended to ensure that regional growth was not confined to the coastal areas. Below this tier, nine strategically located medium-sized towns were identified as hubs, which in turn would support and be supported by the gateways and would provide links to the wider rural areas. These were Cavan, Ennis, Kilkenny, Mallow, Monaghan, Tuam, Wexford, Ballina/Castlebar, and Tralee/Killarney; the last two again illustrated the linked concept. As figure 12.3 shows, this gave eighteen urban places, four of which were multi-centered (polycentric).

For towns below the level of hubs in the settlement hierarchy, the *NSS* envisaged a complementary role. Various medium-sized towns in each region would act as local capitals that would provide a range of services and opportunities for employment. In some contexts, the *NSS* distinguished county towns (administrative centers) and larger towns (defined as those with a population in excess of 5,000) from towns with a population of 1,500 to 5,000. For the most part, these urban places were simply addressed collectively as “other towns,” and no details were given of how each level of towns would participate in the strategic approach to balanced growth.

With regard to those parts of the country outside these urban centers, the *NSS* saw rural potential being developed through tourism, agriculture, local services, and enterprises focused on land- and marine-based natural resources. In alignment with some of the policies contained in the 1997 *National Sustainable Development Strategy* (Government of Ireland 1997),



**Figure 12.3** Strategic Spatial Roles and Urban Places in the National Spatial Strategy, 2002

Sources: Government of Ireland (2002). Map by Dr. Harutyun Shahumyan based on the NSS Gateways and Hubs map.

rural towns and villages were to assume increased importance as a focus of local investment, and their established structures were to be strengthened to assist local economies and to support local infrastructure and services, such as schools and public transport. The *NSS* noted that, in some areas, towns and villages were declining in population, with resulting underutilization of serviced land, while, at the same time, it recognized that there was a tradition of people living in rural areas, and that sustainable rural development should be supported.

The five-yearly census of population should have been taken in April 2001, but because of the foot-and-mouth disease outbreak, it was postponed until April 2002. The detailed results of this census were not available soon enough to inform the development of the strategy (Meredith, Walsh, and Foley 2013). In 2002, the Preliminary Census Report indicated that the population of the country was approximately 3.9 million, of which about 1.5 million lived in the Greater Dublin Area. The *NSS* recognized that there was strong evidence that Dublin was becoming a “Dispersed City,” in which high-tech industries located on the periphery were drawing their workforces from “up to and beyond 80 km away” (Government of Ireland 2002, 22). It presented two types of population projections for the period to 2020. The first, considered more likely, forecast a population of 4.4 million by 2020 on the basis of current demographic trends. This figure has already been exceeded. The second, based on expansion in employment levels, which seemed a possibility in those Celtic Tiger times, considered that the population could be as high as 5 million by 2020.

### Analysis

The concept of linked places gave rise to considerable uncertainty about how the land between urban centers would be addressed in practice. Were these centers to be allowed (or even encouraged) to coalesce physically? Was there now a presumption in favor of development everywhere on the intervening open countryside? The fact that the Athlone/Mullingar/Tullamore (AMT) Gateway in the Midlands straddled two counties with independent plan-making administrations further complicated the concept. Jurisdictional issues were anticipated with regard to the Cross-Border Letterkenny/Derry Gateway, despite all the goodwill surrounding the peace process.

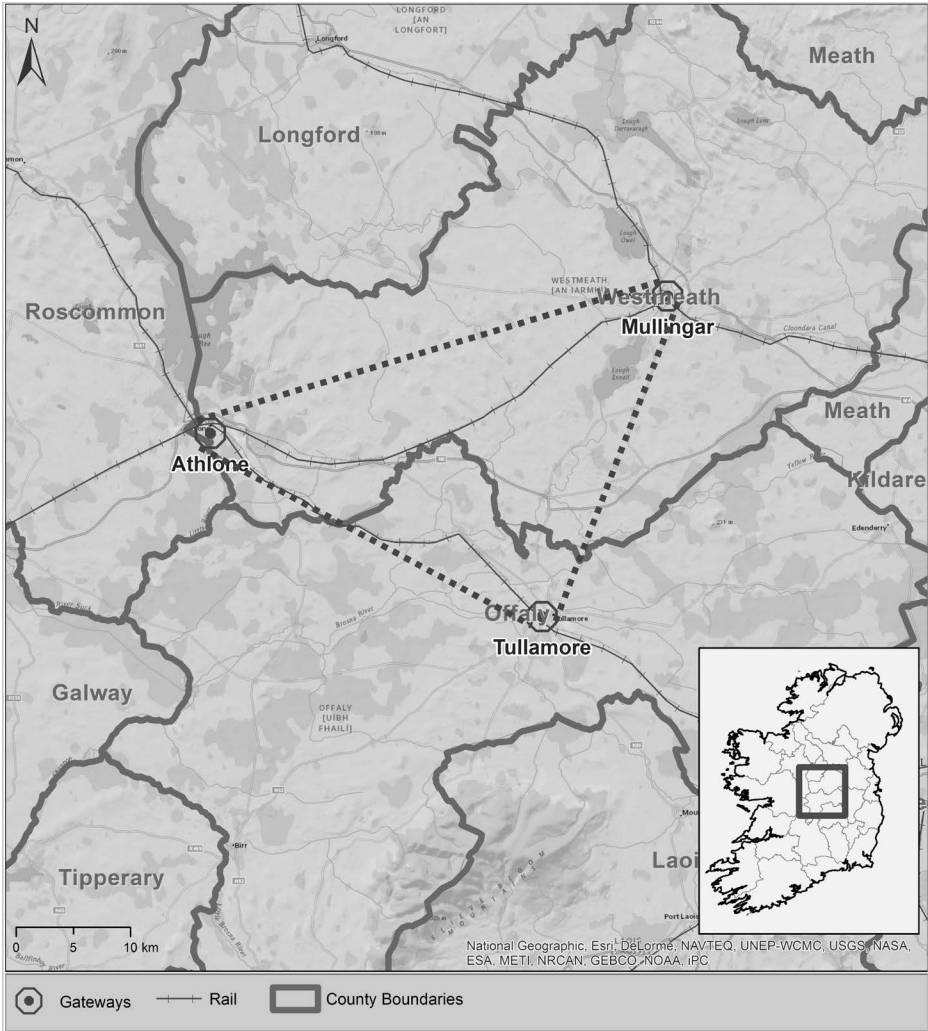
The *NSS* explained the polycentric concept, which was modeled on the Danish experience, but practitioners in the public sector, who were attempting to put some restraints on the apparently insatiable demands of the building industry, had concerns that this aspect of the strategy would be used to support unsustainable development proposals. The explanation

given in response to the question of how the new units would function was that they were not designated as agglomerations but were “more a state of mind.” It was envisaged that an “integrated development framework” would evolve over a period of up to seven years (Matthews and Martin 2003).

The NSS defined polycentric development as “linking and integrating the development of a number of urban centers in a way that combines their strengths in terms of infrastructure co-ordination, business promotion, innovation and cultural ties” (Government of Ireland 2002, 146). In 1993, the Triangle Region had been established as a collaboration among eight municipalities on Jutland, the mainland part of Denmark, to promote and develop their area jointly as a polycentric national center. This region had a total population of some 225,000 within 60 kilometers of a strategic location on Denmark’s national transport structure. In contrast, the 2002 Preliminary Census Report put the population of the AMT Gateway at 43,000. Although all three towns in this gateway are served by rail, Mullingar is on the line linking Dublin to Sligo, whereas Tullamore and Athlone are on the radial route from the capital to Galway. The national railway company, *Iarnród Éireann* (Irish Rail), closed the line between Mullingar and Athlone in 1987.

Reference was made to the complementary capabilities of the separate towns in the AMT Gateway, which are shown in detail in figure 12.4. The NSS merely suggested what specialized role each town might contribute, and then only in terms of the existing service functions they performed (third-level education; healthcare; retail) with some overlapping description. Similarly, the existing functions of Castlebar/Ballina and of Tralee/Killarney were stated (the first in each is the county town with a county hospital, while the second has a strong tourism profile). There was no overlap of existing specialized functions, which could be taken as a stronger indicator of future complementary roles, and in both cases, the two towns are linked by rail, although the link between Castlebar and Ballina is somewhat circuitous. However, for coordinated strategic planning, it would have been necessary to provide direction on the future designation of land uses between the separate urban centers in order to allow the critical mass for the various specializations to develop and to give the towns specific roles as places in partnership rather than in competition for desirable projects, such as the retail, leisure, and commercial developments that contribute strongly to the local funding system.

A number of academic commentators have drawn attention to the weakness of the formal knowledge base available to the drafters of the NSS. In fairness to its authors, as early as May 2000 (Matthews 2000), they acknowledged the difficulty of producing a report of this nature within the



**Figure 12.4** Midlands Gateway, 2013

*Source: County boundaries: Ordnance Survey Ireland, permit no. MP009006. Redrawn by Dr. Harutyun Shahumyan.*

relatively short two-year period allocated. However, they had been assigned a task by the government and had no option but to complete the research in the allocated timeframe. A particular weakness was that data to allow analysis of commuting patterns were not available from the Central Statistics Office when the *NSS* was being drawn up. Morgenroth (2013) argues that a key deficiency in the *NSS* was the lack of economic analysis and is of the opinion that if it had contained a quantification of its bene-

fits, this would have provided a powerful rationale and would have helped public acceptance.

Meredith, Walsh, and Foley point out that the incorporation of “other towns” into the *NSS* was a departure from the spatial concepts contained in the *ESDP*, and that the *NSS* did not provide any justification for their selection (2013, 65). They argue that a justification could have been made on functional grounds for the identification of some lower-order towns, based on the absence of a well-defined urban system in parts of the country, as set out in some of the preparatory reports. Put simply, the *NSS* gave recognition to too many urban places and thereby dissipated the focus of development decisions in a system that, at the time, was not plan led, but very much developer led.

## Implementation

The *National Spatial Strategy* was integrated into a number of plans and programs over the years after its publication and was supported by the establishment of the Gateway Innovation Fund. Of course, the various regional planning guidelines incorporated its provisions, although their translation down the hierarchy has been impeded until recently by the judgment in the *McEvoy* case. However, a number of subsequent policies actually worked against the achievement of the goals set out in the *NSS*. The most significant of these were the Decentralisation Programme, which formed part of the 2004 budget, and national housing policy, including the approach taken in the *NSS* itself to new rural housing.

### National Development Plan, 2007–2013

The fourth *National Development Plan* (Government of Ireland 2007), indicated that it was using the *NSS* as its blueprint for investment, which would be particularly focused on the nine gateways. Recognizing that the key to regional development would be the efficient use of planned investment in infrastructure, the *NDP* established the Gateway Innovation Fund to assist the process and bring about better coordination in gateway development. The *NDP* allocated an initial €300 million designed to attract significant matching funding, both public and private. In June 2007, local authorities in the gateways were invited to submit proposals for targeted capital projects that would trigger accelerated development of a type that did not form part of mainstream *NDP* investment. All *NSS* gateways submitted proposals by the closing date of November 2007. These proposals were being evaluated when the economy collapsed in September 2008. As a result, funding was deferred and no allocations were made. Despite some

hopeful indications in 2010, this postponement has become indefinite, and allocations of funding are unlikely in the current economic situation.

### Transport Policy

The *Strategic Rail Review* was undertaken by consultants for the Department of Transport and was published in February 2003 (Booz Allen Hamilton 2003). Its purpose was to evaluate long-term rail requirements from a national perspective in the light of emerging spatial planning and regional development trends and policies. The *Review* set out an investment strategy for the period to 2022. It acknowledged that the *NSS* had identified that Ireland's best prospects for establishing a critical mass of the type and scale capable of competing with the GDA lay in developing the interconnected network of gateways from Waterford through Cork and Limerick to Galway. Having examined and evaluated a number of additional new schemes that would support this policy approach, it found that they performed poorly when projected patronage was factored in because of levels of development and population density along the lines in question. Accordingly, it did not recommend inclusion of the Sligo-to-Cork scheme, the Athlone-to-Mullingar scheme, or the Derry-to-Letterkenny scheme in the investment strategy. It considered that these schemes required further detailed evaluation in the context of securing complementary land use policies at regional and local levels in the areas concerned. The report recognized that infrastructure development could support regional development as outlined in the *NSS*, but it stated that this would be contingent on building up compact and sustainable settlement forms along the rail corridors with population densities that would support effective and efficient rail service.

This report had been commissioned before the publication of the *NSS*, and its priorities, based on a cost-benefit analysis, focused on the GDA, where the suburban network offered opportunities for "beneficial investment" (Booz Allen Hamilton 2003, 248). This made economic sense, but was politically unacceptable. In June 2004, the Minister for Transport established an expert working group to examine the proposal to reopen the Western Rail Corridor (WRC) in the context of the findings of the *NSS*, the *Strategic Rail Review*, relevant regional planning guidelines, and local development plans. The WRC runs from the hub town of Ennis (which is linked by rail to Limerick) through Athenry (linked by rail to Galway), the hub town of Tuam, and Claremorris to Collooney on the Dublin-Sligo line. On the basis of the recommendations in this report (McCann 2005), it was decided to reopen the first section, the 58-kilometer (36-mile) stretch from Ennis to Athenry, because it created a rail link between the four larg-

est cities outside Dublin—Galway, Limerick, Cork, and Waterford—and therefore implemented a major objective of the NSS, that of creating greater linkages between these four gateways. This involved relaying 36 miles of track and the construction of four new stations.

*Transport 21 (T21)* was launched in November 2005. It was the government's capital investment framework for the development of the national transport system over the period 2006 to 2015. This was the first time a 10-year financial plan had been approved for any sector of the economy. The total funding involved was €34 billion, divided among national roads, public transport, and regional airports. One of the key policy objectives of *T21* was to support the implementation of the NSS, and it reflected the policies contained in that document, particularly in regard to improving interaction among the gateways, ensuring that rail offered a realistic alternative to road travel on key inter-urban routes, and providing better connectivity along the Atlantic corridor between Cork and Galway via Limerick.

A significant aspect of *T21* was its robust monitoring arrangements, through which the framework's inbuilt flexibility enabled rebalancing of funding in any year to absorb moneys allocated to, but not used by, one of the three sub-programs, with revised rebalancing over the following year(s) to ensure that each sub-program's funding remained unchanged over the full plan period. Unfortunately, this meant that the bulk of the funding disbursed before the economic downturn went to the road-building program, which was already well advanced, whereas the lead-in for the big rail projects resulted in a number being mothballed. Phase 1 of the WRC, the intercity connection between Limerick and Galway, opened in March 2010, but parallel road improvements have resulted in a shorter journey time by road (one and one-half hours) than by train (two hours).

Like all other areas of national expenditure, the *T21* program had to be reviewed, and the position regarding Phase 2 of the WRC, from Athenry to Tuam, is dependent on the performance of Phase 1 and a full economic assessment. The National Transport Authority commissioned consultants to conduct a review of the service on the line in 2012. The results indicate that the two commuting legs (from Ennis to Limerick City and from Athenry to Galway City) showed a growth in patronage for 2011 and 2012, but this was offset by loss of patronage on the intercity trip, possibly caused by the inability to reduce journey times in comparison with cars. It must be acknowledged that the population in the catchment areas of stations other than these four is low. Experience with Phase 1 of the WRC, where patronage is well below the levels forecast, would seem to justify the approach taken in the 2003 *Strategic Rail Review* toward the re-opening of the full rail corridor linking the Sligo Gateway through to the



Waterford Gateway. The *Strategic Rail Review* recognized the Atlantic Corridor as important to delivery of the NSS, but financially problematic because of the lack of the settlement densities necessary to support it.

### Decentralisation Programme

In December 2003, barely a year after publication of the NSS, the Minister for Finance announced in the *Dáil* that eight of the fifteen departments of state would be moving their headquarters (including ministers and senior management) from Dublin to provincial locations. The program included an unspecified number of state bodies and agencies. Admitting that the plan to relocate 10,300 public service jobs to 53 centers in 25 counties was radical, the Minister justified it in the context of achieving regionally balanced growth. This was clearly a return to the politically acceptable definition of the term based on geographic equity, and a move away from the concept of developing the potential of places that underpinned the NSS. When asked about the implications for the NSS, the Minister claimed:

The locations which have been selected take full account of the national spatial strategy, the existence of good transport links—by road, rail and air—and the location of existing decentralised offices. The aim has been to establish viable clusters of work units within a region, either in the form of self-contained locations or clusters of sites located geographically close to each other or to existing decentralised locations. This will help to avoid the pitfalls of fragmentation and protect service delivery. (McCreevy 2003, 413)

This perspective on the Decentralisation Programme was clearly at variance with the facts. The announcement was completely unexpected, and the program was not supported by any study or spatial analysis. Some departments and agencies were moved to gateways and hubs, but others were relocated to lower-tier urban centers; a rural site at Knock Airport was designated for the Department of Community, Rural, and Gael-tacht Affairs. A closer look at the towns chosen for departmental headquarters reveals that, for the most part, they were in constituencies of various ministers that had not been allocated a gateway or a hub. For example, the administrative headquarters of the Department of Defence was moved to Newbridge in the constituency of the then Minister for Finance, while the Office of Public Works was relocated to Trim, County Meath, in the constituency of the then Minister for Transport.

Barry (2010) argues that the Decentralisation Programme had all the characteristics of a political “stroke” designed to garner electoral support

in the regions. Local elections were to be held in June 2004. By December 2003, ministers had been subjected to a year-long campaign by both current and aspiring councillors from the coalition government's parties, who themselves were receiving adverse reaction from their constituents. Rural representatives rejected the *NSS* as urban-centric and inimical to the development of rural areas. It was also proving unacceptable to representatives of those urban areas that, despite being county towns, were ranked only in the middle of the spatial hierarchy; that is, they were part of neither a gateway nor a hub. The Irish electoral system would have been a major contributor to the sense of competition among all local politicians. Under PR-STV, there is no such thing as a safe seat; a party may be safe in calculating that it will win one, two, or even more seats in a constituency, but no individual *TD* or councillor can be sure of being elected. Even ministers cannot take electoral success for granted, as the Minister for Public Enterprise had discovered in the 2002 general election, in which she lost her seat despite an 11 percent increase in her party's share of the vote nationally.

At the national level, the 2002 election had added 12 *TDs* to the ranks of the two government parties. Both new and established *TDs* were conscious that any reduction in overall support by a disenchanted electorate would endanger their personal chance of re-election. Disenchantment would certainly be heightened if electors felt that they were not enjoying an equal share of the growth in the economy. However, despite the best efforts of the Minister for Finance, the government parties lost 86 seats in the June 2004 local elections, and their share of the vote dropped by 9.7 percent.

The proposal to relocate the Department of Community, Rural, and Gaeltacht Affairs to a greenfield site of 2.5 hectares (6 acres) at Knock Airport in rural County Mayo was one of the most astonishing examples of unsustainable development in the Decentralisation Programme. The site was five miles from the nearest village. Fortunately, this proposal required planning permission. After a third-party appeal, the independent national appeals authority, An Bord Pleanála, in 2007 refused it as being "contrary to the National Spatial Strategy which seeks to maximize access to and encourage the use of public transport, cycling and walking in facilitating future development and which also seeks to reinforce the key roles of larger and smaller towns and villages in achieving balanced regional development" (An Bord Pleanála 2007, 2 of the *Decision*).

The Inspector's report (An Bord Pleanála 2007) acknowledged the potential of the Decentralisation Programme, under which government offices could play a crucial role in achieving the objective of critical mass within existing urban centers, in particular those served by mainline rail.

However, no details had been given regarding the selection of sites, investigation of alternative sites, or the assessment criteria used in the process. The Ballina/Castlebar linked hub, where both towns were served by rail, would have had capacity in zoned lands, services, infrastructure, housing, and community facilities to accommodate offices of the scale proposed (4,550 square meters), which were intended to house some 140 staff members. As the Inspector commented, there might be inherent advantages to locating commercial and industrial enterprises that were dependent on air transport beside an airport, but the only inherent advantage in locating the proposed departmental offices so close to the rural airport related to “commuting by air which is well established as an unsustainable form of transport” (An Bord Pleanála 2007, 13 of the *Inspector’s Report*).

After the Board refused permission, the location for this department was designated as the nearby town of Charlestown, which the 2006 census recorded as having a population of 744, and which the professional advisers acting for the proposed Knock Airport office development had disparaged as an unsuitably small urban settlement. After the crash of the economy, the Public Service Decentralisation Programme was reviewed, paused, and finally canceled in November 2011. However, between 2003 and 2011, many agencies and sections of departments were dispersed under the terms of the program, which has left a legacy of governance issues, as well as lost opportunities.

### National Housing Guidelines

The second policy that worked against the achievement of the objectives of the NSS can be traced back to the cultural attitudes discussed in the early part of this chapter. Particularly where the land was of poor quality, a tradition grew up of each family attempting to survive at subsistence level on its own smallholding, where its tenancy was anything but secure. This meant that single houses became an inherent part of the Irish landscape in the 19th and early 20th centuries. A folk memory of evictions gave rise to a passionate desire to own a plot of ground and build a house on it.

The 1997 *Sustainable Development Strategy* was the first national document to provide a policy on rural housing. It found that demand for housing in the countryside from people working in cities and towns is generally unsustainable because of the increased energy usage associated with being separated from all other activities, such as work, shops, schools, and entertainment; the danger to groundwater arising from the multiplicity of individual septic tanks; increased road and transport costs; and the negative impact on the urban fabric of towns. It stated that there must be a presumption against urban-generated one-off rural housing, although per-

mission might be granted for dwellings for certain categories of persons whose occupations required them to be rurally based, thereby catering to “genuine needs.” In such cases, certain principles were to be applied, including protection of the carrying capacity of the national road network, preservation of outstanding landscapes, and assessment of site suitability for wastewater absorption (Government of Ireland 1997, 151–152).

The 1999 *Residential Density Guidelines for Planning Authorities* (Department of the Environment 1999), issued by the Minister for the Environment, translated the policy of sustainable urban development contained in the *SDS* into a specific recommendation that planning authorities should promote increased densities at appropriate locations. This advice was popular both with planning officials, because it accorded with sound sustainable development principles, and with developers, for reasons related to financial returns per hectare. However, as incomes grew during the Celtic Tiger era and generous mortgages became freely available, there was a dichotomy between the aspirations of purchasers who wanted spacious houses with gardens and the densely developed semidetached or terraced housing on minimal-sized plots being offered to them in the gateway cities and hub towns. Many couples at the family-formation stage, who were willing to trade off journey time for quality of life, voted with their feet and bought larger houses in low-density developments in the smaller towns and villages within commuting distance of the gateways. Because of the ongoing improvements to the national roads network—one of the priorities of the 2000 NDP was the completion of the five inter-urban routes to motorway standard by 2006—journeys of 40 and even 50 miles (60 to 80 kilometers) to work were becoming feasible.

A further factor ignored by policy makers and commentators both during the preparation of the *NSS* and over the years since, even after the collapse of the economy, was the absence of the self-build option anywhere within urban areas. Irish housing estates have always been designed and fully built out by their developers, who have offered a choice to purchasers within a fairly standardized range of house types. With one or two exceptions at the top end of the market, most notably a development of some 40 plots ranging in size from half an acre to over one acre at Malahide in northern County Dublin, where pop singers, footballers, and now-disgraced investment bankers built trophy homes, this position continued during the Celtic Tiger years. The only possibility for anyone attempting to have a house built to his own design was to buy a one-off unserviced site in a rural area from a farmer. In some cases, families with one parent of rural background, who were living in cities and towns and wanted to trade up, went to extraordinary lengths to secure a site and persuade the planning authority of their need to live in that area, often on the most

spurious grounds. If permission was not forthcoming, they lobbied councillors and TDs vigorously. Again, because of the insecurity and competition between sitting politicians engendered by the electoral system of multi-seat constituencies, at all levels they felt it necessary to be seen to support demands for extensive exceptions to the policy of preventing urban sprawl in the open countryside.

The NSS set rural housing in a far more flexible context than the SDS had done. It identified a new category of “rural generated housing need,” which it described as housing “for people who are an intrinsic part of the rural community by way of background or the fact that they work full-time or part-time in rural areas” (Government of Ireland 2002, 106). This enlargement of the meaning of “need” to encompass “want” was a response at the national level by members of the government, supported by opposition members of the *Oireachtas*, to grassroots lobbying by councillors, as well as direct representations by their own constituents. In this sense, the NSS contained an inherent contradiction between its other settlement policies and objectives and its stance on rural housing that contributed to its own difficulties.

The policy contained in the NSS was further liberalized in *Sustainable Rural Housing Guidelines for Planning Authorities* (Department of the Environment 2005). Like the *Residential Density Guidelines*, this document was issued by the Minister for the Environment under Section 28 of the 2000 Planning Act. The policy context made reference to the long tradition of people living in rural areas and the existence of a dispersed pattern of settlement in Ireland. The guidelines stated that the provisions of the 1997 *Sustainable Development Strategy* had sometimes been “operated over-rigidly,” and that this had led to the flexibility introduced in the NSS, which was now being expanded (Department of the Environment 2005, 1). The concept of “rural-generated housing need” was enlarged to include not only those living in an area, but also people with roots in or links to it. According to the *Sustainable Rural Housing Guidelines*, even in areas under strong urban pressures for development, the desires of persons who could thus be defined as part of the rural community to get planning permission for one-off housing should be facilitated. Lip service was paid to road safety, wastewater disposal, design criteria, and heritage protection. Generous exceptions were given to the presumption against granting permission for dispersed housing. These exceptions could be based on residency, former residency, bloodline, local employment, or agricultural activities and even went as far as “health circumstances” (Department of the Environment 2005, 32). It was not unknown for people who had a perfectly good house in a nearby town or village, closer to their place of

employment, to move children into a rural primary school or to join a rural GAA club in order to establish links to an area in which they wanted to build a self-designed home. The implications for the exponential growth of a dispersed settlement pattern in such a policy were clear, but, again, clientelism in politics prevailed.

## Outcomes

By October 2010, there had been official acknowledgment that achievement of the objectives of the *NSS* could at best be described as sporadic. A review of the implementation of the *NSS* published by the Department of the Environment found that, although there had been significant investment in public infrastructure, population growth had not taken place in the cities and hub towns, but in the smaller settlements and rural areas within a 50- to 80-kilometer commuting distance from these major urban centers. It stated that excessive and inappropriately located zonings and developments had worked against the implementation of the *NSS* principles and priorities and had undermined efficient Exchequer investment in infrastructure and services. The review recognized that a significant proportion of undeveloped residentially zoned land was in outlying locations and resulted from “developer-led” planning (Department of the Environment 2010, 8).

### Zoning: Autonomy and Corruption

The curtailment of local autonomy contained in the 2010 Planning Act would appear to have gone some way toward addressing the problem of overzoning. By October 2010, all eight regional authorities had published revised regional planning guidelines covering the period 2010 to 2022. The 2010 Act required planning authorities to prepare a core strategy not later than one year after the making of these guidelines and to amend their development plans to include the core strategies. Of course, all future development plans will have core strategies as an integral component. A survey of housing land availability carried out in 2012 by the Department of the Environment contains details about the impact of core strategies on overzoning at a national level (Department of the Environment 2012). By June 30, 2012, the amount of undeveloped zoned land stood at 29,329 hectares, a reduction of some 30 percent from the 42,058 hectares available two years earlier (Regional Authorities 2012). Not all zoned lands were actually served by the infrastructure necessary to enable development to take place. In June 2012, the 13,707 hectares of serviced residentially zoned

land were estimated to have a yield of 394,357 housing units. On the basis of average housing completions over the previous three years, this was calculated to be sufficient to meet demand for the next thirty-five years.

It might be expected that the consequence of identified overzoning would be to unzone or dezone considerable tracts of land. The amount of legacy overzoning raises the question why this approach has not been followed to a greater extent. The clue may lie in the findings of a tribunal of inquiry that investigated corruption in the plan-making process in the Dublin area during the late 1980s and early 1990s.

In 1989, a *Garda* (police) investigation of allegations of bribery and corruption in the planning process led to one unsuccessful prosecution. Because of insufficient evidence, the director of public prosecutions was unable to initiate any action after a further *Garda* investigation in 1993. Finally, in 1995, a firm of solicitors based in Northern Ireland, acting on behalf of two unnamed clients, offered a reward of IR£10,000 for information relating to corrupt rezoning practices in the Republic of Ireland. No Irish solicitor wanted to handle the matter.<sup>8</sup> One of the persons who responded was a former managing director of a building company, James Gogarty, and the information he supplied was the key factor in the establishment of the Tribunal of Inquiry into Certain Planning Matters and Payments in 1997.

The *Final Report of the Tribunal of Inquiry*, generally referred to as the Mahon Report after the tribunal's chairman, Judge Alan Mahon, states uncompromisingly that corruption became a regular aspect of the public role of some councillors on the Dublin County Council. It continues:

Those councillors exercised their public powers in their own interests rather than in the interests of the public and bartered that power in exchange for cash and/or other benefits. There was apparently no shortage of persons prepared to pay for the corrupt exercise of public power and large tracts of land were ultimately rezoned because of the making and receipt of corrupt payments rather than in the interests of proper land use and development. (Government of Ireland 2012, 4)

There are no grounds for believing that corruption was confined to the Greater Dublin Area, or that it ended when the tribunal began its work.

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<sup>8</sup> Donnelly Neary Donnelly, Solicitors, of Newry in Northern Ireland, placed an advertisement in the *Irish Times* on July 3, 1995. The two unnamed clients of this firm were revealed in the final report of the Tribunal of Inquiry to be Colm MacEochaidh (then a barrister) and Michael Smith (then the chairman of An Taisce, an environmental non-governmental organization).

Indeed, the Mahon Report states that throughout the period investigated, “corruption in Irish political life was both endemic and systemic” (Government of Ireland 2012, 1). The publicity given to disclosures of wrongdoing made to the tribunal during the 15 years of its investigations may well have increased awareness of the possibilities for personal enrichment inherent in the adoption of development plans and the ease with which payments could be explained away as election contributions. Councillors, who less than a decade ago accepted money from landowners in return for votes for rezoning, are likely to feel certain constraints on now voting to dezone the same lands in the open forum of the council chamber.

The tribunal made a number of recommendations regarding planning at the local and national levels. It declined to accept proposals that the power to rezone land be taken away from the councillors altogether, partly because the legislative changes discussed in this chapter have restricted their autonomy in the adoption of development plans, but also because there is no reason to suppose that elected members are more prone to corruption than other individuals. Local level recommendations were largely aimed at ensuring transparency in the way councillors exercise their powers. At the national level, recommendations included placing the *NSS* on a statutory footing and establishing a planning regulator, whose role would be to supervise the plan-making function and to investigate possible systemic problems in the planning system, including those raising corruption risks. The government responded to the Mahon Tribunal in July 2012 and accepted these recommendations, among others. To date, neither of these recommendations has been implemented.

### Structural Reorganization

On the second day of the symposium in October 2012, a program with the title *Putting People First* was launched to reform local government in four main areas, one of which relates to new institutional arrangements for planning.<sup>9</sup> As noted in this chapter, the basic structure of local government was established at the end of the 19th century and, in general terms, has remained unchanged since that time. Consequently, there are 80 town and borough councils, 26 of which do not have planning powers because they were formerly town commissioners. There are also 34 city and county councils. In all, there are 114 local authorities for a population of 4.58 million. The program proposes to reduce the number of local authorities to 31, all of which will have the full range of planning powers. This reduction

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<sup>9</sup> This section was drafted in October 2013. See end of chapter for the current position on reorganization.



is to be achieved by two elements of streamlining, neither of which affects the identity of the counties or their geographic boundaries.

The 80 town and borough councils are to be abolished as separate units of local government and are to be integrated into their counties as municipal districts. Councillors are to be elected simultaneously to both the municipal district council and the county council. Municipal districts are to be built around the main towns and their natural hinterlands as much as possible, and the municipal districts of a county are to cover the entire county. The city and county councils in Limerick and Waterford are to be unified, as are the existing administrative counties of North Tipperary and South Tipperary.

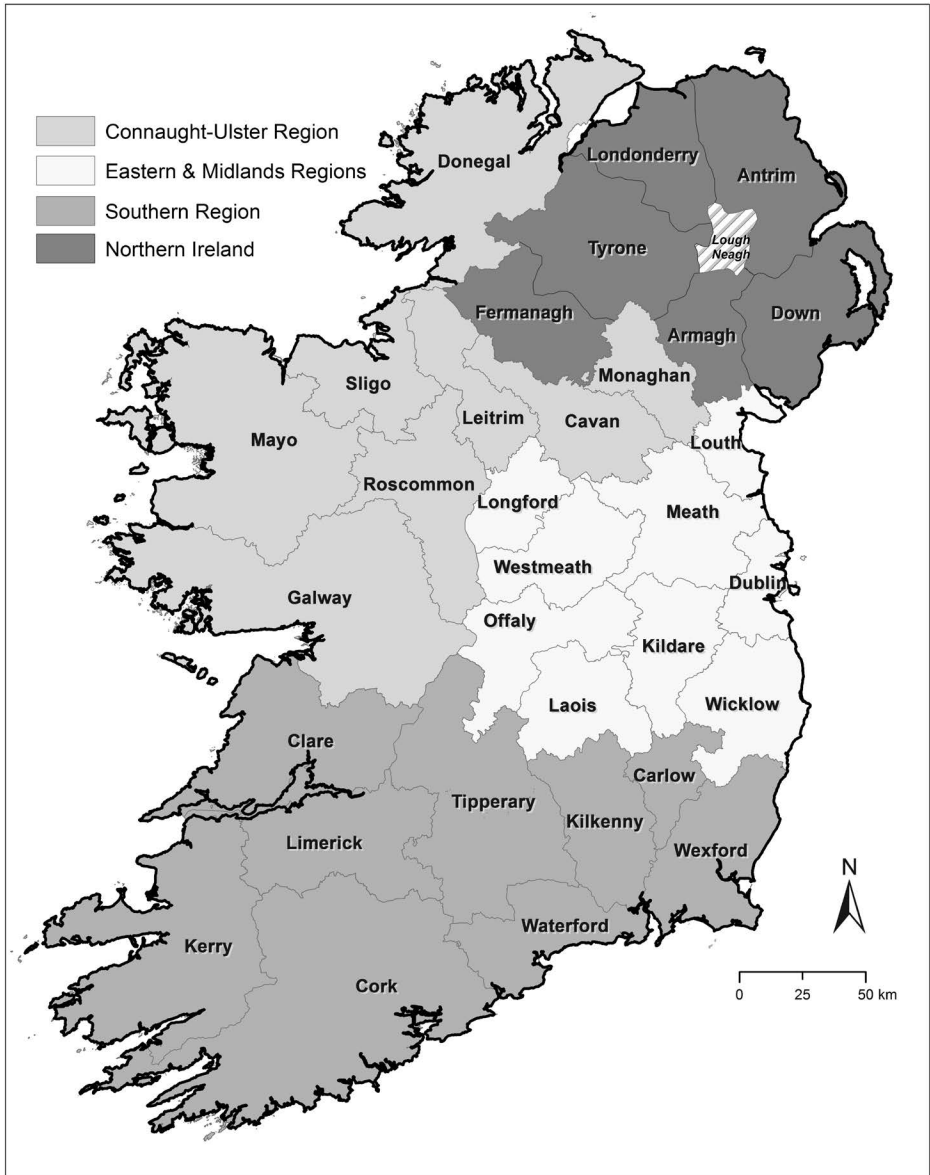
The 2012 program proposes a significant realignment at the regional level by amalgamation of the eight regional authorities into three regions (figure 12.5). The regional configuration is set out in more tentative language than the county structures because it is subject to finalization in the light of considerations relating to EU funding arrangements. It is envisaged that there will be

- a Southern Region consisting of Munster and Counties Carlow, Kilkenny, and Wexford;
- an Eastern and Midlands Region consisting of Leinster other than the three counties in the Southern Region; and
- a Connaught-Ulster Region consisting of Connaught and Counties Monaghan, Cavan, and Donegal.

The new regional bodies are to be styled “assemblies” and will continue to be responsible for the preparation of regional planning guidelines, described as one of their key functions by the Minister of State for Housing and Planning (O’Sullivan 2013a). They will also be given the new responsibility of drawing up regional spatial and economic strategies and will act as a bridge between the *NSS* and local authority plans and programs, particularly with regard to development of *NSS* gateway locations. In addition to providing a framework for local authority action in the economic area, these strategies will address the coordination of activities of other relevant government departments and agencies. To ensure adequate commitment and input to inter-agency arrangements, which has been a glaring weakness in Irish public administration, these strategies will be put on a legal basis.

### **The Future of the *National Spatial Strategy***

In her address to the symposium “Planning for States and Nation-States,” the Minister for Housing and Planning indicated that, although many of



**Figure 12.5** Proposed Regional Configuration of Ireland, 2013

Sources: Republic of Ireland counties: Ordnance Survey Ireland, permit no. MP009006; Northern Ireland counties digitized by Dr. Harutyun Shahumyan.

the concepts and ideas in the 10-year-old NSS remained valid because they were derived from international and EU thinking, there was “a need to address new and altered realities” in relation to Ireland’s spatial development (O’Sullivan 2012, 12). She suggested that a national spatial strategy produced in 2012 would look very different from that produced in 2002. She acknowledged that it would be difficult to think 20 years ahead in the midst of dealing with the collapse of the economy, but she said that it was her intention to start an updating process early in 2013 by evaluating the principles on which a significantly revised national spatial strategy could be built (O’Sullivan 2012).

In February 2013, the Minister for the Environment (the senior minister and a member of the government) told a Joint *Oireachtas* Committee that the successes of the NSS had been limited. Describing it as “no longer fit for purpose,” he stated that he intended to develop a successor that would look quite different in focus and content, and that he would soon be bringing proposals to the government in that regard (Hogan 2013). Until such time as a successor has been developed and adopted by the government (as was the current NSS) and the *Oireachtas* (in accordance with the accepted recommendation of the Mahon Report), the *National Spatial Strategy 2002–2020* will continue to serve as Ireland’s national-level spatial planning framework.

In October 2013, the Minister for Housing and Planning established a three-person expert group to prepare a report setting out guidance on the preparation of a successor to the NSS (O’Sullivan 2013b). There are strong indications that the preparation of the NSS Mark 2 will be undertaken within a tight time frame in order to provide the strategic framework for the six-yearly review of the 2010 regional planning guidelines, which is due to commence in mid-2015. The successor to the NSS will also need to be adopted before the new regional assemblies prepare their regional spatial and economic strategies.

### **The Future Shape of Local Government**

Exactly a year after the symposium, a Bill (Government of Ireland 2013) was published that, if enacted, will give effect to the proposals contained in *Putting People First* (Department of the Environment 2012) regarding the streamlining of local-government structures described in this chapter. The number of planning authorities will be reduced from 88 to 31 by incorporating the existing lower-tier urban authorities into the counties in which they are geographically located; amalgamating the cities of Waterford and Limerick with their respective counties; and amalgamating the administrative counties of North and South Tipperary. The statutory

role of the regional bodies, to be restyled “regional assemblies,” will be strengthened from a spatial planning perspective. As set out in the Bill, their functions will include coordinating, promoting, and supporting strategic planning and sustainable development; promoting effectiveness in local government and public services; and preparing spatial and economic strategies. However, the Bill postponed the really difficult political decisions on the number and spatial arrangement of the regional assemblies and the boundaries of the municipal district electoral areas, which will be left to future ministerial orders. Because local government elections must take place in June 2014 under the Constitution, this restructuring of local government will have to be concluded early in 2014. To date, no legislation has been published implementing the recommendation of the Mahon Report regarding the establishment of a planning regulator.

\* \* \*

The 2014 Local Government Reform Act came into operation between January and July of 2014. The Act implemented the streamlining of local government described in this chapter. Elections to the 31 realigned local authorities (3 city councils, 26 county councils, and 2 city and county councils) took place in May 2014. Municipal districts have been established in all local government areas with the exception of the three suburban counties immediately proximate to Dublin city, where there are no urban centers appropriate to this pattern of reorganization.

The eight regional authorities were dissolved in June 2014. However, the regional configuration best suited to a future national spatial strategy and associated government policy in relation to regional economic development were considered to require further reflection. Accordingly, the functions of the regional authorities were temporarily transferred to one or other of the two existing regional assemblies—bodies established in 1999 for the purpose of managing European Union structural funds. Regional reorganization oversight groups have been established in each of the three regions shown in Figure 12.5 to support the transition to the new regional structures, which are due to be determined by the end of 2014.

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## *Commentary*

NIALL CUSSEN

**B**erna Grist's chapter presents a historical and institutional context for public administration and more specifically spatial planning in Ireland, and a good overview of the emergence and implementation of Ireland's national spatial strategy. Her short history of Ireland, setting out its political and institutional roots, as well as its colonial past, illustrates why as a society, the Irish have had a somewhat tempestuous relationship with planning, accepting the principle of, if not always the requirements for, an effective planning system.

Irish history has perhaps fostered a deep social ambivalence about urbanization, for example, the relationships between, and the optimal roles of, urban and rural areas. This issue continues to be very divisive at national and local levels despite efforts to outline a national policy in 2005. Nevertheless, the aftermath of an economic crash driven by a property bubble gives cause for hope that lessons have been learned, and that there is now recognition at the requisite political, institutional, and societal levels that an effective planning process is an integral requirement for sustained progress of the country in economic, social, and environmental terms.

### **Preparation of the National Spatial Strategy**

Again, Grist provides a good overview of the background and preparation of Ireland's first national spatial plan, *The National Spatial Strategy*



2002–2020 (*NSS*) (Government of Ireland 2002), whose publication marked the culmination of a very significant resurgence in institutional and political interest in spatial planning and regional development during the late 1990s and the early years of the 21st century. Of course, interest in planning often waxes in an economic upturn, only to wane in more recessionary times. This has been Ireland's historical experience. The planning system was introduced in the 1960s at a time of economic revival before being undermined in the 1980s and 1990s by decisions like the disbandment of An Foras Forbatha (the National Institute for Physical Planning and Construction Research), a national physical planning research agency established with the support of the United Nations in the early 1960s. The folklore is that one of the reasons that the minister at that time disbanded the organization was its opposition to being relocated from the capital, Dublin, to one of the regional cities as part of a decentralization process—planning and decentralization a recurring theme.

Grist fairly describes the challenge faced by the team that prepared the *NSS* between January 2000 and late 2002, which had to grapple with high expectations, a tight time frame, and a dearth of information caused in part by the disbandment of the Foras. The point she makes about a more robust economic rationale underpinning the strategy is also fair; however, clear methodologies for identifying regional economic potential and options for its most effective arrangement in relation to key inputs and drivers were in somewhat short supply. Today, the situation is little different, although efforts by experts from Ireland's Economic and Social Research Institute are under way to plug that gap.

Sensibly, in 2002, the *NSS* team focused on ensuring that the *NSS* would lead to the establishment of a proper hierarchical plan structure, thereby giving a shape to an Irish planning process that was essentially entirely locally driven and lacked effective coordination arrangements. Such localism subsequently gave rise to issues of overzoning, suboptimal infrastructure investment, and unfinished developments.

Grist's analysis of the content of the *NSS*, specifically in relation to polycentric development, however, highlights a continuing challenge in the planning mind-set. Planning practitioners seem to desire more and more details, and even instruction, from higher-level plans about how land should be managed rather than considering such high-level plans a broader call for planning to extend its role from regulation to place making. By the time strategic plans contain all the details planners at more regional and local levels sometimes say they need, they cease being strategic.

Grist highlights the barriers to implementation of the *NSS* that boundaries presented. Administrative and political boundaries do complicate matters, but perhaps what is more important today is how representatives

or officials can work across boundaries and with communities and economic interests in new governance models to reinterpret and reanimate places in new ways. Such new governance models were what the *NSS* called for. Some interesting efforts have emerged locally, but more are needed. Perhaps that is where a localism agenda fits in, responding to the higher-level frameworks but adapting to and even harnessing local strengths.

### **Implementation of the National Spatial Strategy**

As *Implementing the National Spatial Strategy* (Department of the Environment 2010) acknowledged, implementation of the *NSS* had both high points, such as much of the infrastructural investment under the national development plans for 2000–2006 and 2007–2013 in the transport, housing, and water services sectors, and downsides, notably the problematic Decentralisation Programme. However, a more enduring benefit of the implementation process has been the building of a more coordinated and evidence-based system of planning at national, regional, and local levels through the 2010 Planning and Development (Amendment) Act and the core strategy process. The existence of the *NSS*, which presented a touchstone, so to speak, for assessment of the plans of local authorities, led the Department of the Environment to act through a succession of ministerial directives to local authorities on their development plans under Section 31 of the Planning and Development Act 2000 from 2005 on. Such directives generally aimed to remove or adjust inappropriate land use zoning objectives that could not be justified by reference to the *NSS* or regional planning guidelines, which, coupled with the judgment in *McEvoy v. Meath County Council* ([2003] 1 I.R. 208), pointed clearly to the need for a more precise linkage between the high-level objectives of national and regional plans and the strategies and objectives, including zoning objectives, of city and county development plans.

The resultant 2010 Planning and Development (Amendment) Act was a visible demonstration that a national spatial planning perspective was now having a profound effect on national legislation. Some might say that the 2010 legislation was too little too late, closing the proverbial stable door after the horse had bolted. However, if one considers the time scales that spatial strategies deal with, typically 20 to 40 years, it can be argued that experience in implementing the *NSS* had to unfold in order to inform the evolution of the implementation of the strategy. With legislation amended and operating effectively, the planning process is now much better suited to meeting the needs of the country as its economic prospects continue to stabilize and recover.

## The Road Ahead

Despite the challenges facing Ireland, comfort can be taken from the fact that there seems to be a high degree of institutional consensus on the need for more effective spatial planning that is community-centered rather than developer-led. Indeed, as Grist points out, the work of the independent Mahon Tribunal, established by the national parliament to examine allegations of abuses of planning, primarily in Dublin in the early 1990s and therefore before the 2000 Act, the NSS, and regional plans, finally led to a report in 2012. The report made many recommendations, 10 of which related to the planning arena. For example, it called for the NSS to be put on a statutory footing and for a planning regulator to be appointed with power to oversee the planning process, primarily by making an independent assessment of plans. The regulator would also have certain investigative roles, as well as important research and training functions.

The government has committed itself to the implementation of virtually all of the Tribunal's recommendations, including the establishment of an independent Office for Planning Regulation. It will be in the context of those emerging actions that people can make a definitive judgment about the degree to which the concept of "proper planning and sustainable development" stated in the Preamble to the Planning and Development Act will now fully permeate the institutions of the state.

Furthermore, while national planning legislation was comprehensively amended in 2010 and will likely see further amendment to take account of the Mahon Tribunal's recommendations, the current Programme for Government (2011–2016) is leading to a substantial reform of the structures through which the planning functions at regional and local levels are carried out. New local government structures emerging under the Government's Action Programme for Local Government Reform outlined in the document *Putting People First* (Department of the Environment 2012) include the establishment of a more stable supporting funding framework (which has led to a local property tax and establishment of a national water utility and preparations for water metering and user charges for the domestic sector). This new funding framework will reduce the historical reliance of local government on planning and development charges and commercial rates, which, in the Celtic Tiger era, tended to act as a distortion of the planning process, particularly in relation to decisions affecting city- and town-center development.

Local government structures are being radically reshaped. The current 88 planning authorities at city, county, and municipal levels are to be reduced to a core structure of 31 city and county councils, and the ten regional bodies are to be reduced to three new regional assemblies, which

will prepare new regional spatial and economic strategies beginning 2014/2015. The city and county development plans are also to be radically repositioned; they will be more clearly linked to the new regional spatial and economic strategies and will also provide a context for local community development plans, which in turn are a result of alignment of previously distinct local rural and community development and local authority structures.

These actions will shift the very nature of local government from being a provider of a fairly narrow (by international standards) range of infrastructure to being the key force at the local level for enablement and integration of economic and social development, working closely with the central government and the investment and community sectors. It is no coincidence that the overarching framework guiding the process in *Putting People First* has had a strong planning input. Again, experience in implementing the NSS has been put to good use; the strategy was very much in the minds of the team that put together the action program for local government reform.

Now that maintenance and overhaul of the institutional context for planning in Ireland are receiving much-needed attention, work is advancing on the development of a successor to the *National Spatial Strategy*. Although it is far too early to suggest what the next national spatial strategy might contain, recent events suggest some of its likely characteristics:

1. There will be a need to establish a legislative framework to define the purpose of the new NSS and to oversee its preparation and implementation, involving political oversight, public consultation, and integration of the requirements, primarily environmental, of various European Union (EU) directives.
2. Proper account will have to be taken of both new economic realities and environmental challenges with which Ireland and the wider EU and global economy will be grappling for some years to come, primarily affecting the scope for public investment and demanding smart growth policies that fully harness existing assets and capital.
3. The next NSS must address Ireland's wider territorial context, not just in a terrestrial sense and in regard to its maturing relationship with Northern Ireland and EU/global linkages, but also in regard to its marine setting through the developing area of marine spatial planning.
4. Preparation and implementation of the next NSS will benefit from advances in spatial data assembly and analysis through initiatives like

the National Institute for Regional and Spatial Analysis, the Department's [www.myplan.ie](http://www.myplan.ie) initiative, which is modeled on U.S. prowess in assembling key spatial data to influence policy makers, as well as the ESPON research program at the EU level.

5. Maturing regional coordination since 2004 means that the next *NSS* is likely to be a more strategic and concise document that is clearly set in the context of medium- to long-term fiscal and budgetary outlooks to be prepared jointly by the Departments of Finance and Public Expenditure.

The economic crash of 2008 and its aftermath have taught the hard lesson that good planning is central to long-term competitiveness and socioeconomic and environmental progress. Poor planning outcomes cost the community, the environment, the economy, and, above all, the taxpayer as we have found in the State's investment in the National Asset Management Agency.

In all this hard and expensive learning, there is a newfound sense of the contribution that spatial planning can and does make to enabling the achievement of economic, social, and environmental conditions that are both sustainable and optimal. The journey will continue.

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## Conclusion

**T**he case studies of plans and planning frameworks from the United States and Europe presented in this volume offer substantial new information about the current state and recent evolution of planning frameworks in these states and countries. If there is an obvious conclusion to be drawn, it is that planning frameworks in Western nations and states are undergoing continuous change along with the social, economic, political, and environmental contexts in which they operate. In fact, the responsiveness of planning to these socioeconomic trends at all levels, and at the state and national levels in particular, has been profound, at least in these case-study locations. Although it is necessary to recognize the hazards of drawing inferences and conclusions from only a few case studies and to acknowledge that no formal comparative analyses were conducted, it is possible to observe trends on both sides of the Atlantic, trends that cross the Atlantic, and policy implications that can be drawn from these trends.

### **Trends in the European Case Studies**

The case studies from Western Europe paint a picture of a continent still struggling to find a balanced approach to planning and managing land use and addressing spatial development challenges. At least in part, the

European Union (EU) was established to address these challenges. Toward those ends, it developed the *European Spatial Development Perspective (ESDP)* (European Commission 1999), the *Territorial Agenda* (European Commission 2007) to support a more competitive and sustainable Europe of diverse regions, and the *Territorial Agenda of the European Union 2020* (European Commission 2011), a growth strategy for the 21st century. The EU also launched the European Spatial Planning Observation Network (ESPON), an organization charged with providing information and technical support on a continental basis, and it created a set of informal networks and funding programs designed to foster collaboration across the European continent (INTERREG and URBACT). All have certainly left their marks. But many informed observers have come to believe that the formal institutions and programs of the EU are less influential than the informal networks, directives, and other efforts at collaboration and information exchange. Or, as Andreas Faludi puts it in chapter 7, the Europeanization of planning is progressing more rapidly than the EUropeanization of planning. Whether such Europeanization is leading to a convergence of planning approaches, however, remains a topic of considerable debate, and there is no compelling evidence in the five case studies presented here to end that debate (Stead 2013).

The European case studies offer clear and unambiguous evidence of devolution in the formulation and exercise of planning, especially land use planning. France, of course, was the forerunner, devolving responsibilities formerly held by the national government to regional governments in 1982. The Netherlands offers perhaps the most striking case. Not only was The Netherlands' fifth national spatial plan never formally adopted, but also the new national policy directives expressly favor greater reliance on market forces and more regional and local discretion. The Danish example is also remarkable. Although the Danish national government continues to provide policy guidance and plays a major role in planning for Greater Copenhagen, local governments in Denmark have more responsibility for and discretion over land use and spatial policy than at any time in Danish history. The United Kingdom, though muddled and perpetually in flux, offers another example of devolution. It has devolved planning responsibilities to the constituent nations (countries) of Wales, Scotland, and Northern Ireland, and the succession from national policy to regional policies to localism in England could not offer a more striking example of policy devolution, at least on paper. Ireland is perhaps an exception. It adopted a national spatial strategy in 2002, but even there, the role of the national government is currently being reconsidered as that strategy is being revised.

It is important to note, however, that the devolution of planning in the European case studies is not absolute.<sup>1</sup> In every case, the nature of national planning has changed significantly; it has moved increasingly away from spatial, comprehensive, and distributive roles toward sectoral goals, strategic national interests, economic competitiveness, and, more recently, dealing with climate change. And although the national role in spatial planning has substantially diminished, the powers to control development are expressly retained, even if they are selectively used. This creates what Barrie Needham in chapter 8 calls “central-decentral” pull and is consistent with Alterman’s (2001) conclusion that national planning has strengthened, not weakened.

The second common trend in the European case studies is the rise of regionalism. Again led by France, growth in the role of regions and regional cooperation is promoted by the *ESDP* and is generally illustrated in four of the five case studies. Only in Denmark has the role of regions diminished, particularly after the government structural reforms abolished counties, which once had a major role in ensuring coherent and coordinated regional development. The regionalization of planning in the United Kingdom is perhaps the most complicated example. There has been devolution to the constituent countries (regions in a broad sense) of Wales, Scotland, and Northern Ireland, but subnational regional authorities have been eliminated in England. Regions and provinces have also risen to prominence in The Netherlands. Coordination of spatial and transport planning was first formalized as a role of regions in 2006 and then withdrawn and given to the provincial level, but the regions remain the medium for the implementation of the national long-term program for infrastructure, land use, and transport investments. In general across the European cases, however, the role of regions has risen primarily in the area of sectoral planning, not land use planning or development control. More specifically, regional governments, perhaps because of their better understanding of regional issues, or perhaps because of greater political homogeneity, have gained a stronger voice on social, economic, and environmental policy, but not on land development policy. Perhaps the most striking exception, again, is Ireland. There, regional authorities not only are tasked with developing regional development guidelines, but also have become critical players in Ireland’s attempt to prevent another round

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<sup>1</sup> *Dictionary.com* defines devolution as “the transfer or delegation of power to another.” The Merriam-Webster online dictionary defines devolution as “transference (as of rights, powers, property, or responsibility) to another; *especially*: the surrender of powers to local authorities by a central government.” “Transfer” or “delegation” better describes the situation in land use policy than “surrender.”



of overbuilding through better development monitoring and building control.

The third clear trend in the European case studies is the movement away from hierarchy and toward territorial governance. Territorial governance embodies a range of concepts born out of the desire for territorial cohesion, an equally complex and somewhat ambiguous concept. As discussed by Faludi, there is currently much debate among European planning scholars about what territorial cohesion and territorial governance mean. According to the Green Paper on Territorial cohesion (European Commission 2008, 3), territorial cohesion is defined as: “. . . ensuring the harmonious development of all these places and about making sure that their citizens are able to make the most of inherent features of these territories. As such, it is a means of transforming diversity into an asset that contributes to sustainable development of the entire EU.” The ESPON-TANGO project (Territorial Approaches to New Governance; ESPON and Nordregio 2012) identifies five dimensions of territorial governance: (1) coordinating actions of actors and institutions; (2) integrating policy sectors; (3) mobilizing stakeholder participation; (4) being adaptive to changing contexts; and (5) realizing place-based/territorial specificities and impacts. The movement away from hierarchy and toward more informal governance processes is perhaps most evident in The Netherlands. As Needham states, “All levels of government prefer to resolve differences of opinion about the spatial development of a particular location in an informal way; resort to the hierarchical, formal procedures is regarded as an admission of administrative failure.” In France, Anna Geppert describes a multi-actor governance system and a dependence on local voluntarism in metropolitan planning. In Denmark, Daniel Galland and Stig Enemark describe a multistakeholder process in plan development and implementation, at least at the regional level. Again, perhaps only Ireland has butressed the formal hierarchy among the national spatial strategy, regional planning guidelines, and local plans.

To a significant degree, of course, territorial cohesion is about spatial equity and raising the welfare of the new members of the EU closer to the welfare levels of the existing members. Territorial governance has to do with how to make that happen, given the political difficulties of overt international redistribution. More nuance is therefore needed. Territorial cohesion is one such form of nuance. Stead (2013) distinguishes between type I and type II territorial governance. According to Stead, type I territorial governance is the most prevalent form: nations tend to plan for the territories within their boundaries, often in some hierarchical, federalist fashion. But with this kind of “Euclidean” planning it is difficult to promote territorial cohesion, at least across national boundaries. Fur-

thermore, type I territorial governance, in which national planning is embedded in an hierarchical EU planning system is also politically difficult, if not impossible (as explored by Faludi in chapter 7). This dilemma gives rise to type II territorial governance, which is more functionally specific, less place bound, and more flexible. An example of type II territorial governance is planning for a watershed, conducted or funded by the EU, that is less bound by political boundaries and more flexible to the boundaries of water-related issues. Such functionally based planning is increasingly common in Europe not only at the supranational scale, but within the political boundaries of European nations as well.

In short, the European case studies reveal fundamental challenges to the historic structure of planning institutions. The new forms of functional plans are increasingly decentralized, are more regionally than nationally focused, and tend to rely on informal forms of territorial governance. Land use planning and development control in many case-study nations, meanwhile, continue to devolve to regional and local levels of governance, and national governments have become more strategic and deferential to local governments.

### **Trends in the U.S. Case Studies**

In the United States, the narrative is even less clear. Not only are the five case-study states not representative of national trends (no informed observer would suggest that Oregon, Maryland, California, Delaware, and New Jersey exemplify national trends in state land use policy), but also, the stories in each of these states are highly divergent. They illustrate, however, the varieties of approaches that are possible, as well as the complex processes that accompany efforts to institute state-level activities and coordination with regional and local levels. Oregon is still viewed as the national leader in state land use policy, but change is clearly happening more rapidly in California, Maryland, and New Jersey. Further, although France is 15 times the size of The Netherlands, California is 66 times the size of Delaware. Given the dramatic differences in size and complexity, there is little reason to expect that trends observed in Delaware will also be observed in California.

At the federal level, there is clearly no movement to reintroduce any form of national land use policy. Still, there seems to be growing recognition within federal agencies that federal policies have implications that profoundly affect development patterns. At the U.S. Department of Transportation, for example, the interdependence of transportation and land use is now well understood and undergirds federal policies that support transit-oriented development, multimodal transportation options, and

greenhouse gas reductions. The U.S. Department of Housing and Urban Development also clearly recognizes the influence of spatial development patterns on housing affordability, community development, and social equity. The Environmental Protection Agency (EPA) has a small but active office of sustainable development that provides technical assistance on ways to promote smart growth. Moreover, the signature urban policy initiative of the Obama administration, the Sustainable Communities Initiative, was launched by a memorandum of understanding by the secretaries of the two departments and the administrator of the EPA. It would be difficult to argue that the Obama administration has taken a bold and aggressive new approach to urban policy, but it would be equally hard to argue that it has not been more active in land use and urban affairs than the two administrations of George W. Bush.

Many of the planning and spatial development principles espoused by the Sustainable Communities Initiative differ little from the principles of smart growth established in the early 1990s. These include compact development, mixed land uses, pedestrian-friendly urban designs, and protection of natural resources. But, at least partly as a response to the current economic crisis, economic development and social justice are now included in the U.S. sustainability platform. The case for economic development, however, is largely based on the purported cost savings of smart growth development, and social equity generally focuses on affordable housing and disparities in access to opportunity within metropolitan areas. At the federal level, there remains little political will to address spatial issues within specific sectors or regional imbalances in economic growth and prosperity. Instead, the sustainability agenda at the national level is largely designed to help local governments make more sustainable choices at the micro scale, not to address spatial issues that manifest themselves at the national level.

At the state level, compelling evidence of policy devolution cannot be found in all five case studies, but none offer evidence that the quiet revolution—in the growth of state-level planning—has gained momentum or is still under way. New Jersey, long the national leader in statewide planning, seems to have abandoned that role. In Maryland, the state development plan was severely crippled before it was fully established and faces a highly uncertain future. Oregon abandoned its efforts at state agency coordination in the 1980s, and California delegated responsibility for meeting greenhouse gas targets to metropolitan planning organizations (MPOs). Only Delaware, it seems, dares to launch and sustain statewide initiatives without fear of the political backlash that thwarts such efforts in other states. As David Callies stated in a retrospective on the quiet revolution over three decades ago:

With the hindsight of ten years, it is probably more accurate to characterize the “ancient regime” of local land use controls as having metamorphosed rather than having been overthrown. The trends toward home rule municipalities, local growth control, and strengthened local comprehensive planning, together with a host of new and more flexible local land use control techniques portend continuing increased local control. (Callies 1980, 148)

Another trend in the United States, although perhaps more aspirational than fully achieved, is the increasing role and prominence of MPOs, or what is sometimes called metropolitan regionalism (Fishman 2000; Knaap and Lewis 2012). The strongest example of this is found in California, which has assigned primary responsibility for addressing climate change to MPOs, albeit without giving them any degree of land use control. The California experience, along with examples from places like Portland, Oregon, and central Utah, also undergirds the federal government’s sustainable communities strategy (Knaap and Lewis 2012). By giving planning grants to consortia of organizations led by MPOs, the federal government is wagering that metropolitan areas around the nation will follow the example set by MPOs in California and establish new metropolitan planning regimes. That, perhaps, is the greatest U.S. planning experiment of the new millennium.

Another pervasive trend in the United States is the use of incentives, or targeted spending, by state and regional governments to influence the planning decisions of local governments. This is the policy strategy that underlies both California’s and the federal government’s focus on MPOs. If local governments in California do not follow their MPO’s sustainable communities plan, they will not receive state or federal funding for their desired transportation investments. The Maryland and Delaware planning systems are also highly dependent on the success of this strategy. Both states rely on locally chosen and state-approved place designations as targets of state spending: spending on conservation in designated conservation areas and on urban infrastructure in designated growth areas. Much is riding in the United States on the efficacy of this approach. Unfortunately, there is scant evidence that the approach will work. Indeed, considerable evidence suggests that it does not (Knaap 2008; Lewis and Knaap 2012; Lewis, Knaap, and Sohn 2009).

The final trend in U.S. planning and spatial policy is the substitution of metropolitan governance for metropolitan government.<sup>2</sup> This is a

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<sup>2</sup> Governance is a way to manage power and policy; government is an instrument to do so (Milcu 2011).

long-term trend that vividly illustrates the difficulty of institutional reform. Metropolitan areas in the United States are characterized by fragmented local governments, nearly all of which exercise land use authority granted by their states. States clearly have the authority to create metropolitan-wide governments, but the political obstacles are too great. As a result, most metropolitan areas have councils or other voluntary associations of governments. Most metropolitan areas have also established MPOs to receive federal funds for transportation planning and capital projects. This set the foundation for both the California climate strategy and the sustainable communities strategy of the federal government: provide funding and technical assistance to consortia or voluntary associations of governments as incentives for mutual cooperation. Again, the efficacy of this approach remains largely untested, but it is clear that planning and land use management in metropolitan areas of the United States will occur increasingly through voluntary governance processes.

### **Similarities and Differences**

The beginning of the 21st century brought a new set of challenges for planners in both Europe and the United States. On both sides of the Atlantic, partly as a result of the global economic and environmental crisis, much of the attention has turned to economic development and climate change. As a consequence, national governments in Europe and state agencies in the United States are focusing their activities on areas where their action is most needed, where achievements are more tangible and measurable, and where political barriers are least formidable. Despite declining engagement in land use and spatial planning, the U.S. federal government and the European Union remain quite influential. In Europe, EU directives are major channels of influence, all of which have legal standing and sanctions for noncompliance; in the United States, the influence comes via environmental laws (e.g., the Clean Air and Water Acts) and funding programs for transportation, community development, and housing. On both continents, national and state governments are affirming their influence, not by engaging directly in land use planning or regulation, but rather by discretionary use of their preemptive and enabling authority, and by providing incentives.

Incentives in the form of funding and spending requirements continue to be the most prevalent method of policy influence. This happens at two levels: from the superstructures (federal programs in the United States and EU structural funds, INTERREG, and ESPON programs in Europe) and from European nations and U.S. states through the funding (or cost sharing) of infrastructure and community development programs. Finally,

both the U.S. federal government and the EU realize that the intermediate (regional, provincial, and metropolitan) institutions can help provide a crucial link to local action. So, trends toward regionalization and less formal means of territorial (regional) governance appear to be occurring on both sides of the Atlantic. But there are important differences in these trends as well.

In the European nations, the movement toward regionalization is strengthening the role of provinces (The Netherlands), multicounty regions (Ireland), and large subnational entities (France). Further, planning in these regions tends to focus on large-scale sectoral plans, as in Denmark. In the United States, the movement toward regional planning is occurring primarily at the metropolitan level, and these plans largely focus on land use, transportation, and metropolitan growth management or sustainability. With the exception of transportation planning, very little sectoral planning takes place at the metropolitan level in the United States. In both the United States and Europe, however, regional planning must rely on informal associations, voluntary agreements, or territorial governance, not on the exercise of formal legal authority. Finally, in Europe, the regional focus is often ambiguously defined; in the United States, the regional focus is more clearly on metropolitan areas. On both sides of the Atlantic, however, governance is in; government is out.

Perhaps the major difference between plans and planning frameworks in the United States and Europe is the issue of scale. The primary challenge of the EU is to build a cohesive association of nations that make up the European continent. The European Spatial Development Perspective was developed primarily with that task in mind, hence the focus on territorial cohesion and territorial governance. Many nations that constitute the European Union developed ambitious national development plans in the reconstruction period following WWII. As those plans became less critical and as planning capacity grew at the local level, those planning tasks devolved to the regional and local levels. But because the fundamental fabric of urban form, the microscale issues of urban design (the focus of smart growth in the United States), were established before the automobile, these issues in Europe are far less pressing. As a result, much planning in Europe is focused on cross-border interrelationships and regional economic growth with strong development controls at the very local level.

### **Implications for Policy**

The policy implications of the contextual and structural changes in planning systems and practices at the national and subnational levels are very difficult to discern. If one takes as given that the quiet revolution in the

United States is over and that states and nation-states are instead devolving more responsibilities to local or regional governments, relying more heavily on economic incentives in place of regulations, and moving toward more informal forms of governance, what does that mean about the efficacy of planning in addressing climate change, economic competitiveness, social equity, and other challenges of the day? Unfortunately, the case studies offer very little evidence on which to base an answer to this question. In some cases, the changes in planning frameworks are too new to identify their impacts. In other cases, there is little information about the extent of progress on specific planning outcomes. In still others, the effects of planning structure on planning outcomes are too difficult to isolate.

The most comprehensive assessment of state planning systems in the United States (Ingram et al. 2009) finds that states tend to make progress only on those issues on which they expressly focus their efforts—urban containment in Oregon, affordable housing in New Jersey, concurrency in Florida—but it does not attempt to address the impacts of specific state policy frameworks. Across the Atlantic, Newman and Thornley (2002) suggest that in the 1990s, increased international competition and globalization and the Single European Act led to more cooperation among European nations and more involvement of the private sector, but they also required a “reappraisal of the traditional roles of nation-state” (3). Alterman (2001) suggests that the change in the role of national governments has been one of increased involvement in planning, regardless of the political ideology exercised by their respective administrative and power elites. While this finding seems contrary to our general conclusion about the apparent devolution of planning to subnational levels in the European nation-states included in this volume, her finding resonates with our observation that at the national levels, planning powers are retained or even strengthened in certain functional areas of strategic or immediate importance. Using a very different sample of nation-states, Cotella and Stead (2011) affirm the influence of the *ESDP* and European policies and directives on the Europeanization of planning, including the contents of national spatial plans and strategies. Like the case studies in this volume, however, none of these analyses of changing institutional planning structures offer much information about how changing institutional structures have changed planning outcomes, or whether these planning outcomes are better or worse in a normative sense.

In the absence of definitive research, only speculation is possible, but some concerns can be raised. In the United States, the Sustainable Communities initiative, based on the California model, has stimulated new conversations and has engaged new constituencies in discussions of metropolitan issues, especially climate change and social equity (Urban Institute

2012). As a result, new metropolitan-wide plans are being prepared to replace former plans that addressed little more than transportation investment priorities. In California, the state's Air Quality Resources Board may provide sufficient oversight and financial incentives to assure the implementation of those plans. In the metropolitan areas of other states, there is great uncertainty regarding what will happen when the federal planning grants are gone. The hope is that the conversations and voluntary agreements among local governments, regional agencies, and advocacy organizations will continue, but such hope has little basis in recent experience.

At the state level, the retrenchment of the New Jersey state plan and the difficulties in launching the Maryland state plan (as well as the demise of growth management in Florida, not addressed in this volume) should give pause to any governor who is considering launching a comprehensive planning effort at the state level—not that many are about to do so. The state plans in Delaware and Maryland are much less strategies for growth and development than they are spatial expressions of where targeted state spending will take place. Only Oregon, it seems, has established a framework in which the state works with local governments to coordinate both regulatory and incentive approaches, and the available evidence, though limited, suggests that this seems to work best (Ingram et al. 2009).

In Europe, the only constant is change as the European, EU, and national contexts continue to evolve, both institutionally and substantively. There is no doubt that European planning goals have influenced national and, in some cases, subnational planning. Despite its lack of explicit competence in spatial planning, the impact of the EU has been quite substantial and is clearly articulated in all the chapters on European nations. The *ESDP* and the Territorial Agendas are only two of several sources of influence. Others, such as the EU directives, policies (environmental, regional development, and cohesion policies, in particular), and programs (including INTERREG and structural funds), are perhaps even more potent. As most authors, including Faludi, conclude, the European process has had long-lasting effects: it has brought spatial issues to the table, stimulated debate, and fostered shared learning. But the diversity and complexity of contexts in which European planning takes place result in equally diverse local responses and solutions. The focus of the European level is on promoting common criteria (goals) to be reached and leaving the approaches to achieve these goals to individual nations rather than developing a blueprint to be followed.

At the nation-state level, the continued devolution of spatial planning to subnational levels and the abandonment of comprehensive, spatially explicit national visions and plans, has been coupled with a focus on issues that are considered to be national interests: economic competitiveness at



international scale, infrastructure, and climate change (or environmental issues). Spatial plans and visions are replaced by more pragmatic strategies and frameworks. The regional approach, based on legal mandates or cooperation, has gained a more prominent role for spatial and sectoral planning, implementation of national strategies, and bottom-up strategies alike. The outliers seen in England's localism and Ireland's reconsideration of the national and regional roles are only further indications of the general state of flux.

Perhaps the best way to examine the effectiveness of planning at all levels is monitoring and measurement, a growing practice on both sides of the Atlantic. In Europe at the EU level, ESPON, Eurostat, and the European Environmental Agency collect and disseminate data, but mostly at the regional scale;<sup>3</sup> at the national level, the practice is probably most prevalent in Denmark and The Netherlands. In the United States, Oregon and California both have set measurable goals for localities to use in their planning. Maryland also has extensive monitoring and reporting systems at the state and local levels. Recently, the U.S. EPA released the "Smart Locations Database," which contains over 90 variables at the census-block scale.<sup>4</sup> In part, this difference in data orientation between ESPON and the U.S. EPA illustrates the difference in scalar orientations between the U.S. federal government and the EU. At the EU, the focus tends to be regional and multinational; within the U.S. federal government, the focus tends to be metropolitan and submetropolitan.

In sum, the evidence from the selected states and nation-states suggests that institutional change continues to occur in the frameworks for planning across the Western world. In Europe, both the EU and many national governments are disengaging from land use planning and focusing instead on larger strategic and sectoral plans. In the United States, the quiet revolution is over, the revolutionaries have lost, and new planning systems feature more local control, more regionalism, and greater reliance on governance in place of government. In some ways, these trends could make planning more effective. Regional governments would seem better suited for implementing functional plans in Europe and for promoting metropolitan sustainability in the United States. Local governments are perhaps best suited for addressing local development issues. Perhaps for this reason, the commentaries from practitioners in this volume are

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<sup>3</sup> The EU provides extensive data on a variety of variables at the regional scale in geographic units called "Nomenclature of Territorial Units for Statistics," a geocode standard for referencing the subdivisions of countries for statistical purposes. See <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home>. See also EAA's Urban Atlas at: <http://www.eea.europa.eu/data-and-maps/data/urban-atlas>

<sup>4</sup> See [www.epa.gov/smartgrowth/smartlocationdatabase.htm](http://www.epa.gov/smartgrowth/smartlocationdatabase.htm)

consistent with this point of view. In other ways, however, devolution, economic incentives, and informal governance may make the complexities of plan implementation all the more challenging, which appears to be the general consensus of the planning academicians who wrote the chapters in this book. If so, it remains to be seen whether this newly evolving paradigm is up to the challenge.

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