



The involvement of consultants in the dutch planning system

Briefing paper for the Audit Commission

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Introduction

The use of private sector planning consultants is widespread in the Netherlands. They participate in spatial planning activities, and increasingly in environmental planning and other specialised areas. There are particular reasons for this, partly arising out of the organisation of public sector planning, and partly due to an increase in the role of the market in public activity in the Netherlands. Although a view prevails that planning is highly state controlled or municipalized, (Needham, 2004) anecdotal evidence points to the use of consultants by local authorities at regional and local levels for at least thirty five years now (website of BRO). This paper provides a brief overview of some of these activities, based upon personal knowledge of living and working in the Netherlands, a short questionnaire of public and private sector employers, and interviews with a small sample of employers. Literature on the subject is scarce, and there has not been much research on this topic, which is strange, because the consultants increasingly influence the policy agenda.

The Dutch planning system

The nature of planning and plan-making in the Netherlands encourages the use of consultants to assist the public sector in addressing a capacity gap. There are three administrative levels, each charged with plan-making – national, provincial and local, producing respectively the national spatial planning policy, (nota over de ruimtelijke ordening), the regional spatial plan (streekplan), and the local land use plan (bestemmingsplan). There are additional types of plans which fit in between the main ones, and it is also possible for municipalities to join together to produce strategic policy guidelines (structuurplannen) (VROM, 1996), including city/urban regions (such as KAN - Arnhem-Nijmegen). It is argued (van der Valk, 2002) that there is a proliferation of plans, citing for example, some 250 different plans for the province of North Holland.

There are 12 provinces, and 467 municipalities, the latter with widely varying populations ranging from 933 in the smallest (Schiermonnikoog) to 702,444 in Amsterdam, the largest (Nederland Centraal Bureau voor de Statistiek, 2005). It is at the municipal level that the capacity gap is greatest. Each municipality is charged with producing bestemmingsplannen, which are legally binding land use plans, and which form the basis for decision making on developments. Bestemmingsplannen can cover an area of any size, mostly existing but needing to be updated for established areas, and produced for new areas of development, and include details of land uses, layout, height, density, design, landscape, water, infrastructure and services etc. They form the basis for 'development control', and also provide a legal basis for contributions to public services (i.e. a type of planning obligation), compensation and compulsory purchase (VROM, 1996).

In Nijmegen, a town of a population of 150,000, there already exist 600 bestemmingsplannen (Needham, 2004). In the nationally designated KAN housing expansion area between Arnhem and Nijmegen, 12,000 houses are proposed, for

which 12 bestemmingsplannen have already been produced, and with no exact size specified for the remaining, many more plans will be made just prior to the next phase of building. No development can occur until the bestemmingsplan is produced. A small municipality is unlikely to have the capacity to prepare such plans to meet demand, and as a general trend, the number of employees in municipalities is decreasing (OECD, 1997). It becomes difficult for municipalities to keep existing bestemmingsplannen up to date, and procedures exist (Article 19 of Spatial Planning Act 1965) for granting exemptions to allow development to go ahead, but these are lengthy and time-consuming for the local authority. The 1965 Act is currently being reviewed (with similar objectives to the reform of the English planning system), a central aim being to speed up the planning system, make it less complicated, and ensure that the physical plans are kept up to date. On the one hand, municipalities are being given more power to produce their own bestemmingsplannen, but they will be obliged - under the threat of sanctions - to bring their land use plans in line with regional plans within a prescribed period (VROM, 2005), thus increasing the plan-making burden, especially on smaller authorities.

The use of consultants

Consultants are used for a wide range of functions, and have been for a number of years, as evidenced by, for example, BRO, a consultancy with long experience over 35 years of public sector work, and knowledge of the municipality of Apeldoorn (160,000 inhabitants) where consultants were used in 1970. Municipal employees have been decreasing in number since the 1970s, partly due to the rise of the private sector in the Netherlands. It has been suggested that this also coincided with a perceived dissatisfaction in planning by local chambers of commerce, who may have held the view that that civil service workers were not objective enough to carry out some tasks. It is widely held that small municipalities do not have enough capacity and knowledge about certain subjects (e.g. gemeente Someren), nor the necessary skills (e.g. urban region Arnhem-Nijmegen), verified by various consultants who also suggest that objectivity may be an issue. Consultants appear to be used less in the provincial authorities than in the municipalities, but there is evidence that they are important in producing plans for the new (nationally planned) urban extensions throughout the Netherlands.

Consultants consider that they have more knowledge than many local authorities, especially in specialist areas, and that they can work more effectively and efficiently to time deadlines, offering independent advice. Price is becoming all-important, with speed, reliability and quality offered by consultants, with emerging evidence of penalties if work is not completed to time. It is considered that it may be cheaper to hire consultants, avoiding the necessity for small municipalities to employ a permanent workforce, but the costs and benefits are under debate. It may be that consultants controversially increase the total costs of a project, although the only examples of this relate to the use of consultants in PPP projects (NRC, 2002), of which there are a growing number in the Netherlands (see for example Koppenjan, 2005).

Government bodies are obliged to invite three firms to tender for the work to be carried out, and a local authority must satisfy itself that it has to be really necessary to involve them; they need to have enough proven expertise; and (for some municipalities), local knowledge. The extent to which the latter is true may be

questionable, as some large consultancies carry out plan-making throughout the Netherlands (such as BRO, for example), and some smaller ones who specialise in the preparation of bestemmingsplannen.

Functions performed by consultants

Consultants are employed to perform a variety of functions. In addition to plan-making at both provincial and municipal levels, they also assist with decision making in granting building permits, Article 19 procedures (exemptions), and specialised sectoral work. There is a view from consultants that they are being asked to do more and more, and are no longer confined to merely writing the physical aspects of the land use plan. In being employed to write plans, consultants might now be expected to study the plan area and the existing policies, identify the problems, formulate goals, develop alternatives and produce the final plan, including building support for the process, holding talks with stakeholders and public participation. The consultant may have to test the plans financially, and usually works closely with the municipal planners. It is common to employ design advice, and in the case of Apeldoorn as early as the 1970s, consultants were employed for retail, environmental planning, and traffic expertise. BRO, considered to be one of the market leaders in work for the public sector, is currently offering leisure advice to a number of cities and towns, including Amsterdam, Utrecht, Groningen, Arnhem, Leiden, Apeldoorn, Tilburg, Amersfoort and Apeldoorn. In addition, this consultancy has worked on neighbourhood plans for Enschede and Maastricht. In the province of Gelderland, they had sufficient capacity to write the streekplan, but needed to employ consultants to perform the Strategic Environmental Assessment.

The most common use of consultants is in the writing of bestemmingsplannen, many of whom specialise in this, it being bread and butter for small consultancies. One consultant remarked that the approach to plan-making often depended upon the individual acting as the client, citing a case of one municipality where one planner insisted on many amendments so that the plan took at least a year to produce, while in the same authority, another planner approved the outcomes in a matter of months. In all cases, it appears that every municipality operates with its consultants differently, some using strict frameworks for guidance, others giving consultants more freedom. Once a bestemmingsplan is in place, development has to occur in compliance with the plan, and building permits are granted, a process which consultants also assist with. In addition, because of the need to introduce some flexibility into the rigid legally-binding bestemmingsplannen, consultants also assist the municipality to process the Article 19 exemptions permits, requiring the creation of a sound evidence base.

In one case (gemeente Someren) we heard of the use of consultants to present 'unpopular measures', where a consultant has now been asked to lead a controversial project, hoping for quicker results. Similarly, in Apeldoorn, consultants were used for advocacy planning, especially in urban renewal areas.

Issues raised by the employment of consultants

There are clearly some issues in employing consultants, with all parties willing to critically appraise the role they play. Typically, some municipalities suggest that consultants have an eye for creating extra work (and hence fees), but consultants

blame insecurity of inexperience, poor briefing, additional requests part way through a project, and frameworks that are too tight. It is said that some consultants may not work very co-operatively with the municipality, or that they may have their own views about the outcomes which are in conflict with the civil servants, and inevitably with the local politicians.

Paucity of local knowledge is cited as a problem, especially where consultants are considered to be producing standard solutions not tailored to the particular area. Meeting deadlines seems to be a problem for both sides, who acknowledge delays in delivering data and information, along with relationships with individuals (already alluded to above). No examples of vested interests were uncovered in the small survey, and this was not identified as a problem.

Conclusions

There is clearly widespread acceptance of the practice of employing consultants, at all levels in the public sector in the Netherlands. Different authorities adopt different approaches to it, often setting their own rules and conditions, but even within authorities, different individuals can adopt a particular approach. Municipalities (gemeenten) are more likely than provinces to have a capacity gap in planning, especially in the smaller authorities. This is partly due to the nature of plan-making in the Netherlands, where local land use plans or bestemmingsplannen are legally binding, require frequent updating, and can be prolific. Provinces are more likely to buy in specialist advice, rather than employing consultants to create their regional plans, but the proliferation of plans in the Netherlands produces the need for assistance at all levels. Opinion remains divided about the costs and benefits of this activity, but for small municipalities it may be cheaper to hire consultants than to employ a permanent workforce. There are some tensions in the employment of consultants, especially where local knowledge is considered to be required, but to date, vested interests do not seem to be causing problems. This may be due to the fact that there are consultants who specialise in public sector work, who may not need to pursue other clients.

To date, the consensual style of planning for which the Netherlands is known (Faludi and van der Valk, 1994), may have brought about an understanding of how development should proceed, making the production of plans for municipalities a relatively easy task. Consultants were employed to draw up land use plans, in accordance with common objectives. Now, there is increasing evidence of consultants being used for earlier stages of plan-making, including setting goals in conjunction with stakeholders, and putting forward controversial solutions. It is suggested that decision making is becoming more difficult (van der Valk, 2002), requiring integration between branches of government concerned with environmental planning, transportation and water management resulting in long negotiations and delayed and complex system where plans carry less weight (Needham, 2004). Under the proposals in the new draft spatial planning act, the bestemmingsplan will become stronger and more important, requiring municipalities to make land use plans for the whole of their area, and update them at least every 10 years, after which they will lose their legal force (Needham, 2004).

The practice of employing consultants seems unlikely to abate in the near future. Despite attempts to reduce the number of municipalities in the Netherlands, there

remain many small authorities who will continue to need support in plan-making and other procedures from the private sector. The role of consultants is likely to intensify, especially with the interpretation and implementation of the new Dutch spatial planning act; increased integration between authorities (eg urban regions); the huge demands placed upon municipalities in planning for the new urban extensions; interpretation of European directives such as the Water Directive; and the need for Strategic Environmental Assessment.

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Appendix 1 : An Illustration : The KAN urban region

Developing a regional structure plan

The urban region Arnhem-Nijmegen (or KAN as it is known) was founded in 1994 and it is a co-operation between 20 municipalities. It shares responsibility with the municipalities for developing policies at regional level in spatial planning, public housing, economic development and transport. It has several legal responsibilities in these areas that other levels of government do not have. The region covers an important part of the province of Gelderland, where a large urban extension is proposed to be built - one of the so-called VINEX locations allocated in the Fourth National Policy Document on Spatial Planning.

The KAN structure is made up of three executive agencies: the KAN Council, the Executive Committee and the Advisory Committees. The KAN Council has a total of 37 members, who are appointed by and from the councils of the three Advisory Committees. The Executive Committee, responsible for the day-to-day management, has a chair and up to four other members (KAN, 2002). The KAN Project Office is the KAN's operational arm and it has about 22 full time employees, which makes it a small organization in comparison with the Dutch provinces.

In spatial planning, the KAN pays considerable attention to the themes of living, working and nature. The Regional Structure Plan (RSP) is the central pillar of this policy area. It integrates the regional plans in the other policy areas and provides a framework for the implementation of regional projects such as sites for housing, business parks, infrastructure, landscape and recreation projects. It is a deliberate strategy of the KAN to involve consultants in plan-making. In general, consultants are considered to be experts who work efficiently and effectively. The KAN maintains that it is cheaper to hire a consultant for a short term contract rather than employ a new civil servant for years.

The KAN is currently developing a new RSP. The project organization consists of:

1. a project leader who co-ordinates the process and content of the plan;
2. a managerial steering group who manage the creation of the plan. This group consists of the chair of the KAN and some politicians from the municipalities;
3. a project group in which civil servants of different authorities are discussing the RSP;
4. a project secretary who co-ordinates project and its activities.

The KAN has employed a consultancy firm for the actual development of the plan. This firm plays an important role concerning the process and content. They discuss ideas with politicians and civil servants, attend consultation meetings, write the plan and create the maps. However, there were other consultancy firms involved in earlier stages. An important issue in the plan is the creation of Regiorail and the developments of centres around the transport nodes. This is a complicated challenge and two consultancy firms were asked to advise about these matters.

The role of the civil servant in this was to make sure that the right issues were addressed, that the two studies were connected, that important stakeholders were involved and that the plan was presented and discussed in the political arena. This

meant considerable organisation, while others explored the questions in-depth. This method of approach draws parallels with that advocated by Bertolini et al (2005) who suggest that the role of the civil servant is to link the politicians (who make decisions) and professionals (who deliver content); to translate problems into visions and goals; concepts into development strategies; plans into development programmes and budgets and projects into implementation. This is what happened in the KAN area.

An interesting exercise would be to compare the plans produced by KAN with those produced by the province of Gelderland, which were recently published. The province has more capacity and skills to develop a plan, so it is not as dependent on consultants for plan-making as the much smaller KAN-authority.

From Ruinous Competition to Joint Development and Procurement of Planning Services

New forms of cooperation between local authorities

BY BIRKMANN, GLEISENSTEIN, PETZINGER

1) Introduction and Focus

The paper shows through the analysis of selected examples of cooperation between municipalities new trends in local cooperation for spatial development strategies and joint procurement of planning services. Germany has a highly developed planning system which is closely linked to the governance structure, which means it corresponds with the three levels of governance in Germany: the Federation (Bund), the States (Bundesländer) and the municipalities (local level). Regarding regional cooperation of municipalities and regional planning in Germany, one has to take into account the fact that what a region is and how regional planning is institutionalized is defined by the planning legislation of each state. Hence, there are different types of regional planning in terms of scope and structure (see Turowski 2002). Although the Federal Regional Planning Act (1998) defines sustainable spatial development as the guiding vision for spatial planning so as to achieve a balance between the social and economic demands made on the land, on the one hand, and its ecological functions on the other (see ROG 1998), an increasing competition between municipalities has revealed inappropriate and unsustainable development patterns in the last decades. The socio-economic fragmentation through suburbanisation of inhabitants and jobs and an increasingly unequal sharing of burdens and advantages between central cities and surrounding municipalities are symptoms of these unsustainable patterns (see e.g. Birkmann 2004). Since the number of inhabitants living in and the number of companies producing in the municipality are important indicators for the tax income of the municipality, competition has been increasing continuously between municipalities and neighbouring cities. Cooperation between municipalities, such as the joint procurement of planning services, is still more the exception rather than the rule. Very often urban agglomerations lack a broader and in-depth cooperation between the central city or cities and the surrounding municipalities. Already at the beginning of the 90s after the re-unification of Germany, a working group of the Academy for Spatial Research in Germany underlined the fact that it is important to review traditional planning instruments at the regional level critically and to promote the application of additional tools for strengthening inner regional cooperation (see Kistenmacher, Fürst, Eberle et al. 1995).

In Germany, where about 13.000 municipalities (Statistik regional, 2002) can rely on their right of self-governance, the regional context has often been ignored. Due to

increasing European and international competition, the decline of public budgets especially at the local level and the degradation of open space in and around urban agglomerations, the necessity of a broader (especially regional) development strategy has become obvious. However, the number of new forms of local-local cooperation is still limited. The following paper will focus on three examples of new cooperation between municipalities especially regarding the joint procurement of planning services, joint planning tools and joint development strategies.

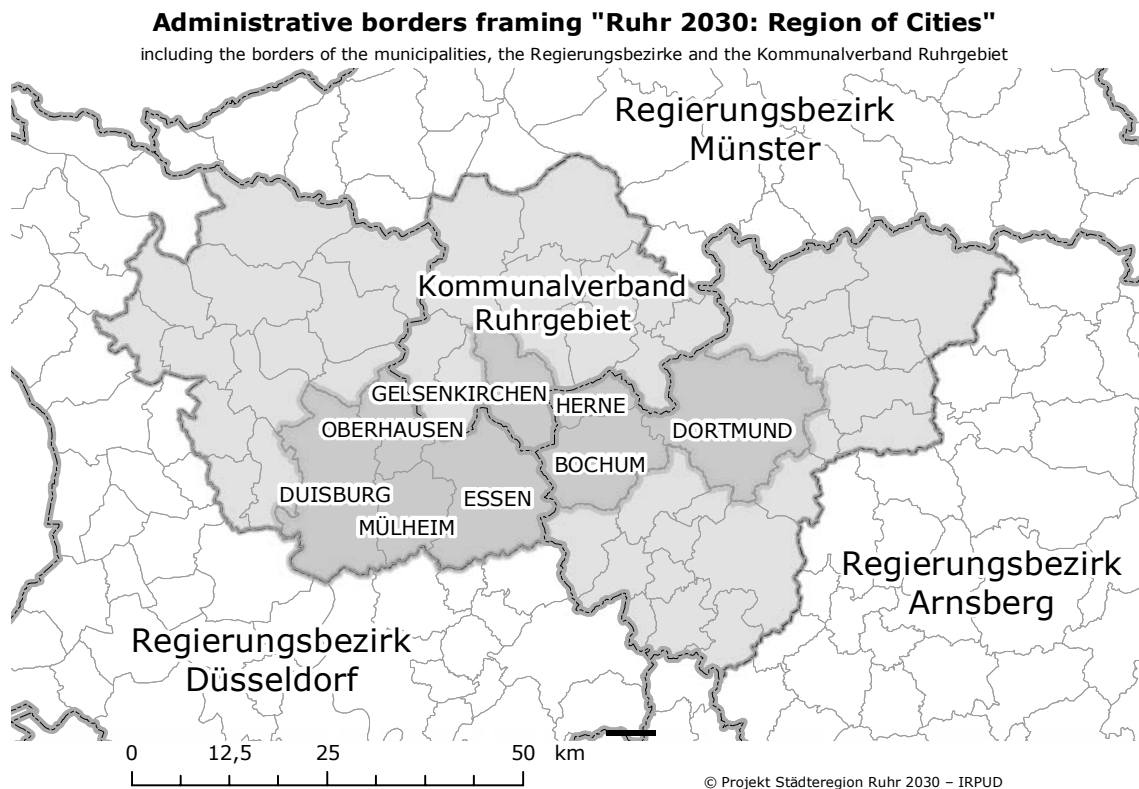
The first example deals with the initiative “Ruhr 2030” in which 8 cities of the Ruhr Area with about 3 million inhabitants started a process of closer cooperation regarding spatial and municipal development. Interestingly the 8 cities represent the core of the urban agglomeration of the Ruhr Area, which was and is affected by a continuous decline of jobs and population. Therefore the necessity for stronger local cooperation is a key issue of future development. The second and third case study of the Hannover Region and the Stuttgart Region show cooperation between local municipalities within an institutionalized framework of a new regional planning association. These are good examples of how former competitors have become close partners in spatial and municipal development, including the definition of development strategies and the joint procurement of planning services.

2) “RUHR 2030” – the flexible network

Until 2000 the Ruhr Area was a good example of a region that was governed and administered “from above” and “from the outside” and there was too much competition had grown up between the cities “from below” (see Davy 2004, p.27f.). The 8 cities of the core metropolitan area of the Ruhr are divided by several administrative borders, so while for example the city of Dortmund and the city of Bochum belong to the district of the regional planning authority of Arnsberg, the city of Gelsenkirchen belongs to the regional planning district of Muenster and the cities Essen and Duisburg belong to the regional planning district of Duesseldorf (see figure 1). However, the core cities of the Ruhr Area are often exposed to similar problems. Due to the structural change of the former coal and steel dependent industry of the Ruhr Area, demographic change and the suburbanisation process, the central cities of the Ruhr Area loose thousands of their inhabitants and jobs every year. Moreover, governmental financial support for these cities has declined in recent years. Within this context the necessity for closer cooperation and the development of common ground for future regional development has emerged. In order to widen the municipal perception to the regional context and to stimulate local – local cooperation, various programmes were initiated with limited success. However, in the summer of 2000 the Federal Ministry of Education and Research (BMBF) launched a research project called “City 2030” in which 100 German cities participated and 21 joint research projects were selected (see Goeschel 2003a, 2003b). Within this context 8 core cities of the Ruhr Area (Duisburg, Mülheim upon Ruhr, Oberhausen, Essen, Gelsenkirchen, Herne, Bochum, Dortmund [see figure 1]) with a total number of about 3 million inhabitants, started a process of future cooperation with the development of long-term visions for their region. This project “Ruhr 2030”, was scientifically supported by the Department of Spatial Planning at the University of Dortmund. Instead of focussing on single projects as the basis of cooperation, the initiative aimed at developing a vision for the core metropolitan area of the Ruhr Area,

including long-term goals and development principles. In this context the partnership was guided by its slogan, “cooperation and autonomy.”

Figure 1: Map of the 8 cities of the Ruhr Area in the cooperation project Ruhr 2030



Source: Schulze Baeing, Janzen 2004

In contrast to other forms of cooperation between two or more municipalities, which often results in the creation of a new administrative body, the project “Ruhr 2030” did not change administrative responsibilities or administrative boundaries. The cooperation was developed through the discussion of a vision for the Ruhr Area and a regional contract, that means the structure of the cooperation among the 8 cities remained flexible (see Davy 2002b). The joint development of long-term visions of former competitors included

- images of desirable future development, which help identify zones of mutually profitable cooperation,
- a consensus on the rules of regional cooperation, and
- the preparation of joint imaginative projects (see Bremer / Petzinger 2001)

In contrast to a cooperation based on single projects, Ruhr 2030 explored the economic, social and cultural borders in order to encourage the best use of the “energy of difference” (see Davy 2004, p. 160f.). Differences and the various strengths and competences of the cities were a basis for the exploration and for the definition of a common basis for long term cooperation in the future. From November 2001 to April 2003 the members of the political, administrative, economic, academic, and

local communities discussed their visions for “Ruhr 2030”. One of the major results of the cooperation dialog was the agreement on a regional contract by seven of the eight cities participated in the project. In June 2003 the mayors of seven of the eight cities signed the “*Regional Contract 2030*”:

“The eight cities Duisburg, Mülheim upon Ruhr, Oberhausen, Essen, Gelsenkirchen, Herne, Bochum and Dortmund constitute the Städteregion Ruhr 2030. They cooperate autonomously with the aim to strengthen the attractiveness and the self-confidence of the region and to improve the competitiveness towards other metropolitan regions. In doing so the principles of sustainable development and polycentrality have to be considered. The cooperation is open for other municipalities and further regional actors.

Article 1: The implementation is realized by projects.

Article 2: They have to comply with the principles/fundamentals named above.

Article 3: The implementation will be regulated by enforcement treaties.

Article 4: The eight cities will create structures for a permanent cooperation.

Article 5: Spheres of activity for the first projects are:

- (1) master-plan;*
- (2) budget consolidation by inter-municipal cooperation of administration;*
- (3) development of inter-municipal commercial areas;*
- (4) active regional migration policy;*
- (5) new watersides in the Ruhr;*
- (6) green tourism in the Ruhr Valley. (....)”*
- (7) joint land-use plan for the Ruhr*

(Regional Contract 2030 translated by Schulze Baeing, Janzen 2004)

The signatories to the treaty emphasise the importance of their autonomy deriving from their right of self-governance. However, they did not sign instead of their autonomy but because of their autonomy. The treaty underlines the fact that the cities view local-local cooperation as an inside-outside relationship (see Davy 2004, p. 174f.). Through the process and the treaty the 8 core cities of the Ruhr area acknowledging the fact that the competition is not just taking place between the different municipalities of the Ruhr district, rather the municipalities are competing as a region with other conurbations. The regional contract shows that the signatories declared themselves to a federal urban landscape that needs to be framed by a strong regional profile. However, the cooperation of the 8 cities goes beyond the declaration. The 8 cities developed the idea to create and started already to work out a common *masterplan* for the region (see Davy / Petzinger 2004). The masterplan should encompass various thematic areas, such as housing, ecological transformation and re-creation of landscape. With the development of a joint plan for the region – the masterplan – it is intended to provide guidelines for e.g. urban-land use plans at the local level and local landscape planning tools. Furthermore, it is stressed that such an informal plan offers the opportunity to bring together different actors and stakeholders in the region from the public and private spheres that may

finally be able to implement parts of the plan. For example regional housing associations may be involved in working out concepts for new and innovative housing in the region, following common design and quality principles. However it is not yet clear how the masterplan for a various topics and for the whole region could look like.

3) Institutionalized cooperation: Hannover and Stuttgart Region

The best known examples of institutionalized regional cooperation and joint procurement of local planning services are the region of Frankfurt am Main, the region of Stuttgart and the region of Hannover. These regions comprise mainly the metropolitan center, such as the city of Hannover or the city of Stuttgart, and the surrounding municipalities. The institutionalized regional cooperation in the Hannover Region and in the Stuttgart Region is selected to illustrate the joint procurement of planning services and the mechanism of municipal cooperation.

3.1) Hannover Region

The “Hannover Region” was established in 2001 as a regional territorial corporation, consisting of the capital of Lower Saxony (515.000 inhabitants) and 20 surrounding municipalities (the former district of Hannover). The new “Hannover Region” is based on the former regional structures, the so called Local Association of the Greater Metropolitan Area of Hannover (Kommunalverband Großraum Hannover (KGH)). It is the legal successor of KGH and the former district of Hannover (see Frohner 2003 and website region-hannover b)). The Hannover Region encompasses an area of 2,290 km² with about 1.1 million inhabitants. It is the administrative heart of Lower Saxony and an important economic centre. 15% of the total population of Lower Saxony lives in this region, producing 20 % of the GDP of the federal state of Lower Saxony (see webpage region-hannover a))

The establishment of the “new region of Hannover” was a result of a discussion which started as early as in 1996. One of the outcomes of the dialog was the formulation of four goals, which serve as measures of success of the cooperation between the different municipalities in the region of Hannover.

In this context the Hannover Region is intended to be a “European region”, which means strengthening its position within the competition of European regions. Secondly the region should be a “region of solidarity”, that implies promoting the common sharing of burdens and advantages between the core city (Hannover) and the surrounding municipalities, which had already begun in the Local Association of the Greater Metropolitan Area of Hannover. Instances of this common sharing of burdens and advantages were for example joint investments and the common financing of the zoo. Moreover, the new Hannover Region is to use natural resources in a sustainable manner and reduce the conversion of ecologically active land into settlement area, in order to be a “sustainable region”. Fourthly the region of Hannover should be a “citizen friendly region”, which implies accelerating administrative processes and promoting more transparency of administrative activities and services (see Frohner 2003). Particularly the last goal was seen as

important in achieving a broader acceptance of the regional institutions by the people. Based on these goals the main features of a successful regional cooperation are:

- creating a common basis of regional policies,
- strengthening interregional fairness regarding burdens and advantages,
- shifting tasks to a lower level while one administrative level is dissolved (see Frohner 2003)

Institutionalization

The region of Hannover consists of a regional assembly, which has 84 members, and the president of the region. The members of the regional assembly are elected directly by the citizens at the local elections. The president of the region is also elected directly by the citizens. The president of the region is the political head of the region and the head of the administration (see Frohner 2003 and website region-hannover b)).

In contrast to the traditional regional planning authority the new Hannover Region has extended responsibilities, especially with regard to social affairs, public transport and the promotion of employment. That means the “Hannover Region” is responsible for the procurement of the following public services and planning tasks:

- Public transport: organization, coordination and planning of public transport (regional trains, metro, tram and busses).
- Regional economic development, which includes the promotion of employment based on a large number of public or public-private companies, such as the technology centre and tourism association.
- Regional planning, in all its aspects and the development of regional strategies. The region of Hannover reviews and approves the municipal land-use plans and urban-zoning plans. In this regard the region facilitates several discussions between various stakeholders in the region regarding the future development of the region and specific projects.
- Finally the Hannover Region has responsibility for social, educational and medical services and infrastructures such as schools and hospitals as well as for waste recycling and other tasks, which are defined by law (see law of the region (Regionsgesetz) § 8+9).

3.2) Stuttgart Region

The region of Stuttgart was one of the first regions in Germany to give itself a new structure to fulfil planning tasks in a new fashion. About 2.6 million people live in the region of Stuttgart. The region encompasses the city of Stuttgart (600.000 inhabitants), which is the capital of state of the Baden-Württemberg, and five surrounding districts encompassing 179 municipalities. It is one of the strongest economic regions in Germany, with headquarters of major companies such as Daimler-Chrysler. However, the region of Stuttgart is also facing problems which can not be solved adequately by one local municipality alone. Increasing economic competition, suburbanisation processes including urban sprawl and increasing problems of transportation in the region, due to a great increase in the number of commuters from suburban areas to the central city, as well as the decline of public

budgets have underlined the necessity for a new structure of regional cooperation between municipalities in the region of Stuttgart.

The “Stuttgart Region” was established 1994. The institutional structure consists of a regional assembly which is the highest organ, the chairman of the general assembly, and the director of the region. The 93 members of the general assembly of the region of Stuttgart are elected directly every five years. The chairman is elected by the regional assembly. The regional director (Regionaldirektor) is the head of the administration. He is elected by the assembly for eight years (see Vallée 2003)

The establishment of the region of Stuttgart is intended to promote new procedures of cooperation between the municipalities and a new regional management of different planning tasks. The tasks of the region are defined by the law of the land of Baden-Württemberg (see Verbandsgesetz) and encompass the following key subjects:

- Economy:
Strengthening the regional economic potential including tourism marketing.
- Transport and mobility:
Responsibility for key areas of the regional public transport system and the planning of regional transport services.
- Settlement and infrastructure:
Regional planning and infrastructure planning (concentration of areas for housing, work and public transport).
- Environment:
e.g. strategies to implement a regional landscape park and regional waste management.
- Culture and sports:
Coordination and organization of important cultural and sports events.
- Trade fairs:
Coordination and organization of fairs of regional importance.
(see Verbandsgesetz §3, Vallée 2003)

As well as the development of planning services in the Stuttgart Region, the regional management focusses on the following themes and instruments:

- Foundation of an agency for promoting economic development in the region (a public-private organization of different partners, including municipalities, state owned banks and companies, chamber of trade and industry), marketing of the Stuttgart Region, support of existing and new economic clusters.
- Regional traffic and transport plan, improvement of public transport, implementation of projects to improve the regional mobility.
- Regional plan to influence and guide inner regional migration in order to protect open space and landscape (definition of concentration areas for urban development and the definition of areas for the landscape (the landscape park as a strategic conceptual framework)
- Europe-wide marketing for the Stuttgart Region, cooperation with other European metropolitan regions.

- Regional consciousness: analysis of the living conditions of the people and their improvement. (see Vallée 2003)

Overall the region of Stuttgart region is an excellent example of well formalized and institutionalized cooperation between local municipalities in order to promote a stronger region.

4) Conclusions and final remarks

While the initiative “Ruhr 2030” is a good example of how different cities and planning administrations developed a common basis for comprehensive and cooperative planning between various municipalities without creating new administrative structures, the example of the “region of Stuttgart” illustrates a different path, in which the regional cooperation of various municipalities and the core city of Stuttgart is formalized through institutional structures and laws. Although in conflict situations, which might occur quite often, a stronger institutional structure could be beneficial, the advantage of the “Ruhr 2030” initiative is its flexibility. “Ruhr 2030” implies an interesting dualistic approach, which focuses on the one hand on a long-term vision and through that on creating a common basis for future cooperation, and on the other hand promotes new planning tools, such as the *masterplan*, which can encompass various thematic areas of interest, such as housing, tourism, ecological transformation and re-creation of landscape, culture and retailing. Moreover, the innovative character of the project is linked to the fact that these ideas and initiatives of local and regional cooperation between municipalities and cities emerge from the municipalities itself. That means the 8 cities acknowledge the benefits of joining planning strategies, instruments and services without losing their autonomy. On the other hand the lack of institutionalized regional cooperation can also be a problem, if conflicts emerge, since those municipalities who are not interested in cooperation can leave the network. That became obvious on the occasion of the assignment of the *Regional Contract 2030*.

Highly institutionalized cooperation forms such as in the Stuttgart Region and the Hannover Region ensure that through their formal structure and the elections the regional assembly or council of the region has a stronger position regarding an individual municipality. This new cooperation form of regional planning, such as the Stuttgart Region, is also innovative regarding the promotion of sustainable regional development (see e.g. Birkmann 2004, pp. 44). The highly institutionalized regional cooperation is a benefit in conflict situations, when no consensus is feasible. The targets and goals of the Stuttgart Region are precisely defined (concentration of the activities). On the other hand this concentration of responsibility in selected areas can also be seen as a disadvantage, since it limits the opportunity to integrate new tasks and to compete with other regional entities. The Hannover Region demonstrates the fact that strong institutionalized regional cooperation can also deal with non-traditional issues such as the common sharing of the costs of region-wide social infrastructure. Overall, all three examples – Ruhr Area, Hannover Region and Stuttgart Region show new forms of cooperation between municipalities in Germany

regarding planning strategies, the joint definition of planning goals and the joint procurement of planning services. The future will show whether the more formalized forms of cooperation will be more efficient or whether the rapid structural and economic changes will require a more flexible organizational structure for effective cooperation of municipalities.

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The role of private planners in the statutory planning system; the Australian case

In Australia the concept of reducing direct government involvement in administration, and the outsourcing of the work of government has been an agenda item since the late 1970s when the (Federal) Fraser Liberal (conservative) government took the reins. Consistent with many western economies, successive State, Federal and Local governments on both sides of the ideological spectrum have continued this drive in all aspects of administration, including planning.

However, while outsourcing *strategic* planning by way of reports on policy, etc, which are ultimately ratified by the elected representatives, has been common (by way of contracting specific consultants), *statutory planning* has been less outsourced.

There are several reasons for this, the key one being that the regulatory or statutory aspect of planning is usually managed by the designated or delegated “Responsible Authority” which is normally a Local Government, a level of government which is the creation of, and works to a large extent at the behest of, the State governments (which in constitutional theory, but not in practice, also limits the work and control of the Federal government). While the State government planning offices undertake broad *strategic* and policy development, except in special circumstances (eg, “Major Projects”) and with some exceptions (eg, ACT/Canberra,) they do not involve themselves directly in *statutory* planning.

As local government is usually the “delegated planning authority”, it must take responsibility for its decisions. In practice, planning officers who deal with the everyday statutory planning work of planning applications are “delegated officers” and can make decisions and issue permits. However, commonly, contentious applications will end up before the (elected member) Council, sometimes resulting in a reversal of the advice and recommendations of the professional officer.

This shifting of the decision from the *professional* to the *political* arena is partly engendered by the comparative “small/local-ness” of local government in Australia. Like all politicians, councillors have the “real” interests of their constituents at heart (though often with their eye on the next election). In most jurisdictions, for reasons related to “natural justice” disputes in this arena may

then be taken to an independent court/tribunal of review. But especially in states such as Victoria where “Third Party” appeal rights are quite broad, almost anyone can have “standing” at the planning appeals tribunal (VCAT, which is a tribunal, not a court as in some states), though they may not necessarily get a good hearing if they have no clear interest in the matter. But in some states, especially in Western Australia, appeal rights are considerably limited. Nevertheless, planning application outcomes can be divisive in a community.

At present, in most states, it appears statutorily not possible to outsource this delegation, though in some jurisdictions, such as South Australia this has been managed by legislation. The situation in that state is of interest because the Planning Act designates that each local authority must establish an *Independent Planning Assessment Panel* which may be comprised of either/and/or elected councillors and professionals, although a current bill before parliament will prescribe the composition more closely. In this way, because planning is effectively understood as a “political” process, it is claimed the tradition of “separation of powers” is upheld (with Council <the legislature> making policy, and a separate body acting as the “executive”).

However, in Victoria, and similarly in some other states, some minor inroads have been taken in this direction. While the final decision-making still rests with the delegated authority, several local jurisdictions have attempted to outsource aspects of the statutory process. In brief, they have outsourced the “hack-work” – checking that all information required to assess the application is included at the beginning of the process, and sometimes, making a recommendation on an application which is then “checked” by a delegated officer who takes the “responsibility” (as delegated officer) for issuing the permit.

There are various forms of this. At one level there is an informal doling out to consultants the above-mentioned work, but with delegated officers nevertheless taking an active part in reviewing the outside work. This is commonly seen as overload work (a common situation over the last few years in a development ‘boom’ and with a shortage of planners), though this process may decline as the development “boom” abates.

More formally, however, is a trial-ed process, and now encouraged by the Victorian State Government’s planning department, of *Responsible Authorities* (Councils) setting in place a formal “*Pre- (lodgement) Certification*” process (DSE/MAV, 2004). In this model Council designates a group of “accredited” planners whom the applicant may use to develop the application, ensuring that all data is correct before it is formally lodged. A propos this point it is of interest that planners in Australia have no official certification process as do architects, engineers, teachers, lawyers, etc. Nor is there a “definition” of planner. Variations on this include the ability to use any planner, providing that they have “professional qualifications”, and that they sign a declaration to the effect of their qualifications and that the information is correct, etc. Such prior work may include negotiation and mediating with neighbours to get their general acceptance of the proposal. The three municipalities in Victoria which

use this have “kits” or handbooks to guide the applicant (see: Mornington, Surf Coast, Glen Eira municipalities).

Trials of this process prior to its formal implementation suggested that turn-around times of applications before council were significantly shortened, and few such applications were rejected. Applications are statutorily required to be completed within a fixed time, although there are “time out” or “stopped-clock” periods. In the case of “third party objections”, initially to council, and possibly later to VCAT, the turnaround time moves out of council hands as it waits for a hearing date, a process which has suffered severe overloading and delays in the development boom.

Despite some positive reports from the trials (/DoI/ MAV, 2002; Glen Eira, 2002)) some critics have pointed out that if the pre-lodgement time (and effort) is included, there is little gain. However, for councils, whose ability to charge for application processing is limited by an Act (amounts which go nowhere near the real costs), this short turnaround time has been a boon as the pre-lodgement work is paid for directly by the applicant.

Another version of this process, sobriqueted “Priority paid”, is in place in one Victorian urban council which has a high incidence of industrial applications. While all development delays incur costs, industrial proposals have a political economy “edge”. In his case a list of accredited planners is available for the pre-lodgement development of the applications, similar to the above, but the application is then given to *another* (of the same accredited list) to undertake the assessment and recommendation, and perhaps include “permit conditions”. Industrial applications do not allow third party objections, and thus do not suffer the delays noted above. In this model the council planning officer(s) merely “check” both stages of the work, but are, as delegated officer, responsible for the eventual permit. A key aspect of this model is that the whole 2nd stage (including council work) must be completed in 20 *calendar* days (or the, reasonably substantial additional fee to council is refunded).

Reports of the process suggest it does ensure a faster turn around, although those planners undertaking the first stage of the submission report that it is sometimes necessary to harangue the applicant to provide accurate data, etc., and that, as with the model noted earlier, this can take considerable time.

So the question becomes one of; “Is the *overall* time (often the crucial issue) reduced, and given the significantly increased cost to the applicant, does it survive a cost-benefit analysis?” On this the jury would appear to be still “out”.

Despite this, the Victorian State Government, as part of its “*Better Decisions Faster*” (DSE, 2004) program, with strong support and encouragement from development lobby groups, has been looking at formalising extensions of this outsourcing of statutory planning as a way of speeding-up application turn-around times. It is likely that any general use of this process will allow three grades of assessment; *information* certification (all data correct), *process* certification (due process has been followed) and *merits* certification (the proposal is un/worthy).

The *Property Council of Australia* (2004), frustrated at process delays and “political” interference”, has been lobbying to have a more (Australia-wide) uniform planning control and applications process, which includes greater use of private planners. Not surprisingly, this group has been, along with similar development-oriented lobby groups, strongly in support of moving the planning process away from what they perceive as inefficient public management to efficient private management.

One model encouraged by the property development industry is the institution of independent “assessment panels”, which would review, and possibly ratify, large contentious applications, and thus remove them from the “tyranny” of local political review noted above. These panels would be constituted of nominated (professional) members. Though, unless they were a semi-government authority (or “Quango”) with statutory delegated powers, it is difficult to see how they could operate, especially if the applications process included wide third-party rights. In effect, the existing planning *tribunals* and in some states, *courts*) already exercise this role, albeit as an adjunct or *final* review body which, nevertheless, does assess applications *de novo*.

As noted, the processes tried to date have not been without their critics, and a recent planning “scandal” in a rural Victorian municipality appears to have exposed the “Achilles heel” (or heels) of the process of putting statutory planning in private hands (Millar & Boulton, 2005). In this municipality it appears that statutory planning was undertaken by a private planner who wore two hats; in one apparently “employed” (and thus able to be a “delegated” officer) by council, but acting as a “consultant” in another.

Complaints and allegations included that due process (eg, third party notification) was not undertaken, and that some applications were completed within 24 hours. It would appear that the situation was highlighted when a local aboriginal group complained that one development desecrated the “convincing ground”, a “sacred (tribal) site”, though there were other complaints and litigation. The issue of checking the sacred sites aspect of applications (especially in non metro sites) is a complex, and at times difficult one. Other possible irregularities have been alleged, and the situation has led to court proceedings, a freezing of the planning process, and a review of over 300 past planning applications (Martin, 2005). It has also apparently required *ad hoc* amendments to the scheme to regularise some permits *ex post facto*.

It is of some interest to note the way in which a parallel part of the development process has been “outsourced” to private professionals. In the case of building certifications in Victoria and some other states, the process of certifying that a building complies with the *building regulations* is undertaken exclusively by private practitioners, engaged by private contract to the developer. Some large building firms have “in-house” certifiers, though this has led to some criticism of them being too easily subsumed into the “culture” of the organisation. However, these professional building surveyors are certified or licensed by a state-approved guild or professional association which can take action against mal-practice by members. Yet in Victoria, even

these powers are limited in the case of requests for “variations” (when a Council surveyor decides) or disputes (which go to a tribunal similar to planning - but with less extensive processes). This process appears to work reasonably well, though it is not without its critics, and some Local Governments have uncovered aspects of sloppy, or corrupt practices. The workability of this process is assisted by the fact that it does not involve third-party *rights* (though it can involve *consultation* with affected parties), and involves decisions of a more technical rather than subjective judgement nature.

While the introduction to this paper outlined the general constitutional and statutory situation across Australia, and has generally focussed on the Victorian experience, it notes that other states have also attempted to expand private involvement in statutory planning process. In brief , though, the role of the private planner in statutory planning is limited by issues of constitutional law, democratic governance structures, questions of “natural justice” and the political nature of planning which inevitably involves decisions which affect the distribution of wealth.

Max Nankervis , July, 2005.

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