

The Use of Financial contributions in Practice

An explorative study analysing the implementation of negotiable developer obligations in the Netherlands.

P5 MASTER THESIS

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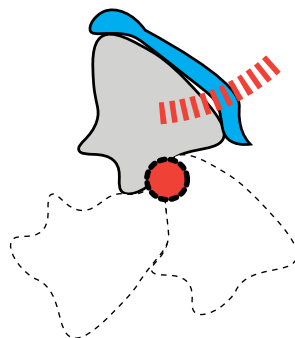
Instruments for cost recovery

Private law and public law instruments

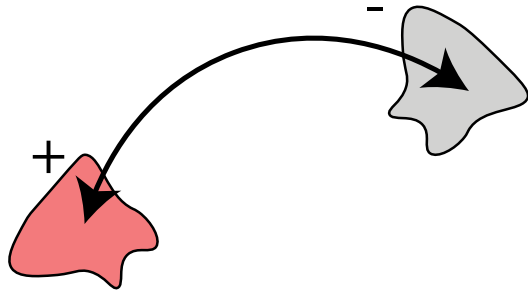
1. Land sales
2. Site Development plan (+ posterior agreement)
3. Anterior agreement
4. Capital gain tax

Costs for on-site works vs. Costs for off-site works

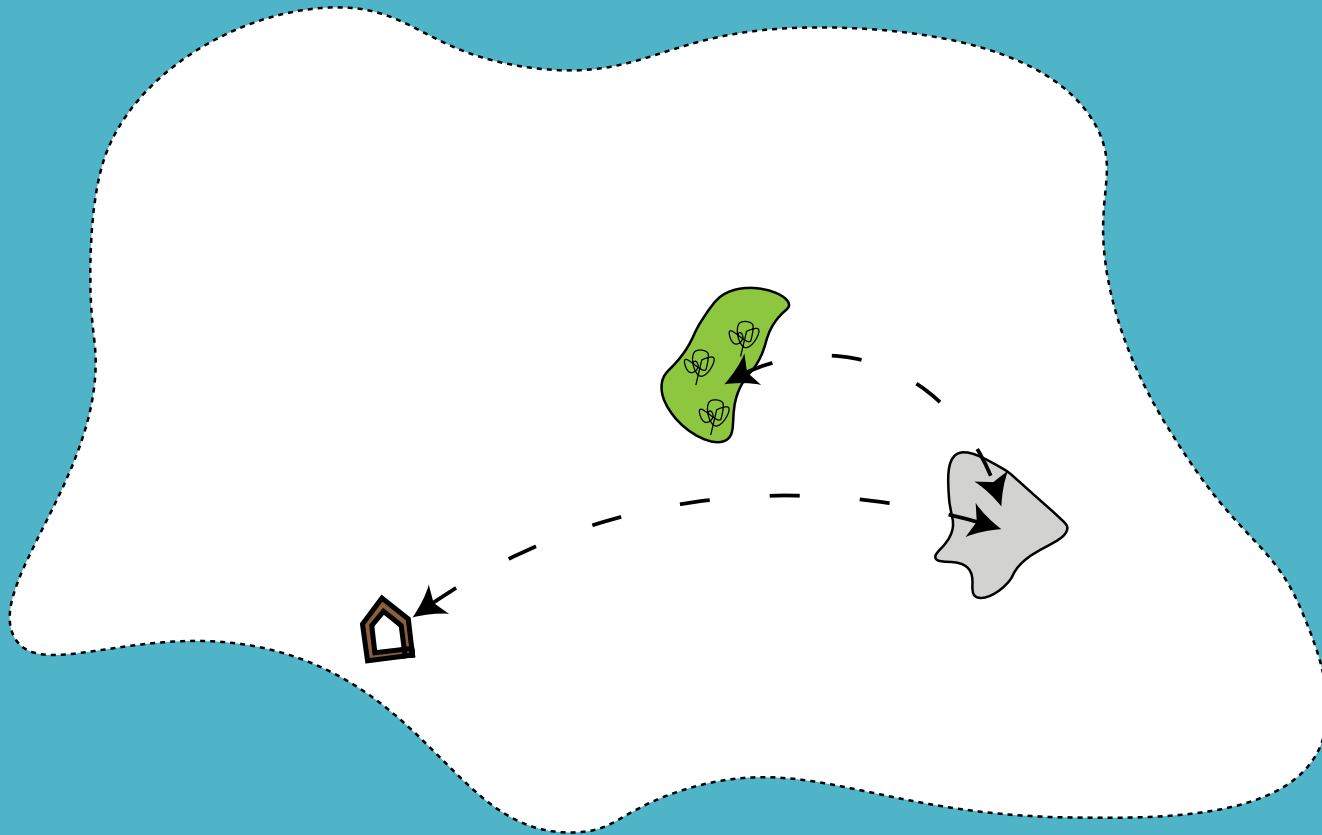
Cross-district facilities



Off-site cross financing



Financial contributions for spatial plans



How to recover

	Public Law (site development plan)	Private law agreement
On-site infrastructure	Yes	Yes
Cross-district facilities	Yes	Yes
Off-site cross financing	Yes	Yes
Financial contributions for spatial plans	No	Yes

Changes in the Environment & Planning Act


Comparison cost recovery Spatial Planning Act (Wro) & Environment and Planning Act (Ow)*

- Financial contributions in Wro only under private law, Ow also enforceable via public law, but only if regular cost recovery is also done publicly.
- Wro: contributions for green/blue, infrastructure, cultural services, sports, leisure & wellbeing, healthcare and education, housing and contributions to other schemes.

(Muñoz Gielen Nijland and van der Heijden, 2019)

Ow: draft decision for cost categories.

	Spatial Planning Act	Environment and Planning Act
Public Law	Site development plan	<ul style="list-style-type: none">• Cost recovery rules• Enforcable financial contributions
Private Law	Anterior Agreement <ul style="list-style-type: none">• Voluntarily financial contributions	Anterior Agreement <ul style="list-style-type: none">• Voluntarily financial contributions



Problem Statement

Only fragmented data is available about the actual use of “*Financiële bijdragen ruimtelijke ontwikkelingen*” and the results in practice

(BVH Ruimte BV, 2013; BVH Ruimte BV & Vreman, 2014; Muñoz Gielen, Nijland, & van der Heijden, 2019)

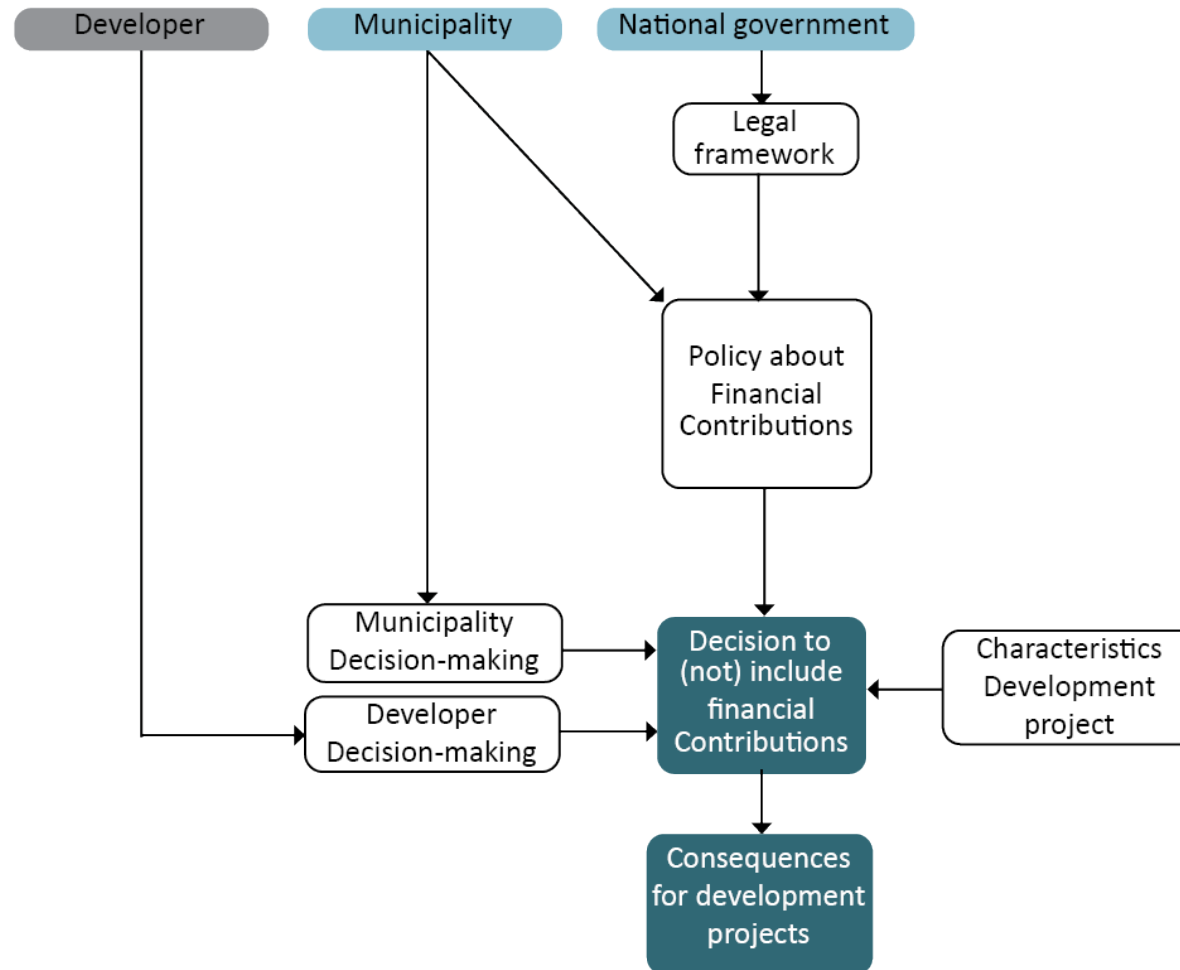
Data about the use and results of financial contributions in practice could help to understand the consequences of financial contributions for urban (re)development projects.

Research Question

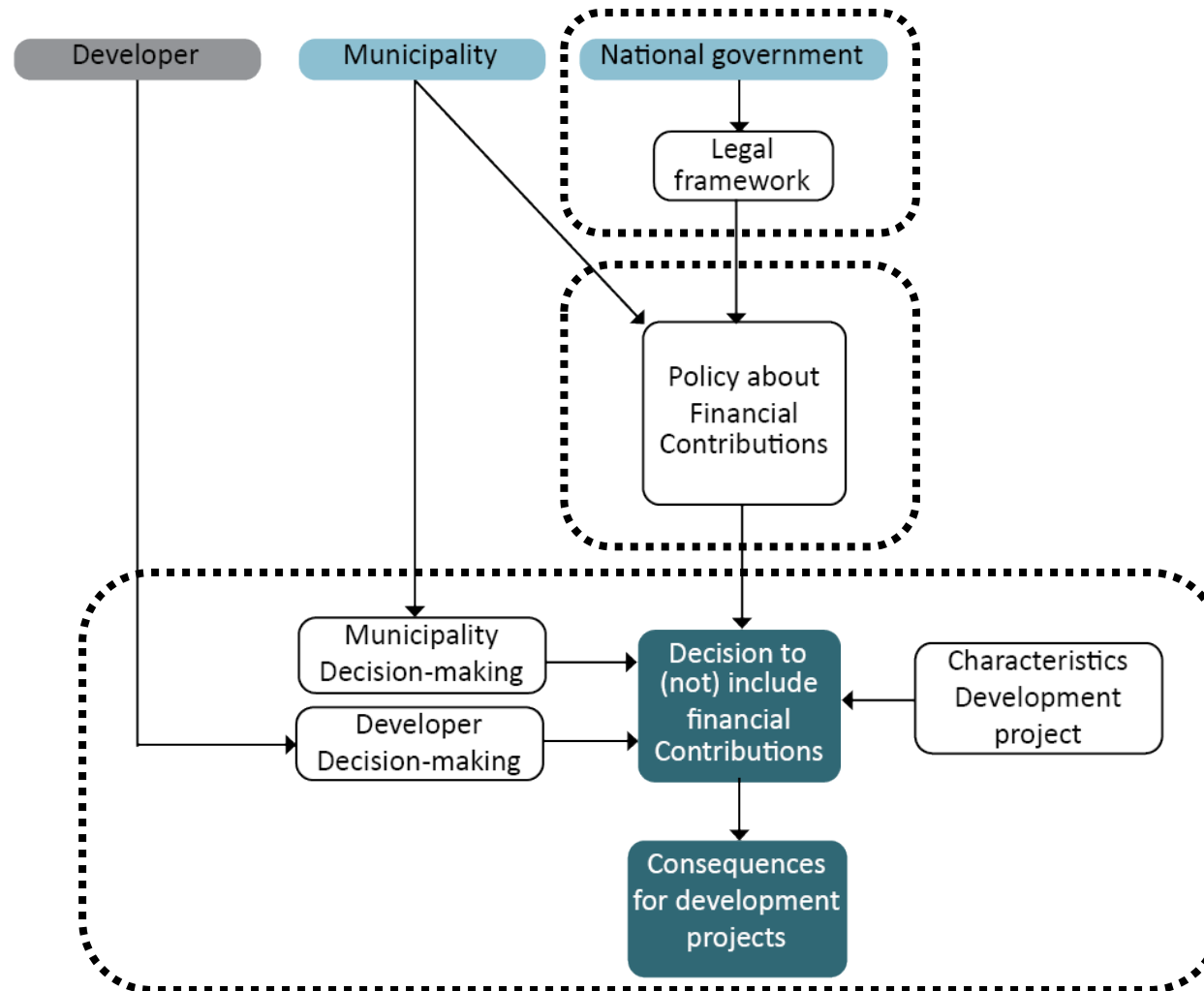
“What are the consequences of incorporating financial contributions on development projects and how does the legal framework play a role in this?”

1. *“What is the legal framework for cost recovery?”*
2. *“Which kind of municipal approaches regarding financial contributions for spatial developments can be found in municipal land policy documents for a selection of 50 municipalities?”*
3. *“What was the rationale behind (not) including the financial contributions that were mentioned in policy documents in anterior agreements?”*
4. *“What were the consequences of including financial contributions in anterior agreements?”*
5. *“What are the expected effects of the new Environment and Planning Act?”*

Conceptual Model



Methodology

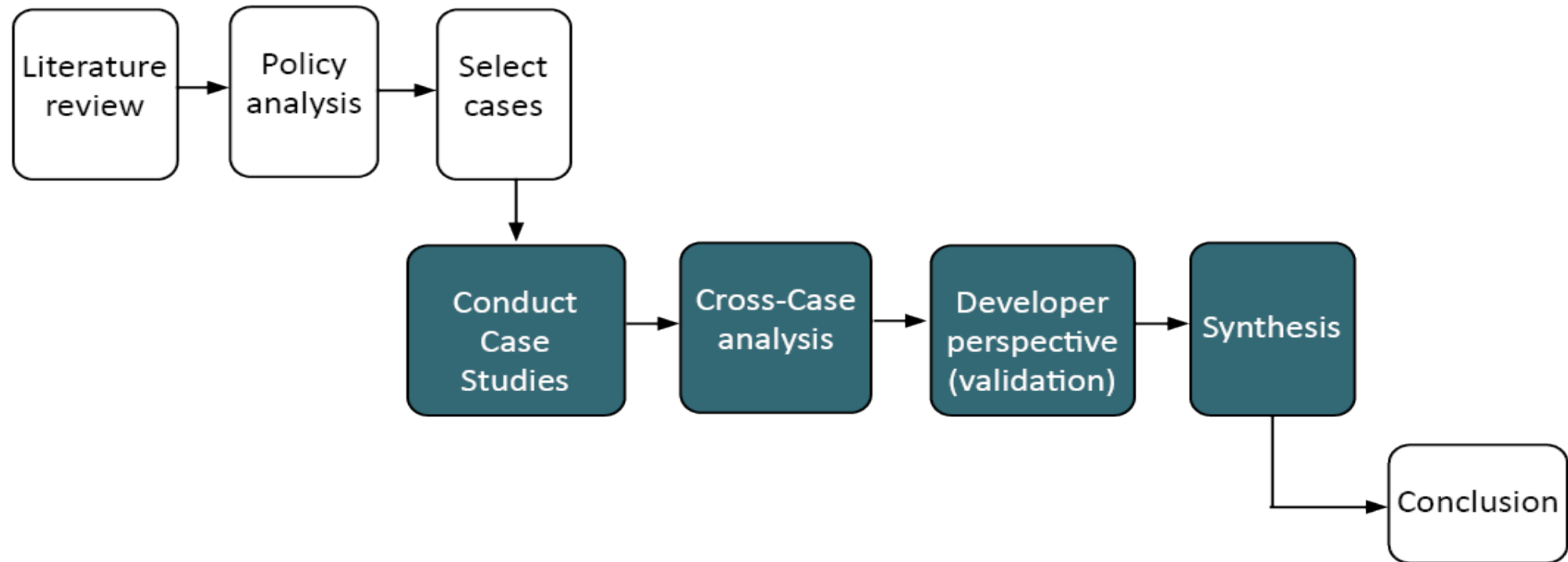


Literature review

Desk research

Case studies

Research design



Policy Analysis

Desk-research whereby the land policy documents of fifty municipalities are analysed to determine their approach regarding financial contributions

Almere	Delft	Groningen (gemeente)	Leiden	Utrecht (gemeente)
Alphen aan den Rijn	Deventer	Haarlem	Nijmegen	Veenendaal
Amersfoort	Diemen	Haarlemmermeer	Oss	Vlaardingenv
Amstelveen	Dordrecht	Heerhugowaard	Pijnacker-Nootdorp	Waddinxveen
Amsterdam	Ede	Helmond	Purmerend	Wageningen
Apeldoorn	Eindhoven	Hilversum	Rijswijk (ZH.)	Westland
Arnhem	Enschede	Kampen	Rotterdam	Zaanstad
Assen	Goeree-Overflakkee	Katwijk	's-Gravenhage (gemeente)	Zeist
Barneveld	Goes	Lansingerland	's-Hertogenbosch	Zoetermeer
Breda	Gouda	Leeuwarden	Tilburg	Zwolle



Policy Analysis - results

Municipalities with a higher housing production mention the option to request financial contributions more often.

		Housing production 2012-2019	% of total housing production	Does not state possibility to request “bijdrage r.o.”	States possibility to request “bijdrage r.o.”	States it does not ask for “bijdrage r.o.”	Gives an indication of a cost allocation	Suggests developing a policy note(s) for “gebiedsoverstijgende kosten”
Total		264.514	51.3%	10	33	7	23*	10
Unweighted				19%	64%	14%	45%	19%
Weighted *based housing production				15%	74%	11%	35%	23%



Policy Analysis - results

Cost allocation approaches:

- Distinction between residential and non-residential
- Sometimes split further in different subsegments
- Usage of housing equivalents
- Contributions per square or cubic meter real estate
- Contribution per square meter land
- Contribution per dwelling
- Different contributions per 'neighborhood' or one contribution for the whole city

Policy Analysis - conclusions

1. Municipalities do not use the definitions for the different types of costs consequently.
2. Municipal policy regarding financial contributions is still under development.
3. Most municipalities (64%) state the option to request “*bijdragen ruimtelijke ontwikkelingen*” in their policy documents. Municipalities with a higher housing production state this option more often. Only 12 of the selected municipalities describe a cost allocation “*bijdragen ruimtelijke ontwikkelingen*” in more detail.
4. Only few municipalities (11%) clearly state they do not ask for “*bijdragen ruimtelijke ontwikkelingen*”. These particular municipalities either miss formal grounds to be able to request this contributions or focus on a more active land policy.
5. Municipalities have different approaches for the cost allocation and the heights of contributions vary a lot.

Case studies

Interviews were held with seven municipalities that have policy for requesting financial contributions.

Exploration of four topics

- Policy considerations
- Negotiations about anterior agreements
- Consequences of asking for contributions
- Expectations of the new Law



Findings (1)

Categorisation is not really a discussion during negotiations

Not a consequential argument for (other) land policy decisions

Reasons for a cost recovery note

- Maximising possibilities for cost recover, new ways of funding.
- Unformal working method
- Transparency and predictability

Making a note for cost recovery takes quite a lot of time, but afterwards, it saves time in individual projects since you can apply the predetermined contributions. Developing a note does not lead to more costs that can be recovered, but it does make these costs more explicit.

Findings (2)

Some negotiate, while others barely negotiate.

- Some almost always conform policy
- Others often lower contributions, with considerable discount ($\pm 30-50\%$)
- Rarely no contribution at all
- Sometimes usage of subsequent costing

Reasons to lower contributions:

- Financial infeasibility
- Developer makes other investments
- Professionalism of involved parties

Although contributions thus seem to be an important topic, it is not considered to be a dealbreaker.

Findings (3)

No changes of the development program according to municipalities, developers say it leads to less affordable housing

No competition among municipalities as a result of asking for contributions

Limited financial impact

- Around 1-2% of selling prices (v.o.n. prijs)
- Contributions are lowered if there is not enough earning capacity

Findings (4)

No significant differences expected, continuation of anterior route

Slightly improved negotiation position for municipalities

Developers expect more 'planning for those who pay'

Conclusion

Extensive legislation, but a messy practise.

The legal framework allows municipalities to use the potential possibilities for cost recovery, although not all municipalities use these possibilities. Only a limited number of municipalities have stated a cost allocation for financial contributions and indicated a contribution height. The contribution heights that are mentioned have a broad bandwidth. The legal framework does give some boundaries to what is possible by stipulating that municipalities need to substantiate why they ask contributions for certain investments.

With case studies the implementation of these policies is analysed. The research indicated that financial contributions are an important topic in negotiations in some municipalities, while others barely negotiate on it and incorporate the contributions that were stated in their policy in almost all anterior agreements. Municipalities are willing to lower contributions if developers can show their project becomes infeasible by them.

Recommendations

Develop better guidelines

Establishing more detailed guidelines could help municipalities to make more coherent policy on the recovery of public services.

More transparency

Formulating a policy can give developers certainty on the height of contributions in an early stage and offers transparency which can improve the willingness of developers to contribute and could have a damping effect on land prices.

Focus on value that is created

Developers are willing to contribute as long as they are able to realise a profitable project.

Thank you
Questions?