



## **D4: PLANNING TOOLS AND REGULATORY INSTRUMENTS**

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<b>Work package 6</b>	Finding planning tools
<b>Deliverable</b>	D4
<b>Authors</b>	Rob Atkinson, David Williams, Andrew Tallon, Martijn van den Hurk, Tuna Tasan-Kok, Willem Korthals Altes, Maria Lucia Refinetti Rodrigues Martins, Alvaro Pereira
<b>Status</b>	Final version
<b>Date</b>	30 November, 2016

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*To be cited as: Atkinson, R., Williams, D., Tallon, A., Van den Hurk, M., Tasan-Kok, T., Korthals Altes, W., Refinetti Rodrigues Martins, M. L., and Pereira, A. (2016). Description of case studies. Bristol: University of the West of England.*

*This report has been put together by the authors, and revised on the basis of the valuable comments, suggestions, and contributions of all PARCOUR partners. This project is funded by the collaboration of research councils of FAPESP, ECRC, NWO. The views expressed in this report do not necessarily represent those of the funding organisations.*

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## 1 Introduction

The object of WP6, of which D4 is an outcome, was to find and identify planning tools and regulatory instruments in the nine case studies undertaken by the research teams in their respective countries (3 case studies per country). This will then feed into *WP7: Analysis of planning tools and regulatory instruments*. The process of identifying these planning tools and regulatory instruments included desk-based research of documents relevant to the national and regional contexts and the case studies and initial interviews with actors in the case study areas. They also relate to different levels (or scales) of governance: national, regional, local and case study levels. These planning tools and regulatory instruments were identified as being potentially relevant to public accountability and the public interest. However, at this point there was no attempt to assess the significance/role of these planning tools and regulatory instruments, this will be done during WP7 when the more detailed in-depth case work will be carried out. As a result it may be expected that some of those initially identified will be discarded as not being relevant to our case studies.

In what follows we present the justification and rationale for the ways in which the various planning tools and regulatory instruments were organised/categorised in each of the countries. This takes account of the different context specific nature of the case studies and the different national traditions in which they are situated. In WP7 respondents interviewed in the case studies will be able to help us formulate a general picture of how public accountability and public interest are understood in a specific national, regional, and local context and how the planning tools and regulatory instruments identified are relevant (or not) to the case studies.

Broadly speaking all three teams have followed a similar approach, albeit adapted to the specific national contexts in which they are carrying out the research. As a result, the country-specific sections (2, 3, and 4) have their own structure.

The actual planning tools and regulatory instruments are listed and briefly described in the tables in Annex 1. These tables represent the key output of WP6.

## 2 Planning tools and regulatory instruments in Brazil

The Brazilian regulatory map provides an overview of the macro-scale regulations related to urban redevelopment projects in the context of the Brazilian case studies of the PARCOUR project. The purpose of the map is not to identify the set of regulations that have been created specifically for the implementation of the redevelopment projects studied in PARCOUR, but rather to present the regulations of a general scope, which have been employed within them. Brazil is a three-level state, with governmental and legislative bodies at the federal, state (province) and municipal levels. Regulations and governmental initiatives related to urban redevelopment projects are spread through these different political and administrative scales. The set of devices gathered in the regulatory map comprises the relevant federal level regulations, as well as the state and municipal regulations applicable to our case studies (i.e. the State of São Paulo, the State of Rio de Janeiro, the City of São Paulo, and the City of Rio de Janeiro).

The regulatory background related to urban regeneration initiatives is constituted by a complex set of legal and policy devices of different types, scopes, levels of generality, and institutional scales. These projects are influenced by a range of legal provisions and other elements issued by governmental bodies, such as constitutional principles, laws, plans, local regulations, and policy guidance documents. An initial distinction could be made between devices of a more programmatic nature and others of a more instrumental nature. The first type devices revolve around the establishment of goals, principles, and concepts that exert influence over processes of urban regeneration. These *programmatic devices* can be directly targeted to urban regeneration, structuring lines of action in this field at different geographical scales, and also relate to them indirectly, establishing general principles of urban regulation that influence the way these initiatives appear within urban planning agendas. The *instrumental devices* revolve around the tools and instruments employed in the implementation of such initiatives. In a similar way, they can be specifically targeted to urban regeneration, as well as consist of instruments used for broader purposes. However, they assume a particularly relevant role in the realm of urban regeneration. Both the programmatic and instrumental devices are spread throughout different branches and territorial scales of the legal system and the State in the Brazilian context.

The regulatory map includes both programmatic and instrumental regulations of a general scope which have exerted a relevant role in the structuring of the urban interventions studied in PARCOUR. It depicts the main attributes of these regulations and summarises their connections with the theme of urban regeneration, providing a synthetic account of this regulatory framework. It comprises aspects such as the name of the regulation of concern, the administrative and geographical level, the date of issuance, the legal status, the general purpose, the promoting institution, and the relation with urban regeneration initiatives of this set of regulations.

Besides these macro-scale regulations, each of our case studies is the object of a set of specific municipal regulations that provide the delimitation of the project' area, its specific rules, its governance structure, and the main actions and works to be implemented in the area.

### 3 Planning tools and regulatory instruments in the Netherlands

#### *Finding regulatory instruments*

The Dutch spatial planning system is set by well-structured formal institutions based on legal frameworks that define the role of actors, tools, and regulatory instruments, such as property rights, as well as less tangible aspects of informal institutions based on levels of trust and historically embedded relations. The regulatory instruments have been found by conducting various intervals of online research. Almost every law/act, bye-law, and decree has been found by conducting a search query on the official website of the Dutch national government: <http://wetten.overheid.nl/zoeken>. This website contains a nearly complete database of the laws and regulations that either have been used in the past or are being used as we speak. We used a variety of search terms to gather as many relevant documents as possible ('spatial planning', 'planning', 'space', 'regeneration', 'heritage', 'brownfield', 'environment', 'nature', 'water', 'waste', and 'soil', to mention but a few terms). Furthermore, the database covers not only national regulation, but also provincial and municipal regulation, so we are confident that we have a solid overview of what has been laid down in laws and other forms of legislation and regulation in the country.

We checked the websites of ministries we deemed relevant to the subject(s) of analysis: the Ministry of Infrastructure and the Environment; the Ministry of the Interior and Kingdom Relations; the Ministry of Education, Culture and Science; the Ministry of Economic Affairs; and finally the Ministry of General Affairs. These websites were particularly useful in providing information on the more strategic forms of regulation we sought to retrieve, i.e. strategic guidance such as policy strategies and action programmes.

In addition to legislation/regulation and policy, we collected relevant reports from two key institutes that advise governments (at national, provincial, regional, and local level) on planning issues: the Netherlands Environment Assessment Agency (PBL) and the Council for the Environment and Infrastructure (Rli).

Finally, we searched the websites of the provinces that are relevant to our selected case studies (i.e. Utrecht, Limburg, and North Holland), regional bodies (e.g. Metropolitan Region Amsterdam, Randstad Region), and municipalities (i.e. Amersfoort, Maastricht, and Amsterdam) that are relevant to our research. In some cases we found additional legal documents that we had not found on the official website of the Dutch national government. Furthermore, this final part of our search process led us to the more concrete documents in terms of local policy and projects, for instance land-use plans, regional plans, provincial and municipal planning strategies. The documents we found show great variety in terms of their focus (from abstract or general to concrete or narrow), time dimension (from short-term-oriented to long-term-oriented) and 'rigidity' (from loose memoranda on ambition to strict planning briefs).

#### *Structuring the regulatory map*

As we structured the regulatory map of the Netherlands, we largely followed the structure used by the English team, with some minor additions and/or revisions. Similar to the tables on England, the tables on the Netherlands provide the details of relevant legislation, regulation, and guidance relating to planning, heritage, and the environment (which includes pollution, air, smoke, waste, habitats, water, and energy). The Dutch tables are not complete in that we have excluded documents that are usually published or announced together with or soon after acts have been adopted. Dutch acts usually come with decrees and ministerial orders which explain how these new acts are to be implemented—in a way they can be considered a sort of specific

guidance. We have listed these decrees (16) and ministerial orders (5) in an extended regulatory map. We did not incorporate them in Annex 1 as that would have complicated the picture.

The table on Dutch ‘Strategic Guidance’ contains a list of guiding documents relevant to the national government that have either been provided by national government departments as part of the implementation of a law or a specific policy strategy, or by institutes that serve as advisors to governments (PBL and Rli). As in England, these types of documents are not mandatory, but advisory. National Policy Reports have long been some of the most important strategic guidance documents. These documents used to be published periodically and set the national spatial planning agenda for the future. Since the adoption of the Spatial planning act in 2008 these National Policy Reports are no longer used. Instead, national, provincial, and local governments are obliged to present their plans in Structural Vision Reports for the respective jurisdictions. They can also publish Structural Vision Reports focused on a specific theme, but this is not mandatory. Each Structural Vision Reports we found has been listed—i.e. ‘Strategic Guidance’ for national reports, ‘Provincial/Regional Documents’ for provincial and regional reports, and ‘Local Documents’ for municipal reports). This means that each table on the Netherlands lists one or more Structural Vision Reports—except for the Legislation table, which only contains mandatory documents.

Relatively few mandatory regulations exist at provincial and regional levels. There are a couple of relevant bye-laws, which we have included in the table on ‘Provincial/Regional Documents’.

The local level is by far the most important government level when it comes to spatial planning. This is due to the decentralised nature of Dutch planning legislation and regulation. Every municipality has one or more land-use plans and bye-laws, both of which are mandatory documents. At the very local level we also find the specific master plans and ambition documents of the projects that we are analysing in depth within the PARCOUR research.

## 4 Planning tools and regulatory instruments in England

What follows is an explanation of the initial regulatory map for the English case studies carried out as part of PARCOUR. The basis of the post 1945 UK planning system is the Town and Country Planning Act, 1947, however this has been supplemented and amended by a host of subsequent pieces of legislation, circulars and other associated guidance. However, the most relevant ‘foundational’ piece of planning legislation for our case studies is the Town and Country Planning Act, 1990. However, as we discovered when carrying out desk-based research and initial interviews other forms of legislation related to heritage (e.g. presence of listed buildings) and environmental issues (e.g. flooding) were also relevant to our case studies. In addition to Acts of Parliament there has also been an array of forms of *guidance* from central government ranging from general strategic guidance to more specific ‘technical’ forms of guidance. However, much of this ‘guidance’ is not legally binding and is there to assist local authorities, in other words it is not prescriptive and they are at liberty to disregard it. The Planning and Compulsory Purchase Act 2004, did however state that Planning Policy Statements (PPS) would be considered before planning would be granted. This remained in place until 2012 when the UK Government introduced the National Planning Policy Framework (NPPF) to replace all existing PPSs.

In addition to the above during much of the relevant period of our case studies a regional level of government was in existence in England – this was the Regional Development Agencies (RDAs) and associated Regional Assemblies (RA) as well as the longer established Government Offices of the Region (GoR). In our case studies the relevant RDA was the South West of England Regional Development Agency (SWRDA), set up in 1999 and abolished in 2012, and the South West Regional Assembly (SWRA), which was set up in 2000 and abolished in 2009. Perhaps the most relevant document the SWRDA issued during the case study period was the Regional Economic Strategy. As for the SWRA its most relevant document was the Regional Spatial Strategy for the South West. Neither document was legally binding, although local authorities were required to take the Regional Economic Strategy into account in their Local Development Frameworks/Plans until the abolition of the RDAs.

Following on from the abolition of RDAs they were replaced by Local Enterprise Partnerships (LEPs), voluntary partnerships between local authorities and businesses at the sub-regional level. Unlike RDAs they lacked funding and land holdings and have been described as ‘bidding vehicles’ for Government funding.

In addition various strategic documents were produced by each local authority in terms of Local Development Plans and design guidance to steer and aid development and to inform developers of what was considered acceptable by the local authority. This type of document has been revised/updated during the period of our case studies by the relevant local authority.

For presentational purposes and for ease of access/comprehension we have organised the various planning tools and regulatory instruments in the following way:

- Legislation
- Strategic Guidance
- Specific Guidance
- Regional Documents
- Local Documents/Bye-laws



The above can be found in Annex 1. The attentive reader will note there are a considerable number of documents listed and we expect this list to be considerably reduced as the case study work progresses and the relevance, or not, of each document is established.

## 5 Conclusion

What is presented in the tables in Annex 1 is a comprehensive list of regulatory tools and instruments that may be relevant to the public interest and accountability in the PARCOUR research project. They represent the outcome of extensive desk-based research on documents published at national, regional, and local levels as well as initial interviews with participants in our case study areas. The relative significance, or otherwise, of these various regulatory tools and instruments will be established during the course of our next stage of intensive fieldwork in the case study areas and it is reasonable to expect that a number of them will be discarded as not relevant based on this fieldwork.