

# The Use of Financial Contributions in Practice

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

[This page is intentionally left blank]

# Colophon

---

## The Use of Financial Contributions in Practice

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

### PERSONAL DETAILS

Name: L.D. (Lisanne) van der Velde  
Student number: 4572327  
E-mail address: l.d.vandervelde@student.tudelft.nl

### REPORT DETAILS

Version: P5  
Date: June 2021

### EDUCATIONAL DETAILS

Institution: Delft University of Technology  
Faculty: Architecture & the Built Environment  
Master: Architecture, Urbanism & Building Sciences  
Master track: Management in the Built Environment (MBE)  
Graduation laboratory:

### SUPERVISION

1<sup>st</sup> mentor: Dr. Mr. F.A.M. (Fred) Hobma  
2<sup>nd</sup> mentor: Prof.dr. W.K. (Willem) Korthals Altes  
Examiner: Dr. O. (Olindo) Caso

### INTERNSHIP COMPANY

*Metafoor ruimtelijke ontwikkeling*  
Company supervision: Mr. Ir. M.J. (Michiel) de Haan

## Preface

---

This master's thesis presents the graduation research for the master program track Management in the Built Environment at the Delft University of Technology. The project is the result of almost a year of work since September 2020 and marks the end of my study period.

Throughout the process, people have contributed to this research in various ways. I would like to thank my supervisors Dr. Mr. F.A.M. (Fred) Hobma and Prof. Dr. W.K. (Willem) Korthals Altes, for their valuable input, guidance and feedback during the research process. Both mentors enabled me to dive into the subject and challenged me to achieve the highest possible level.

In addition, I would like to thank Metafoor Ruimtelijke Ontwikkeling for the facilitation of my research. They offered valuable practical insights into the topic and supplied me with the means to conduct this research. In particular, I would like to thank Mr. Ir. M.J. (Michiel) de Haan for his guidance during my internship and input to my research. I would also like to express my appreciation to all participants of the interviews for their valuable insights.

Finally, I would like to thank my parents, other family members and friends for their support during my studies and throughout the graduation process.

I hope you will enjoy reading this graduation thesis.

Sincerely,

**Lisanne van der Velde**

Delft, June 2021

## Abstract

---

Public services are an essential part of urban development projects. Usually, municipalities aim to recover the costs of these services from developers that initiate projects that benefit from these services. Many countries have implemented various value capturing instruments to be able to achieve this. However, only fragmented data is available about the use of financial contributions from developers in practice. This study focuses on the situation in the Netherlands and researches whether negotiated financial contributions are mentioned in municipal policy reports and if these are incorporated in development agreements. The research provides insight into the use of financial contributions and the results of its usage in practice. Although the legislation in the Spatial Planning Act on cost recovery is extensive, the practice of recovering above-plan costs is messy. Different types of above-plan costs are used inconsistently and interchangeably in various municipal policies. The policy analysis conducted for 50 municipalities shows that only few municipalities have stated a cost allocation for financial contributions and indicated explicit contribution sums. Municipalities can have different approaches towards the allocation of costs for off-site works, whereby some policies are more detailed than others. The contributions for above-plan costs that are mentioned have a broad bandwidth, in height and type of investments. With case studies, the implementation of these policies is analysed. The research shows that financial contributions are an important topic in negotiations in some municipalities, while others barely negotiate on it and incorporate the stated contributions from their policy in almost all development agreements. Municipalities are willing to lower contributions if developers can show their project becomes infeasible by them. It then depends on project characteristics if contributions are lowered or waived entirely. Most municipalities do not expect that the new Environment and Planning Act, which introduces publicly enforceable financial contributions, will result in more received contributions, although they think the new legislation could potentially improve their negotiation position. This research has provided an overview of how municipalities deal with financial contributions in practice and has thereby contributed to the knowledge on the implementation of cost recovery policies in the Dutch context.

**Keywords** – Netherlands, land policy, value capture, developer contributions, development agreements

# Management samenvatting

---

## **Introductie**

Publieke voorzieningen zijn een essentieel onderdeel van gebiedsontwikkelingen. Deze voorzieningen zijn nodig om de groei van inwoners en economische activiteiten te faciliteren. Gemeentes kunnen verschillende instrumenten inzetten om deze voorzieningen te bekostigen. Indirecte 'value capture' instrumenten behoren tot een categorie aan grondinstrumenten die zich al lange tijd ontwikkelt en heeft geresulteerd in verschillende uitwerkingen in verschillende landen. Hoewel het value capturing concept vanuit een institutioneel, politiek en waarde perspectief is geanalyseerd is er slechts weinig onderzoek gedaan naar de implementatie van onderhandelbare bijdragen en de resultaten daarvan in de praktijk. In Nederland, biedt de wet ruimtelijke ordening (Wro) de mogelijkheid om op vrijwillige basis afspraken te maken over bijdragen voor ruimtelijke ontwikkelingen. In aanvulling op de onderzoeken naar de theoretische en wettelijke mogelijkheden voor het verhalen van kosten tracht dit onderzoek inzicht te bieden in het daadwerkelijke gebruik van bijdragen ruimtelijke ontwikkelingen in de praktijk. Daarmee draagt deze scriptie bij aan de wetenschappelijk kennis op het gebied van de implementatie van value capture instrumenten.

## **Onderzoeksvragen**

In dit onderzoek wordt de toepassing van financiële bijdragen in de Nederlandse context onderzocht. De hoofdvraag van het onderzoek is: *“Wat zijn de mogelijke gevolgen van het opnemen van bijdragen ruimtelijke ontwikkelingen voor ontwikkelingsprojecten en wat is de rol van het wettelijk kader hierin?”*

Om de onderzoeksvraag te kunnen beantwoorden zijn de volgende sub-vragen geformuleerd:

1. Wat is het wettelijk kader voor kostenverhaal in Nederland?
2. Welke bijdragen ruimtelijke ontwikkelingen zijn er te vinden in beleidsnota's kostenverhaal?
3. Wat zijn de redenen om bijdragen ruimtelijke ontwikkelingen (niet) op te nemen in anterieure overeenkomsten?
4. Tot in hoeverre beïnvloedt de keuze om bijdragen ruimtelijke ontwikkelingen te vragen de initiatie van ontwikkelingsprojecten?
5. Wat zijn de verwachte effecten van de nieuwe omgevingswet ten aanzien van financiële bijdragen voor ruimtelijke ontwikkelingen?

## **Theorie**

Value capture is een term die wordt gebruikt om beleidsinstrumenten te duiden die als doel hebben waardeverstijging als gevolg van ruimtelijke regelgeving en investeringen in publieke werken af te romen. Value capturing instrumenten worden internationaal gezien in toenemende mate ingezet om publieke voorzieningen te financieren. Indirecte instrumenten proberen niet specifiek 'onverdiende' waarde af te romen vanuit een ideologische gedachte, maar worden gebruikt om fondsen voor specifieke publieke investeringen te generen. Dergelijke instrumenten komen voor in onderhandelbare en niet-onderhandelbare vorm. In Nederland wordt de term kostenverhaal gebruikt voor het vragen van betalingen van ontwikkelaars voor kosten van publieke voorzieningen.

In het Nederlandse wettelijk kader wordt onderscheid gemaakt tussen gebiedseigen en gebiedsoverstijgende kosten. Die laatste categorie kent een sub categorisering in bovenwijkse kostensoorten, bovenplanse verevening en bijdragen ruimtelijke ontwikkelingen. Kosten kunnen publiekrechtelijk, via een exploitatieplan, worden afgedwongen als zij voldoen aan de kostensoortenlijst én de criteria profijt, proportionaliteit en toerekenbaarheid. Voor financiële bijdragen aan ruimtelijk ontwikkelingen geldt dat deze slechts op vrijwillige basis kunnen worden afgesproken als er sprake is

van een functionele samenhang tussen de investering en een ontwikkelingsproject dat bijdraagt. Deze samenhang moet worden onderbouwd in de structuurvisie.

De omgevingswet handhaaft de mogelijkheid om kosten voor bovenwijkse voorzieningen te verhalen. De separate categorie bovenplanse verevening komt te vervallen. Deze mogelijkheid zal in de toekomst gaan vallen onder de financiële bijdragen voor de ontwikkelingen van een gebied. De financiële bijdragen krijgen in de nieuwe omgevingswet een minnelijke (Art. 13.22 Ow) en een publiekrechtelijk afdwingbare variant (Art. 13.23-13.24 Ow). Een schematisch overzicht hiervan is te vinden in figuur 1.

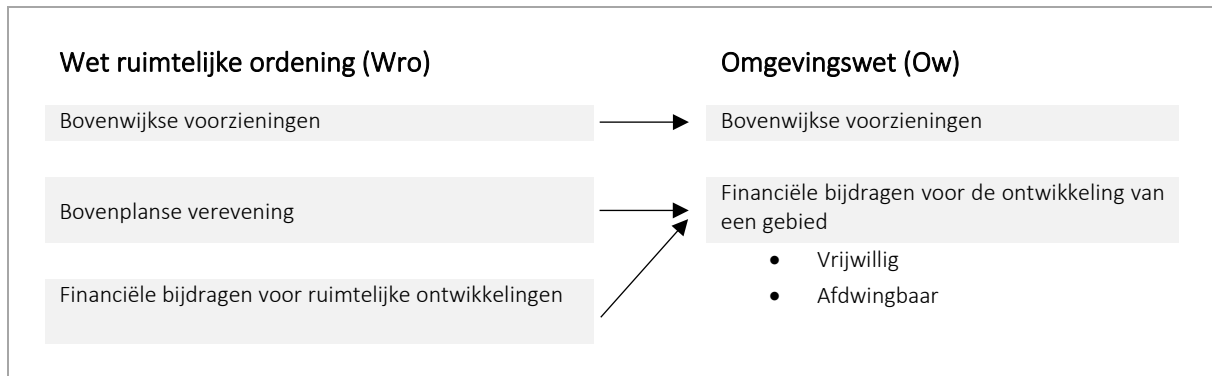


Figure 1 Vergelijking van de gebiedsoverstijgende kostensoorten in de wet ruimtelijke ordening en omgevingswet

## Onderzoeksmethode

Dit onderzoek probeert inzicht te bieden in het gebruik van financiële bijdragen in de praktijk. Een empirische onderzoeksmethode wordt gebruikt om kennis en verklaringen te zoeken. Omdat er slechts beperkt onderzoek is gedaan naar de implementatie van bijdragen ruimtelijke ontwikkelingen is dit onderzoek verkennend van aard. Het onderzoek van deze scriptie kan worden opgedeeld in grofweg drie delen: een theoretisch onderzoek, empirische onderzoek en de conclusies. Het eerste onderdeel beschrijft op basis van literatuuronderzoek de theoretische achtergrond met betrekking tot grondbeleid en value capturing die nodig is om het wettelijk kader voor kostenverhaal in internationaal perspectief te kunnen plaatsen. In het theoretisch kader worden de specifieke wettelijke kaders van de wet ruimtelijke ordening, en de toekomstige omgevingswet (volgens ontwerpbesluiten) toegelicht. Het empirische onderzoek is opgedeeld in twee delen: een beleidsanalyse en in-depth case studies. In een desk-research worden de beleidsnota's grondbeleid en of kostenverhaal van 50 gemeentes geanalyseerd. Hiervoor zijn de 50 gemeentes met de hoogste woningbouwproductie in 2012-2019 geselecteerd. Met behulp van case studies wordt onderzocht of de bijdragen die in beleidsnota's worden genoemd ook daadwerkelijk in anterieure overeenkomsten worden opgenomen en welke factoren in de onderhandeling daarover mogelijk een rol spelen. De bevindingen uit de interviews met gemeentes worden gevalideerd door ook het perspectief van ontwikkelaars mee te nemen. In het laatste deel worden de bevindingen van het empirisch onderzoek samengebracht en worden conclusies geformuleerd om antwoord te geven op de onderzoeksvragen.

## Beleidsanalyse

In de beleidsanalyse zijn de beleidsnota's kostenverhaal van 50 gemeentes geanalyseerd. Tabel 1 geeft een overzicht van de geselecteerde gemeentes. Op basis van het wettelijk kader voor kostenverhaal (Wro) is het beleid ten aanzien van financiële bijdragen voor ruimtelijke ontwikkelingen bestudeerd.

Almere	Delft	Groningen (gemeente)	Leiden	Utrecht (gemeente)
Alphen aan den Rijn	Deventer	Haarlem	Nijmegen	Veenendaal
Amersfoort	Diemen	Haarlemmermeer	Oss	Vlaardingenveld
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

**Tabel 1** Geselecteerde gemeenten voor de beleidsanalyse

De bevindingen van de beleidsanalyse zijn samengebracht om de verschillende gemeentelijke benaderingen ten aanzien van financiële bijdragen te omschrijven. Uit de analyse blijkt dat gemeentes inconsistent omgaan met de verschillende gebiedsoverstijgende kostensoorten. In diverse beleidsstukken worden de termen financiële bijdragen ruimtelijke ontwikkeling, bovenwijkse kosten en bovenplanse verevening door elkaar gebruikt of wordt geen duidelijk onderscheid gemaakt. Daarnaast wordt niet altijd vermeld of de indicatieve bijdrage die wordt gevraagd één of meerdere van deze gebiedsoverstijgende kosten beslaat of wat de verhouding is. Het is hierdoor dus niet goed mogelijk om alleen specifiek de bijdragen ruimtelijke ontwikkelingen te vergelijken. Dit kan er ook op duiden dat de huidige wetgeving wellicht onduidelijk is of in ieder geval ingewikkeld is om eenduidig toe te passen.

	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 the cost allocation	Suggests developing a policy report(s) for 'gebiedsoverstijgende kosten'
Total	264.514	51.3%	10	33	7	23	10
<b>Unweighted</b>			19%	64%	14%	45%	19%
<b>Weighted</b> *based housing production			15%	74%	11%	35%	23%

**Tabel 2** Overzicht van gemeenten die wel of niet de mogelijkheden voor het verhalen van bijdragen ruimtelijke ontwikkelingen benoemen.

Tabel 2 vat samen hoeveel gemeentes beleid hebben ten aanzien van bijdragen ruimtelijke ontwikkelingen. De meeste gemeentes (64%) benoemen de mogelijkheid om bijdragen voor ruimtelijke ontwikkelingen te vragen, waarbij gemeentes met een hogere woningbouwproductie dit vaker vermelden. Slechts zeven gemeentes benoemen expliciet dat zij geen bijdragen ruimtelijke ontwikkelingen vragen. Redenen hiertoe kunnen zijn: een overwegend actief beleid, extra druk op de financiële haalbaarheid of het missen juiste grondslag (structuurvisie). Slechts 23 gemeenten gaan verder dan het benoemen van de mogelijkheid tot het verhalen van bijdragen ruimtelijke ontwikkeling en geven ook een indicatie van de kostentoerekening voor gebiedsoverstijgende kosten. Deze kostentoedeling beslaat in veel gevallen slechts de bovenwijkse kosten. In 12 gemeenten wordt ook de toedeling voor bijdragen ruimtelijke ontwikkelingen nader gespecificeerd, of beslaat de bijdrage die gevraagd wordt ook ten dele bijdragen ruimtelijke ontwikkelingen. Sommigen beperken zich daarbij tot een lijst aan investeringen waarvoor bijdragen worden gevraagd en anderen benoemen een specifiek bedrag aan bijdragen. Bijdragen zijn dan gedefinieerd per vierkante meter bruto vloeroppervlak (BVO), per vierkante meter uitgeefbaar land of per woningequivalent (WEQ). Soms wordt ook vooraf al nader onderscheid gemaakt in de hoogte van het bedrag per ontwikkelcategorie. De meeste gemeenten maken onderscheid in woningen en niet-woningen, en sommige onderscheiden nog meer categorieën. De bedragen die worden gevraagd hebben een zeer brede bandbreedte, variërend van 500 tot 9000 euro per WEQ of 1 tot 55 euro per vierkante meter BVO. Sommige gemeentes vragen eenzelfde bijdrage van alle ontwikkelingen in de stad, terwijl andere gemeentes verschillende bijdragen vragen voor ontwikkelingen in verschillende wijken. Daarnaast hebben enkele gemeentes al vooraf uitzonderingen benoemd. Sommige gemeentes benoemen daarbij een regeling voor sloop-nieuwbouw situaties, waarbij alleen voor de extra toevoeging om bijdragen wordt gevraagd. Niet alleen de hoogte van de



bijdragen, maar ook de typen investeringen waarvoor bijdragen worden gevraagd variëren. De meeste gemeentes vragen bijdragen voor infrastructuur en groen- en watervoorzieningen, terwijl anderen ook bijdragen vragen voor maatschappelijke voorzieningen.

Ten slotte valt in de beleidsanalyse op dat relatief veel gemeentes (ca. 20%) benoemen dat ze bezig zijn met het ontwikkelen of vernieuwen van beleid voor het verhalen van gebiedsoverstijgende kosten. Dit duidt erop dat gemeentes nog steeds proberen de mogelijkheden tot het verhalen van kosten die de wetgeving biedt beter te benutten.

### ***Case studies***

Om de beleidsoverwegingen beter te begrijpen en inzicht te krijgen in de uitwerking van het beleid in de praktijk zijn meerdere cases geanalyseerd. Daarvoor zijn interviews gehouden met vertegenwoordigers van 7 gemeenten die volgens hun beleid bijdragen ruimtelijke ontwikkelingen vragen: Barneveld, Bodegraven-Reeuwijk, Delft, Haarlemmermeer, Katwijk, Purmerend en Zaanstad. Naast gemeentes is er ook gesproken met een vertegenwoordiger van belangenorganisatie NEPROM om het perspectief van de ontwikkelaar mee te nemen in de analyse.

De gemeentes hebben een nota kostenverhaal opgesteld om op een uniforme wijze in alle projecten om een bijdragen te kunnen vragen. Het opstellen van een nota is erg tijdsintensief, maar bespaart weer tijd tijdens de onderhandelingen per project. Naast een uniforme werkwijze proberen ze met de nota ook transparantie en voorspelbaarheid te creëren. Door ontwikkelaars wordt aangegeven dat duidelijkheid vooraf en een goede onderbouwing van waarom welke bijdragen worden gevraagd belangrijk is. Volgens ontwikkelaars is er vaak – dus niet specifiek in de onderzochte gemeentes - een gebrekkige onderbouwing en worden er vaak oude documenten aangehaald. Volgens hen wordt er zeer regelmatig om bijdragen gevraagd, ook in gemeenten waar geen bijdragen zijn benoemd in beleid. Daarnaast komt het volgens hen regelmatig voor dat er ineens hogere bijdragen worden gevraagd dan voorheen zonder een goede verklaring daarvoor. In plaats van het verschuilen achter een beleidsstuk is, naast het verschaffen van duidelijkheid vooraf, een eerlijke transparante discussie over wat nodig is voor een project en het samen stellen van prioriteiten noodzakelijk.

Zoals uit de eerder beleidsanalyse bleek zijn er grote verschillen onder gemeentes ten aanzien van het verhalen van gebiedsoverstijgende kosten. Het onderscheiden van verschillende bovenplanse kosten is daarbij, volgens gemeenten, met name een juridische discussie. Discussies over de categorisering anisch komen weinig aanbod tijdens de onderhandelingen, discussies worden vaak wel aan de hand van de begrippen profijt, proportionaliteit en toerkenbaarheid gevoerd. De praktische uitvoering van de wetgeving is volgens gemeenten tamelijk complex en specialistisch, en een meer pragmatische in steek met simpelere berekeningen zou prettig zijn. Sommige gemeentes geven aan dat betere richtlijnen of een handreiking welkom zouden zijn. Ontwikkelaars ervaren de grote verschillen ook en dit kan als onredelijk worden ervaren. Of verschillen redelijk zijn hangt af van wat een gebied of project nodig heeft en hoe dat is onderbouwd. Ontwikkelaars zijn voorzichtig met het aanhalen van striktere richtlijnen in het kader van contractsvrijheid. Volgens hen gaat het niet altijd op de cent precies; als het onder aan de streep klopt en men wil zakendoen wordt daar pragmatisch mee omgegaan. Daarbij wordt door ontwikkelaars ook een gebrek aan daadkracht ervaren bij gemeentes, wat zorgt voor langdurige onderhandelingsprocessen.

Uit de interviews met gemeenten komt naar voren dat sommige gemeentes veel onderhandelen over de uiteindelijk bijdrage die wordt opgenomen, terwijl andere gemeentes vrijwel altijd de bijdragen conform nota in overeenkomsten opnemen. Bijdragen worden volgens gemeentes verlaagd als een project door de bijdragen anders financieel onhaalbaar zou worden. Redenen hiertoe zouden kunnen zijn: hoge kosten bij binnenstedelijke herontwikkeling, bodemsanering, archeologische waarde en of

veel sociale woningen. Indien kortingen worden gegeven zijn deze vaak aanzienlijk, ca. 30 tot soms 50%. Volgens het wettelijke kader zijn bijdragen ruimtelijke ontwikkelingen onderhandelbaar, maar dit vrijwillige karakter wordt vaak niet benadrukt door gemeenten. Volgens ontwikkelaars kan betaalplanologie zich uiten in de onderhandelingen over anterieure overeenkomsten. Aan de andere kant is dat ook de schaduwwerking, of de stok achter de deur, die de huidige wetgeving biedt om contracten te forceren. Het feit dat ontwikkelaars niet elders toestemming kunnen verkrijgen, kan zorgen voor een oneerlijke machtsverhouding. Projectontwikkelaars kunnen stevig in een discussie staan, maar zijn wellicht terughoudend omdat ze in de toekomst ook willen bouwen in een gemeente of omdat ze de concurrentie voor willen blijven. Hoewel betaalplanologie, of enige druk dus misschien wordt ervaren, is de uitkomst goed zolang beide partijen tevreden zijn.

Op de vraag wat de (financiële) impact van het vragen van bijdragen is, is geen eenduidig antwoord te geven. Gemeentes geven aan dat de bijdragen relatief weinig impact hebben. Volgens hen zijn de huizenprijzen harder gestegen dan de bouwkosten en zouden ontwikkelaars dus voldoende financiële ruimte hebben om bijdragen te kunnen betalen. De bijdragen die worden genoemd in beleid komen, op basis van een gemiddelde vrij op naam prijs van 3 ton, neer op ongeveer 1 à 2% van de v.o.n. prijs. Gemeentes zeggen dat dit behapbaar is. Volgens ontwikkelaars zijn naast de huizenprijzen ook de kosten van ontwikkelaars flink gestegen, onder andere door de extra duurzaamheidseisen die erg duur zijn. Volgens hen is de prijs gerelateerd aan de kosten en opbrengsten en de ontwikkelaarsmarge daarin, en is het lastig om dat allemaal in de prijs te stoppen. Volgens de NEPROM zijn de marges niet heel veel veranderd. Zij geven aan dat de marge is sommige gevallen maar 3% is, en dan kan die 1-2% erg veel zijn. Op bepaalde gewilde locaties kan een bijdrage dus meevallen, terwijl het voor een sociale huurwoning misschien wel heel veel is. Volgens hen zouden ontwikkelaars gewoon betalen als het kan, en zou weerstand tegen bijdragen echt met de businesscase te maken hebben. Omdat ontwikkelaars geen 'nee' willen verkopen wordt dan vaak naar alternatieve oplossingen gezocht om de businesscase haalbaar te krijgen, zoals het realiseren van meer bouwvolume.

Door gemeenten wordt aangegeven dat zij weinig veranderingen verwachten met betrekking tot het verhalen van bijdragen door de omgevingswet. Omdat nu al rekening wordt gehouden met de financiële haalbaarheid, en bijdragen daardoor nu soms al worden verlaagd, verwachten zijn niet meer bijdragen binnen te kunnen halen door een afdwingbare variant. Gemeenten verwachten wel dat onderhandelingen mogelijk soepeler zullen verlopen en er minder discussie zal ontstaan over de rechtmatigheid van het vragen van bijdragen. Ontwikkelaars verwachten echter dat er door de nieuwe wetgeving meer kosten zullen worden verhaald, en dat de regelgeving zal leiden tot meer betaalplanologie.

## **Conclusie**

Hoewel de Wet ruimtelijke ordening een uitgebreid wettelijk kader biedt voor kostenverhaal, lijkt de uitwerking hiervan in de praktijk minder weerbarstig. Het verhalen van gebiedsoverstijgende kosten verloopt vaak rommelig, en er zijn grote verschillen tussen gemeentes onderling. Hoewel de wetgeving mogelijkheden biedt voor het verhalen van bovenplanse kosten en het verzoeken om bijdragen, maken niet alle gemeentes daarvan gebruik of zijn ze niet transparant over de beleidsmatige invulling daarvan. De beleidsanalyse laat zien dat gemeentes de verschillende gebiedsoverstijgende kostensoorten door elkaar gebruiken en dat maar een beperkt aantal gemeentes vooraf duidelijkheid biedt ten aanzien van de kostentoerekening. De kostentoerekening is daarbij ook op verschillende wijzen ingestoken: gemeentes vragen bijdragen voor verschillende types investeringen en de hoogtes van de bijdragen die ze vragen hebben een grote bandbreedte. Uit de case studies blijkt dat bijdragen ruimtelijke ontwikkelingen vaak een belangrijk onderwerp zijn tijdens de onderhandelingen, terwijl andere gemeentes weinig onderhandelen over de bijdragen die wordt opgenomen. Ook de financiële impact

van bijdragen lijkt relatief beperkt. Hoewel partijen soms druk ervaren tijdens onderhandeling, komen partijen er vaak onderling uit en worden overeenkomsten gesloten. Gemeentes zijn bereid om bijdragen te verlagen als ontwikkelaars aantonen dat projecten door de bijdragen anders financieel onhaalbaar zouden worden. Hoeveel de bijdragen worden verlaagd hangt daarbij af van project specifieke omstandigheden, maar, indien toegepast, zijn 'kortingen' vaak aanzienlijk. Hoewel bijdragen in de onderzochte gemeentes vaak ter sprake komen, vormen ze geen struikelblok in de onderhandelingen.

### **Limitaties**

Dit onderzoek is aan limitaties onderhevig. Sommige limitaties kunnen worden ondervangen met toekomstig onderzoek:

- Slechts een beperkt aantal cases is onderzocht. Alleen gemeentes met duidelijk beleid ten aanzien van bijdragen ruimtelijke ontwikkelingen zijn meegenomen. Het zou interessant zijn om ook gemeentes te analyseren die geen vooraf opgesteld beleid hebben om te onderzoeken hoe dat heeft uitgedrukt in de praktijk.
- De informatie is van generieke aard. De onderhandelingen zijn op een kwalitatief-vergelijkende manier besproken omdat empirische data over specifieke onderhandelingsuitkomsten niet beschikbaar was.
- Hoewel partijen over het algemeen niet bereid zijn om financiële informatie over projecten te delen omdat ze geen handelsgeheimen willen prijsgeven, zou verder onderzoek naar de marktstrategieën en de onderhandelingswijze van ontwikkelaars over bijdragen voor ruimtelijke ontwikkelingen en de wijze waarop zij kosten afwentelen waardevol zijn.
- Tijdens de interviews zijn ook de verwachtingen ten aanzien van de nieuwe omgevingswet besproken. Verwachtingen zijn speculatief en het is dus aan te bevelen om te onderzoeken of de verwachtingen ook zijn uitgekomen enige tijd nadat dat de nieuwe wet in werking is gesteld.

### **Aanbevelingen**

Op basis van de bevindingen van het onderzoek zijn een aantal aanbevelingen geformuleerd.

- Investerings zijn locatie-specifiek dus verschillen in bijdragen zijn te verwachten. Grote verschillen in bijdragen kunnen echter de beginselen van gelijkheid en rechtszekerheid negatief beïnvloeden. Het ontwikkelen van duidelijkere richtlijnen zou kunnen bijdragen aan consistentere beleid.
- Ontwikkelaars nemen beslissingen op basis van financiële argumenten, ze zijn bereid om bij te dragen zolang ze in staat zijn om een winstgevend project te realiseren. Door naast de kosten van investeringen, ook te focussen op de toegevoegde waarde van de investering waarvoor bijdragen worden gevraagd, zal de bereidheid van ontwikkelaars om bij te dragen toenemen.
- In het onderzoek komt naar voren dat weinig gemeentes duidelijk beleid hebben ten aanzien van het vragen van bijdragen ruimtelijke ontwikkelingen, en dat bijdragen ook worden gevraagd als dit beleid er niet is. Het formuleren van beleid zou duidelijkheid verschaffen en zorgt ervoor dat er een transparante discussie gevoerd kan worden.
- Gemeentes hadden geen of weinig empirisch bewijs ten aanzien van de verschillende bijdragen die in de verschillende projecten waren opgenomen. Een deugdelijk administratie van de bijdragen die per project zijn opgenomen, en of de ingeschatte kosten van werken die zijn gerealiseerd door ontwikkelaars als bijdrage in 'natura', kunnen helpen bij het evalueren van de effectiviteit ervan.

# Table of contents

---

<b>Colophon</b> .....	1
<b>Preface</b> .....	2
<b>Abstract</b> .....	3
<b>Management samenvatting</b> .....	4
<b>Glossary</b> .....	11
<b>1. Introduction</b> .....	12
1.1 Problem statement .....	13
1.2 Relevance .....	14
1.3 Research questions .....	15
1.4 Conceptual model .....	16
<b>2. Methodology</b> .....	17
2.1 Research Design .....	17
2.2 Research Methods .....	18
<b>3. Theoretical framework</b> .....	20
3.1 Land policy .....	20
3.2 The legal framework for cost recovery in the Spatial Planning Act .....	24
3.3 Cost recovery in the upcoming Environment and Planning Act (Ow) .....	30
3.4 Comparison Spatial Planning Act and Environment and Planning Act .....	32
<b>4. Policy Analysis</b> .....	34
4.1 Municipal policy about financial contributions .....	34
4.2 Results .....	44
4.3 Conclusion .....	46
<b>5. Case studies</b> .....	47
5.1 Case selection .....	47
5.2 Municipal Perspective .....	50
5.3 Developer perspective .....	63
5.4 Synthesis .....	66
<b>6. Conclusion</b> .....	69
<b>7. Discussion &amp; Recommendations</b> .....	73
<b>8. Reflection</b> .....	76
<b>References</b> .....	79
<b>Appendix A – List of analysed policy documents</b> .....	83
<b>Appendix B – Interview protocol municipalities</b> .....	87
<b>Appendix C – Informed Consent</b> .....	90

## Glossary

---

Bestemmingsplan	= local land-use plan
Gebiedseigen kosten	= costs for on-site works
Gebiedsoverstijgende kosten	= above-plan costs / costs for off-site works
Bijdragen aan ruimtelijke ontwikkelingen	= financial contributions for spatial developments
Bovenplanse verevening	= off-site cross financing
Bovenwijkse voorzieningen	= cross-district facilities
Exploitatieopzet	= development budget
Exploitatieplan	= site development plan
Grondexploitatie	= land development
Nacalculatie	= subsequent costing/ clawback claims
Structuurvisie	= structure vision

# 1. Introduction

---

Public services, such as public space and infrastructure, are an essential part of urban development projects. These public services are needed to facilitate the increase of inhabitants or other economic activities. Activities of governmental entities, such as provisioning public facilities or making planning decisions, can create benefit for property owners. This touches upon a classical debate on the relationship between regulation and property values. It is questioned whether governments have the right to reap some of the increment in property value attributable to its planning decisions (Alterman, 2012). There is a wide range of policies based on the idea that landowners should share some of the increased value of their land with society, especially if this value increase is due to land use regulations and or the development of public works. *"Value capture refers to the idea that certain activities of governmental entities can create benefit for existing and future property owners, and, as such, some of the increment in property value should be recouped for the public benefit"* (Kim, 2020, p.1).

In the Netherlands, municipalities acquire payments from new development projects to finance public services, which is known as cost recovery. Cost recovery is organised in section 6.4 of the Spatial Planning Act (*Dutch: Wet ruimtelijke ordening, hereafter Wro*). Local authorities are legally obliged to recover the costs for the development of public services (Heurkens, Hobma, Verheul, & Daamen, 2020). According to Art. 6.12(1) Wro, the municipal council must draw up a site development plan for every building plan, unless cost recovery is guaranteed otherwise. For example, cost recovery can be ensured via development agreements. Although section 6.4 Wro starts with this obligation for cost recovery, the government prefers to make voluntary agreements about cost recovery in so-called 'anterior agreements' before establishing an enforceable site development plan. Municipalities can include additional payments in these agreements that cannot be included in the site development plan. Additional payments could be financial contributions for spatial developments (*Dutch: financiële bijdragen aan ruimtelijke ontwikkelingen*). If cost recovery for the whole plan area is ensured, for example, by means of anterior agreements, a site development plan is no longer necessary.

Municipalities can follow various strategies for acquiring payments of developers for public services. Therefore, municipalities formulate land policies wherein there is attention for cost recovery. In the past, the Dutch planning policy has been characterised by an active land policy (Buitelaar, 2010; Needham, 1997). When applying active policy, municipalities act as both sellers and buyers on the land market. In order to achieve good spatial planning, they actively acquire land, sometimes with the help of compulsory purchase (*Dutch: Onteigening*). Hereafter, municipalities convert the land into building plots and dispose of the serviced building plots to developers (Needham, 1997). The broader possibilities to recover the local government's costs involved in land development were an important reason to pursue this active policy. On top of that, municipalities could make profits from the sale of land. Active land policy is considered an effective tool for recovering costs, capturing value increase and gaining a higher spatial quality (Valtonen, Falkenbach, & Viitanen, 2018). However, there are high financial risks involved with financial investments in land. Although active land policies resulted in significant losses during the great financial crisis in 2008 (Ten Have, Celik, Van Kuijck, & Reezigt, 2012), these losses have already been made up with a positive balance of over one billion euro in 2017 (Korthals Altes, 2018). Nevertheless, lessons have been learned from the financial problems.

In response to the high financial risks involved with active land policy, the Raad voor de Financiële Verhoudingen (2015) advises using a facilitating land policy unless strong societal demands can only be achieved with active land policy. Over time, municipalities' preference has shifted from active to a more facilitative land policy (Witting, 2020). Several municipalities mentioned in their land policy documents that they wish to pursue a facilitating land policy (Woestenburg, Van der Krabben, & Spit, 2018). According to the '*Nota grondbeleid van 2001*', we speak of facilitating (or passive) land policy when the

government is not involved in purchasing and developing land, whereby private parties fulfil this role instead (Groetelaars, 2004). In that case, the government's role is limited to providing a framework wherein activities of private parties can take place. However, when municipalities applied a facilitating approach before 2008, some private parties refused to repay the municipality for the cost they made for public facilities. This problem is also known as the free-rider problem. The Spatial Planning Act solved this by introducing the obligation to recover costs in 2008. The site development plan is a public-law based instrument that enables municipalities to put this obligation into practice. Local authorities can enforce payments from private parties with the site development plan when no private-law agreement is reached. Although site development plans have not been implemented often and the practice of private contracting continued (Heurkens, Hobma, Verheul, & Daamen, 2020), the introduction of the site development plan functioned as a catalyst to reach agreements between private and public parties about cost recovery (Lam, de Bruijne, & Sluysmans, 2012).

## 1.1 Problem statement

In the nearby future, the current Spatial Planning Act will be replaced by the new Environment and Planning Act (*Dutch: Omgevingswet*). The new legislation is not yet finished; the Supplementary Act Land Possession (*Dutch: Aanvullingswet Grondeigendom*) will update the Environment and Planning Act, and the Supplementary implementation decree for Land Possession (*Dutch: Aanvullingsbesluit grondeigendom*) will update the Environment and Planning decree (*Dutch: Omgevingsbesluit*). With the implementation Act, all supplementary acts will be integrated (van Baardewijk, 2020). The new law includes new rules for cost recovery, whereby financial contributions that are enforceable via public law are introduced (*Dutch: Financiële bijdrage in omgevingsplan, hereafter bijdrage o.g.*). These financial contributions are additional payments on top of the costs that the municipality needs to make to realise the new developments. Currently, developers can only agree to make additional payments as such voluntarily in a development agreement. These contributions are known as financial contributions for spatial developments (*Dutch: Financiële bijdragen ruimtelijke ontwikkelingen, hereafter bijdragen r.o.*). The initiator of the amendment that introduces publicly enforceable contributions, parliament member Ronnes, wants to achieve that all costs that are directly attributable to new spatial developments can be recovered. Additionally, he wants municipalities to be able to charge initiators of building projects with the costs that authorities need to make for the necessary quality improvements of the physical environment. He argues that the authorities need to get the legal possibility to enforce contributions based on public law in specific and exceptional situations<sup>1</sup>. The new publicly enforceable financial contributions in spatial plans of the Environment and Planning act are highly criticised by NEPROM (2020), which is an organisation that represents Dutch project developers. Their main critiques are that the new legislation leads to 'planning for those who pay' (*Dutch: betaalplanologie*) and that enforcing financial contributions jeopardises the development of affordable homes. Critics argue that research into the financial consequences of publicly enforceable contributions is lacking. A realistic image of the implications for the feasibility of urban (re)development projects is needed.

Several studies researched different types of public value capturing instruments from an international perspective (Hobma, 2014; Muñoz Gielen, Salas, & Cuadrado, 2017; Muñoz Gielen, 2010). However, only fragmented data is available about the actual use of financial contributions and its results in practice (BVH Ruimte BV, 2013; BVH Ruimte BV & Vreman, 2014; Muñoz Gielen, Nijland, & van der Heijden, 2019). Data about and insight into the use and results of financial contributions in practice could help understand the consequences of financial contributions for urban (re)development projects.

---

<sup>1</sup> *Kamerstukken II, 2019/20, 35133, nr. 23*

## 1.2 Relevance

### *Societal relevance*

Public facilities are an essential part of development projects. In the past, Dutch municipalities financed these public facilities via active land policies. Since the economic crisis of 2009, this traditional financial source became less profitable and other financial resources for urban development were reduced. Now that municipalities are often pursuing a more facilitating policy, municipalities seek additional funding to be able to finance public facilities. Therefore, negotiations on cost recovery and financial contributions are an essential topic between local authorities and private investors with land positions (Hoekstra, 2020). Whereas the costs for on-site infrastructure are recovered regularly, there is more discussion on the recovery of costs for off-site public works. The Dutch legal framework under the Spatial Planning Act distinguishes multiple types of above-plan costs. Financial contributions for spatial plans, which are asked for facilities that do not have a direct, but only an indirect relationship with public investments, can be an alternative financial source. More recently, the introduction of the Environment and Planning Act caused discussions about financial contributions. Although it seemed like financial contributions for spatial developments would not return in the new Environment and Planning Act, they came back in an amendment on April 2<sup>nd</sup> 2019 (Hoekstra, 2020). During the debate about the bill, an amendment from parliament member Ronnes was accepted that foresees a publicly enforceable variant of this contribution. NEPROM (2020) argues that there has been limited attention to the consequences of these financial contributions on housing production. NEPROM expects the new legislation to increase costs to such an extent that affordable housing development will not be sufficient. With the current housing shortages (Rijksoverheid, 2020) and societal implications, financial contributions are a relevant topic. Mapping the sort of financial contributions that are currently being asked and whether these are actually implemented via anterior agreements could help bring clarity in the debate about a realistic image of the room for financial contributions in urban development projects.

### *Scientific research*

There has been a long-standing debate on the relationship between regulations and property values. There is preponderance of evidence showing that property values can rise due to public investments, service levels and land-use decisions or regulations (Walters, 2013). The idea that land and or property owners should share some of the increased value with society is encompassed in many policies in many countries (Alterman, 2012). Value capture is a term that can be used to denote policy instruments targeted at capturing the added value that arises (in)directly from land-use regulation or investments in public works. According to Alterman (2012) indirect value capturing instruments are an ever-evolving category of policies that varies significantly among different contexts. Indirect instruments do not seek to capture value from a purely ideological standpoint because it would be 'unearned' but they are used in order to generate revenues, or in-kind substitutes, to cover the costs for specific public services. In this respect, (land) value capture has been advocated as an alternative funding source to support improvements in urban infrastructure and services (Walters, 2013). The concept of value capturing is often studied from a valuation point of view, exploring how much value can be captured with specific instruments (Debrezion, Pels & Rietveld, 2007; Hess & Almeida, 2007; Murre, 2020), from a governance point of view, studying which instruments are effective (Batt, 2001; Van der Krabben & Needham, 2008), and or from a political point of view, studying to whom the increment in value belongs (Wolff-Powers, 2019;; Muñoz Gielen & Tasan-Kok, 2010). However, only limited research has been conducted into the implementation of value capturing and cost recovery policies and the results in practice.

The Dutch Spatial Planning Act offers a legal basis that enables municipalities to recover the costs for public services. More specifically, it offers the possibility to negotiate developer contributions for costs that have an indirect relationship with the project. Only fragmented data is available on the use of these



contributions and the result in practice. BVH Ruimte BV (2013) conducted a survey to determine if municipalities included a basis for asking financial contributions in a structure vision (*Dutch: structuurvisie*), and if they decided to ask for these contributions. However, at the time of the research, not all municipalities had a structure vision yet. Municipalities that did not make concrete policy documents at the time could have drawn these of documents up since. Now that local authorities have had more experience with the legislation, they might have chosen a different approach or added financial contributions in their policy documents. The study of Muñoz Gielen, Nijland and van der Heijden (2019) was based on research of BVH Ruimte & Vreman (2014) but only focused on the categories for which financial contributions were asked and they did not clarify the height of the contributions stated in policy documents. The researchers also did not investigate if contributions mentioned in policy documents were actually requested in practice and the reason for (not) requesting these contributions. Adding to the theoretical possibilities for requesting contributions that have already been studied, research into implementation could provide insight in the actual usage of developer contributions in the Dutch context. This thesis will contribute to the scientific knowledge on the implementation and results of value capturing instruments, and more specifically negotiable developer contributions, in the Netherlands.

### 1.3 Research questions

Limited data is available about the use of financial contributions in practice, making it difficult to determine the influence of these contributions on the initiation of development projects. Therefore, this thesis's central research question is:

*"What are the consequences of incorporating financial contributions for the initiation of development projects, and how does the legal framework play a role in this?"*

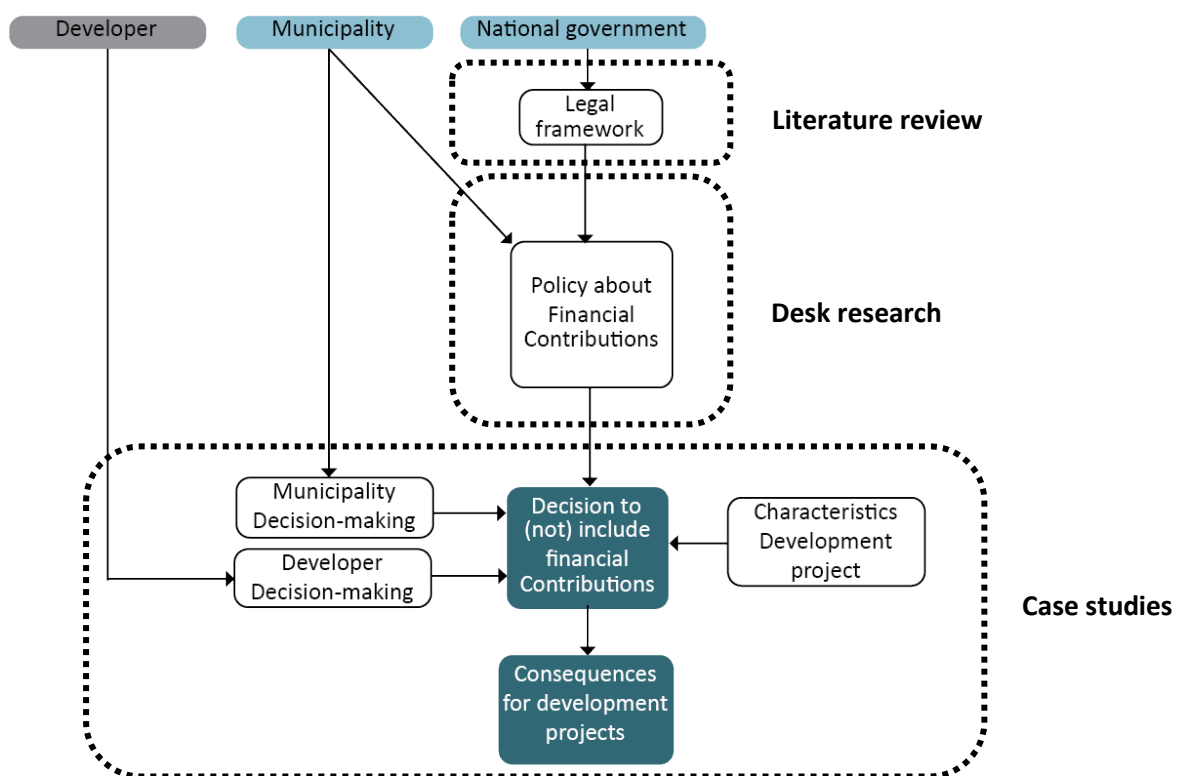
To answer this question, the following sub-questions are formulated:

1. *What is the legal framework for cost recovery?*
  - a. *What is the legal framework for cost recovery in the current Spatial Planning Act (Wro)?*
  - b. *What are the expected changes in the legal framework for cost recovery in the Environment and Planning Act?*
  - c. *Which factors influence the decision-making about financial contributions?*
2. *Which kind of municipal approaches regarding financial contributions for spatial developments can be found in municipal policy documents for a selection of 50 municipalities?*
  - a. *Which of the selected municipalities ask for financial contributions in policy documents?*
  - b. *Which kind of contributions (height and category) are mentioned in municipal policy documents?*
3. *What was the rationale behind (not) including the financial contributions that were mentioned in policy documents in anterior agreements?*
  - a. *Which financial contributions were incorporated in anterior agreements?*
  - b. *Which factors influenced the contribution height that was agreed upon?*
  - c. *To what extent does the legal framework for cost recovery play a role in deciding to (not) include financial contributions in anterior agreements?*
4. *How far did the decision to include financial contributions in anterior agreements influence the initiation of development projects?*
  - a. *To what extent did developers adjust their initial development plans due to the municipality asking for financial contributions?*
  - b. *To what extent do financial contributions influence the choice for the development location?*

- c. How high were the financial contributions relative to the selling price of the development?
5. What are the expected effects of the new Environment and Planning Act on the decision to include financial contributions in anterior agreements and the initiation of urban (re)development projects?

## 1.4 Conceptual model

Based on the literature about cost recovery, a conceptual framework for financial contributions is developed for this study. The model can be divided into three different parts. Figure 1 shows the conceptual model and how the research is structured.



**Figure 1** Conceptual model

The first part of the research focuses on the legal framework for cost recovery provided by the national government. In the second part, a policy analysis is conducted by means of a desk-research to investigate in which kind of municipal cost recovery policies this legal framework resulted. In the third part, the negotiations about financial contributions in development agreements are researched. Interviews were held with public servants from various municipalities to get insight into their considerations. To also take into account the developers perspective, the findings from the interviews were validated by conducting an interview with developer representative organisation NEPROM. By using case studies, the potential influence of contextual factors can be taken into account. It is analysed whether including financial contributions in agreements had consequences for (the initiation of) development projects.

# 2. Methodology

This chapter describes the methodology of the research. It presents the research design and methods methods that are used to conduct this study.

## 2.1 Research Design

The research investigates the consequences of asking for financial contributions and the role of the legal framework for cost recovery in this. The main aim is thus generating knowledge and understanding. According to Barendse, Binnekamp, De Graaf, Van Gunsteren and Van Loon (2012), an empirical research method can be used for formulating explanations. Therefore, this research uses an empirical methodology. This study is explorative since fragmented data is available about the use of financial contributions in practice, and this research will explore, analyse and synthesise that data.

Choices about the research design and research methods are made to determine how the research is conducted. Research methods are associated with different kinds of research design. A research design encompasses a framework for data generation that is needed to answer the research question (Bryman, 2012). This research makes use of case studies as a research design and uses different methods to collect data. This research can be divided into theoretical research, empirical research and conclusions.

	Theoretical Research	Empirical research	Conclusions
<i>Method</i>	Literature review	Desk-research	Case studies
<i>Data Source</i>	Journals Books Reports	Policy documents	Case material Interviews
<i>Research Questions</i>	<i>What is the legal framework for cost recovery?</i>	<i>Which financial contributions for spatial developments are asked in municipal land policy documents in a selection of 50 municipalities?</i>	<i>What was the rationale behind (not) including the financial contributions that were mentioned in policy documents in anterior agreements?</i>  <i>How far did the decision to include financial contributions in anterior agreements influence the initiation development projects?</i>  <i>What are the expected effects of the new Environment and Planning Act on the decision to include financial contributions in anterior agreements and the initiation of urban (re)development projects?</i>
			Synthesis & Interpretation  Theoretical & empirical research results  <i>What are the consequences of incorporating financial contributions for the initiation of development projects, and how does the legal framework play a role in this?</i>

**Figure 2** Overview of the different research design components

Figure 2 gives an overview of different research components. The literature review will explain the legal framework for cost recovery in the Netherlands and positions this in an international context. Hereafter, empirical research is conducted to grasp the different kinds of municipal approaches towards cost recovery and the execution of these approaches in practice. The empirical research consists of two

steps. First, an explorative desk research is conducted to investigate the approaches towards cost recovery for a selection of fifty municipalities. Second, case studies follow to analyse financial contributions more in-depth. In the final section of the research, synthesis and interpretation of the research will be described, and conclusions are drawn.

## 2.2 Research Methods

### *Literature review*

The objective of the first part is to provide a theoretical framework through a literature review. The literature review describes the legal framework for cost recovery and the expected changes in new upcoming legislation. It explains how municipalities and developers deal with cost recovery in practice with attention to the negotiation and decision-making processes regarding agreements about financial contributions. The information gathered in this first part is vital for creating a thorough understanding of the research's key concepts. The literature review data is collected via academic search engines, such as Google Scholar and the TU research repository. Reports from commercial parties and books are used for the literature review as well.

### *Desk-research*

There are 355 municipalities in the Netherlands (CBS, 2020). For this research, a selection of fifty municipalities is made to explore the policy regarding financial contributions. The local authorities that produced the most housing are selected because critics argue that financial contributions jeopardise housing affordability. In addition, municipalities from each of the twelve provinces are part of the selection to ensure that local context influences are considered. Therefore some municipalities are included that would not have been selected solely based on housing production. The selection represents 51,3% of the total housing production from 2012 to 2019 in the Netherlands (CBS, 2020). During the desk-research, the cost recovery policy reports of the selected municipalities are analysed. Research focuses on whether these municipalities plan to ask for financial contributions from developers, the type of contributions they plan to ask and how they plan to allocate contributions among developers. This analysis is intended to identify which municipalities ask for financial contributions and understand the scope of the financial contribution phenomena. Additionally, it allows the researcher to identify potential cases for the second step of the empirical research.

### *Case studies*

The desk-research shows which municipalities have defined policy regarding financial contributions for spatial plans. Since limited information is available about the context in which financial contributions are collected, case studies can be an appropriate method to give insight into the context's potential influence (Yin, 2003). By discussing realised development projects, it is possible to check whether the municipality asked for financial contributions mentioned in policy documents and whether these were actually incorporated in development agreements. By using multiple cases, data of various cases is gathered which allows for identification of differences and or similarities (Yin, 2003).

Yin (2018) distinguishes four types of case-study design, categorised in single- or multiple case studies with single or multiple units of analysis. By setting up the research a multi-case design, municipalities were able to say something about the differences regarding financial contributions in anterior agreements for different projects in a more qualitative comparative manner. This way, contextual factors that influenced the agreements on financial contributions in various projects came up without discussing specific development projects in more detail. The outcomes of the different municipal cases are then compared in a cross-case analysis. To be able to validate the findings from the cross-case analysis, the developers perspective is explored in an interview with developers organisation NEPROM.

The findings from the theory and empirical research, are then compared and synthesised. Hereafter, conclusions are drawn. The case study design is shown in figure 3.

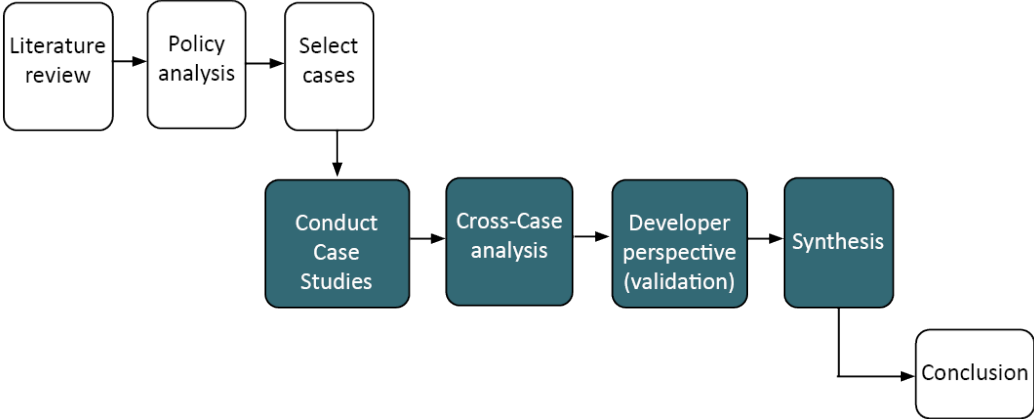


Figure 3 Case study methodology design (own illustration)

## 3. Theoretical framework

---

This chapter provides the theoretical background that is necessary to understand the legal framework for cost recovery. First, different forms of land policy and models for collaboration between public and private parties are described. The second section zooms in on the specific Dutch legal context, whereby the legal framework of municipalities for cost recovery in the current Spatial Planning Act is explained. Section 3.3 elaborates on the expected changes in the Environment and Planning Act.

### 3.1 Land policy and capturing value

#### ***Active versus facilitating land policy***

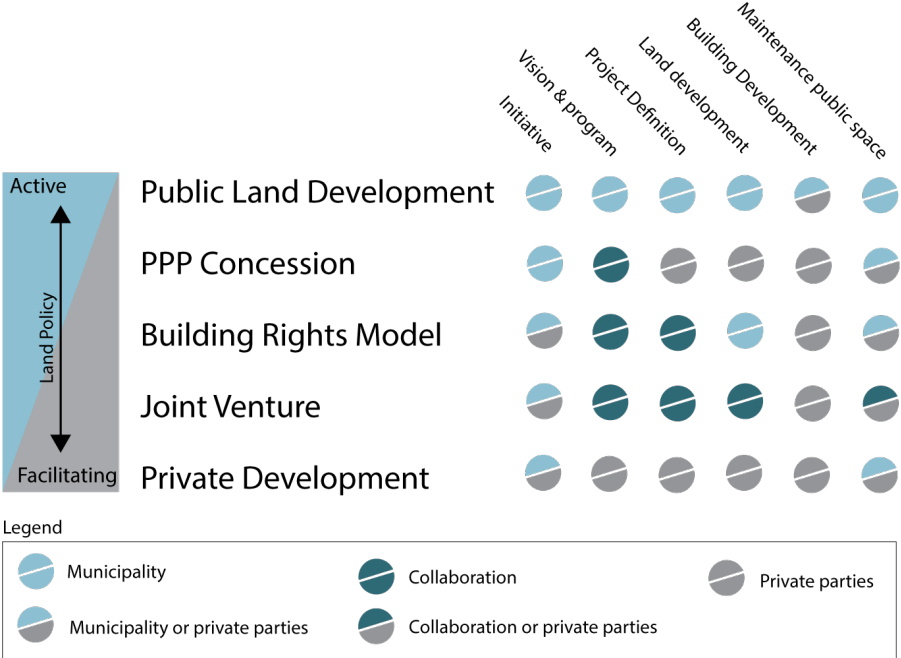
Land is a valuable resource and plays an essential role in the social and economic wellbeing of people. It is spatially fixed, a scarce resource and it is crucial to the production of housing and various public services. Land is a tradable commodity in liberal market economies, whereby its value is shaped by policy instruments and institutions that affect the rights and obligations of owners and occupiers (Lawson & Ruonavaara, 2020). Land values depend on many factors, such as the proximity to resources (e.g. transport infrastructure) and scarcity due to the ratio of demand and supply. Besides the value of land, governments also influence land uses, development rights and exchange processes. Changing permitted uses or assigning development rights can drastically increase values and reap windfall gains (Lawson & Ruonavaara, 2020). Simultaneously it could also work the other way around, whereby planning decisions could result in losses. Land policy can make a vital difference to the costs and associated financial feasibility of projects. *"Land policy is a mechanism for influencing development processes and its impacts on social and economic well-being and the environment. It is embedded in local state-market-citizen relations, expressed in terms of rights of ownership and usage, and influenced by a range of stakeholders with varying power and resources, which includes policy makers"* (Lawson & Ruonavaara, 2020, p. 15). Land policy is thus a tool for accomplishing different goals. It is used as a means to support other policy fields.

Land policy characterises itself by its interaction between private and public parties (Korthals Altes, 2013), whereby the government has different public and private law instruments available. Governments may intervene as direct players on the land market, by accumulating land reserves and realising this land via sales or leaseholds (Lawson & Ruonavaara, 2020). Based on the amount of government intervention, a land policy approach is situated somewhere on the spectrum between active and facilitating land policies. When choosing an active land policy, municipalities actively try to acquire land and afterwards convert that land into building plots and disposes of the serviced building plots to building developers (Needham, 1997). Municipalities are then financially involved and thus gain both profits and risks of investing in developments. This active involvement in land development requires more administrative capacity and knowledge (Witting, 2019). One of the benefits of active land policy for the municipality is that it allows for greater public control over spatial developments since municipalities can include obligations - additional to those possible under the building and planning regulations - in the land sales contract. For example, they can set additional quality requirements for a project or stipulate a timely execution. Additionally, if the municipality does not like proposed development plans, they can decide not to sell land to developers and stop undesired developments this way. Owning the land thus gives municipalities a good negotiation position. However, the governments' role as a regulator can conflict with her role as a buyer or seller of land under private law. Namely, spatial planning instruments of the municipality can cause restrictions on ownership rights. For example, they can forbid constructing particular buildings on a plot. As a result, a governmental body might favour itself as a landowner above other landowners. This conflict of interest is referred to as the 'double-hat problem' (van Rij & Korthals Altes, 2010). Instead of an active policy, local authorities can also choose to pursue a facilitating policy. In a facilitating policy, the public party takes a more reserved

approach and reacts to private initiatives (Muñoz Gielen et al., 2017). Under a facilitating policy, a municipality can still facilitate developments when it does not have the administrative or financial capacity which is needed for developing land itself. However, with a facilitating approach, the municipality does not own the land. Thus, they cannot include agreements about cost recovery in land sale contracts, nor can they make development profits. To be able to recover the costs for public services, they can make use of a site development plan as a juridical instrument. However, this instrument is considered to be legally complex (Witting, 2019). Both types of land policy thus have advantages and disadvantages for municipalities.

Implementing an active or facilitating policy is not always a black-and-white decision; municipalities might opt for a different land policy per project, which is also referred to as situational land policy (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019). When choosing a type of land policy, the main considerations are the characteristics of the municipality, the project, and location (Witting, 2019). In terms of municipal characteristics, the organisational capacity, municipal ambitions, and level of private initiative in the city play a role in deciding whether or not to pursue an active land policy. If a municipality does not have the means to take on an active role, such as the financial capacity to buy land or enough public servants to actively manage developments, this will automatically lead to a more facilitating approach. Presumably, when a municipality has higher ambitions, there is more need for active policy to realise goals, such as the envisioned amounts of social housing. The number of private development initiatives in a municipality might also affect the chosen land policy since it could influence negotiations' outcomes. If more developers are willing to take on projects, the municipality has a better position in negotiations. In terms of project characteristics, the project's specific goals, the projected program's profitability, desired schedule, and previous plans and preparations could influence the land policy. The purpose of the project and the profitability of the program determine how willing developers are to invest. When developers are less inclined to invest, an active policy might be required to make a start. A more active policy is usually needed when a timely development is desired since an active approach offers more steering possibilities. Namely, when municipalities sell land – which they acquired through their active policy – they can include agreements about the phasing and timely execution in the land sale contracts. In terms of location characteristics, the most crucial factor is the ownership division. If private parties already acquired most of the land, a facilitating policy is a more plausible option since developers can claim the right to self-realisation. The self-realisation principle enables developers to evade expropriation by claiming they were able to realise the development themselves, meaning that municipalities would not be able to use compulsory purchase (Korthals Altes, 2014). *"Self-realisation refers to the principle that an owner of the land can change the land use when that new land use is in accordance with the provisions established by the authorities and when it is not proven that the municipality needs to own the land to be able to realise their policy"* (Needham & Geuting, 2006, p.1). In this matter, just planning to realise a development is not enough. When landowners present a case for self-realisation, the intention to realise a development themselves needs to be verifiable. Self-realisation will only be granted if clear and tangible steps towards implementation are taken and if sufficient land is assembled to be able to realise an independent part of the plan (Korthals Altes, 2014). If a landowner has successfully claimed the right to self-realisation, he has to keep himself to the planning restrictions established by the local authorities. These restrictions could be provided via a facilitating land policy. Instead of compulsory purchase with monetary compensation, a more active policy could also be a solution in situations with scattered land and many different owners. Namely, a municipality can then use its tools for land assembly (*Dutch: herverkaveling*). Land re-assembly is a form of compulsory purchase, whereby instead of monetary compensation, landowners are compensated in land. In addition to land ownership, existing real estate is also a factor. Private owners of existing buildings might not be willing to cooperate with the redevelopment of the area. If a municipality wants

to achieve the redevelopment ambitions, it could expropriate existing owners under some conditions. Another characteristic of a location could be the level of development of public space and services. Lastly, locations might have different risk profiles. Higher location risks could result from archaeological value, soil pollution, biological value (protected species) or market risk. These risks could make development more complex and lead to a decreased interest of private developers. If the investors are less willing to invest because of the higher risk, an active policy might be needed to start development.



**Figure 4** Different collaboration models on the active-facilitating land policy spectrum (own figure based on Korthals Altes, Nieuwenhuizen, Stevens, & Harkes, 2003)

**Collaboration models**

Several collaborations models in the active to facilitating land policy spectrum can be distinguished. Roughly these are public land development, PPP concession, Building Rights Model, Joint venture and private developments. The involvement of private and public parties in each phase of these models is schematically shown in figure 4. Which type of collaboration can be used depends highly on the land ownership position of the municipality. Public land development is only possible if the governmental body has ownership of the land. If they do not have ownership from the start, they need to acquire land to initiate public land development. Entire public development is not possible; there will always be private parties involved during the construction phase of a development project. In a public development the public party takes initiative, formulates a plan and is responsible for the land development. The private parties are then restricted to executing the plan drawn up by the municipality (Korthals Altes, Nieuwenhuizen, Stevens, & Harkes, 2003). If there is partial ownership by the municipality and private developers, different public-private partnerships (PPP) can be formed, such as the PPP Concession, the Building Rights model and the Joint venture. The level of involvement and responsibility of the municipality in these partnerships differs. A Building Rights Model is often used when land ownership is scattered. In this model, developers sell their land to the municipality, usually for less than they acquired the land for. In exchange, the municipality permits building volume to the developers. After that the municipality services the land and divides the land into building sites. Developers who sold their land get the possibility of buying building sites (Korthals Altes, Nieuwenhuizen, Stevens, & Harkes, 2003). The municipality thus bears most of the financial risks of land development. This risk could be reduced if parties agree on a selling price and purchase obligation upfront. In a joint venture, either a developer or the municipality owns the land. The land ownership is



transferred to a joint public-private company that will allocate the land. The private developer and municipality are both shareholders in the joint-venture company, and thus they share the risks of land development. In this collaboration model, the private party can often influence the spatial planning of the area (Korthals Altes, Nieuwenhuizen, Stevens, & Harkes, 2003). In the concession model, mainly private parties are responsible for the development. Unlike other PPP collaboration models, the municipality does not share market risk in a concession. In concession contracts, public and private parties make agreements about the development and cost recovery (Korthals Altes, Nieuwenhuizen, Stevens, & Harkes, 2003). When private developers own land, there is less involvement of the municipality. Nevertheless, the public party does have steering possibilities with its spatial planning instruments, such as land use plans. In a private development, a private party takes risks and finances the project themselves. Sometimes market parties are involved in the development of public space, but maintenance is usually the governmental body's responsibility. Depending on which type of collaboration is used, the municipality has different instruments to recover costs for public services and space.

### ***Value capturing***

Historically speaking, there has been a debate about the nexus between government regulation and economic value, especially with regards to land ownership (Alterman, 2012). The underlying debate focuses on whether property is the epitome of real property or is a social good. The question is raised since governmental policies, which are funded by the public, may affect the value of various types of (non-real) property. Does the public deserve a share in the rise of land values more than other types of private property? According to Locke real property deserves protection in law since private property is related to human autonomy. Bentham argues that private ownership contributes to societal welfare, and without it, the land would be misused. Philosopher Rousseau held the opposite view and said that private ownership results in problems and conflict (Alterman, 2012). According to De Soto (in Alterman, 2012), real property represents a significant part of a household's assets, and therefore public policy should aim to protect the formal status of these assets. Most countries offer some form of protection on private property, but to what extent varies considerably. This property-rights debate has implications on the policies on land-value changes. In a conservative approach, land owners are entitled to the full 'windfall' of value increase, or as second best if it is decided to adopt a capital gains tax, real property should be viewed as just another type of capital investment and should not be singled out for a separate tax. Under a socially-oriented view, owners of real property owe it to society to share part of the 'unearned increment' by means of special levies or taxes. In this view, increments due directly to the landowner's efforts should be exempted (Alterman, 2012). Nowadays, most countries have adopted laws to regulate land use and development, although these laws are poorly applied and enforced in many (Alterman, 2012).

As mentioned earlier, planning decisions by the government, such as changing permitted uses or granting development rights, can increase land values, which could result in considerable windfall gains. When planning decisions lead to (positively) changed land values and development potential, this is referred to as 'planning gain' (Lawson and Ruonovaara, 2020). The increase in value may accrue to the owner or occupier, but some governments try to capture this value, which is referred to as betterment by some scholars. Public parties then redistribute the benefits more widely and invest in public goals. According to Alterman (2012), value capture is an open-ended term, which is defined and used variously. While some use the term to cover any type of instruments with the purpose to tap any form of 'unearned increment', regardless of the cause of the value rise, others use the term only to denote the policy instruments targeted at value arising directly from land-use regulation or public works. Value capture is a topic that is regaining popularity in planning practice internationally (Kim, 2020). It is an implementation tool that municipalities increasingly use to finance public facilities. Different countries

use various techniques to capture this value, such as tax increment financing (TIF), special assessments, land value taxation, land use exactions, zoning bonuses, public-private developments, and leasing publicly owned land. Alterman (2012) distinguishes three types of value capture macro, direct, indirect instruments. Macro value capture instruments are embedded in overarching land policy regimes, motivated by a broader ideology. Four major types of land policy regimes have value capture embedded in them, or at least in theory: Nationalisation of all land and direct government control over its use, the substitution of private property by long-term public leaseholds, land banking and land readjustment. The first two are based on the idea that when the public owns the land, and the value of land would increase due to planning decision, the unearned increment will 'automatically' go to the public purse. In land banking, the public authority purchases land that might be needed for future expansion well in advance. In the 'classic' form of land banking, the public body supplies the infrastructure and leases or sells the land after it is developed (Baroussa and Hong, in Alterman 2012). The lease or selling price reflects the added value derived from the right to develop the land and from the facilities provided. In the Netherlands, this can be achieved with strategic land purchases under an active land policy. The fourth type of macro instrument is land readjustment, which is a tool that enables government authorities to 'reshuffle' the current division of land plots, and whereby landowners are assigned new plots and developments rights. In the Netherlands, this is referred to as '*herverkaveling*'. The second type of value capture instruments, the direct ones, are policies that seek to capture all or some of the value increase in real property under the rationale that landowners must contribute a share of their community-derived wealth to the public. Direct instruments do not seek additional motivations. For example, they do not show that the funds are necessary to mitigate negative impacts of a project or that the properties that generated the funds benefit from the financed services. The rationale for direct capture stands on its own. The third type of value capture, indirect value capture, does not seek to capture value for its own sake, but instead is used to generate funds for specific public services. These are usually practised on a local government level. The objective is thus less ideological and of a more practical nature. It is hard to distinguish direct and indirect instruments because both seek to capture the same source of wealth, namely the additional value derived from the government's land use and development decisions.

Most developer obligations are indirect value capturing instruments (Muñoz Gielen & Pastor, 2019). Some developer obligations are negotiable, while others are based on detailed national (or regional) legislation that regulates the scope precisely with legal standards and categorisations. There are thus two types of developer obligations: negotiable developer obligations (NDO) and non-negotiable developer obligations (N-NDO). N-NDO's have a less local character than their negotiable equivalent. NDO's can be (vaguely) regulated, but this does not have to be the case necessarily. In the Netherlands, negotiable financial contributions are based on some basic regulation from the central government, but the municipality should regulate them in more detail. International examples of NDO's are *exactions* in the US, *planning gains* and *planning obligations* in the UK, *participation* in France, and *compromisos complementarios* in Spain (Muñoz Gielen & Pastor, 2019). Other countries use N-NDO's, whereby examples could be the German *Umlegung*, *cargas de urbanización*, *cesiones* and *reservas de suelo* in Spain, and *Community infrastructure levy* in the UK (Muñoz Gielen & Pastor, 2019).

### **3.2 The legal framework for cost recovery in the Spatial Planning Act**

The previous sections explained the issue of value capturing from an international perspective and its role in the field of land policy. As stated, there is a variety of terms and instruments to capture the value, which varies from country to country. The term cost recovery is a term used in the Netherlands to denote exactions that indemnify particular costs for public facilities. This section will zoom in on the context of the Netherlands and elaborate on the legal framework for cost recovery provided by the Spatial Planning Act.

### ***Municipal instruments for cost recovery***

The Spatial Planning Act makes cost recovery by municipalities, and where necessary, the establishment of location requirements mandatory. This obligation is an essential difference with the former regulation, whereby cost recovery was authorised and not required. In order to recover the costs for public services, a municipality can use both private and public law instruments. One instrument is cost recovery via land sales, which is a private law instrument. If a local authority owns the land, they can implement an active land policy. When a municipality sells land to developers, they can incorporate the costs for preparing the land and the development of public services in the land's selling price. The land must be sold at market value to avoid state support. If the land's selling price is higher than the costs involved in servicing the land, a municipality can make a profit. When a municipality has limited ownership and therefore decided to implement a facilitating land policy, additional cost recovery instruments are needed. The system for cost recovery for this situation is part of the Spatial Planning Act (Wro). Roughly two ways to recover costs can then be distinguished. Firstly, the municipality can make use of development agreements, as stated in Art. 6.24 Wro. In so-called anterior agreements, the public body and developers agree on paying costs in a private law contract before a planning decision is made. Secondly, the municipality can draw up a site development plan (*Dutch: Exploitatieplan*) as a basis for recovering the costs for public services, which is a public law instrument. These last two instruments will be described in more detail below. In addition to the already mentioned instruments for cost recovery, municipalities can ask for a capital gain tax (*Dutch: baatbelasting*). With this value capturing instrument, existing property owners pay taxes for public service developments they benefit from, although the possibilities for this last option are minimal (Heurkens, Hobma, Verheul, & Daamen, 2020).

### ***The site development plan***

As mentioned before, cost recovery is not optional; the Spatial Planning Act obliges the municipality to recover the costs. Namely Art. 6.12 (1) Wro stipulates that a planning decision that makes building plans possible, needs to be accompanied by a site development plan. Planning decisions as such could be establishing a land-use plan or a zoning amendment, granting a permit for plan deviation and setting a project exemption or execution decision based on the Crisis and Recovery Act. These decisions must concern building plans as meant in Art. 6.2.1 Bro (*Dutch: Besluit ruimtelijke ordening, hereafter Bro*) (Bregman, 2011). A site development plan consists of an overview of the costs and earnings for a land exploitation project in a development budget (*Dutch: Exploitatieopzet*) and could include location requirements if municipalities find those necessary. The site development plan needs to make precise which costs and benefits are considered in a specific plan area – a map of the plan area must be provided – and how the expenses for public services are spread among owners in the plan area. Cost recovery on the basis of a site development plan takes place via the environmental permit and is limited by an exhaustive list of cost categories (*Dutch: Kostensoortenlijst*) Art. 6.2.3, 6.2.4 and 6.2.5 Bro, see figure 5.

Besides the costs for physical measures for servicing the land and public space in the plan area, also planning costs, damage compensation, interests cost and initial values are considered. In terms of physical measures, costs that serve a wider area are included as well. Costs that are not mentioned in the cost list cannot be recovered on a public law basis. In addition to the cost list, the expenses that are retrieved via a site development plan must comply with the criteria of profitability, proportionality and accountability, also known as '*p.p.t. criteria*'. In terms of profitability, the public services for which costs are recovered must be useful for the development area. Costs for public services are accountable when there is a causal relationship; the costs would not have been made if the development would not have taken place. Costs that are financed on a different basis, such as user rates (utilities), are also not perceived as imputable to the development. If multiple locations benefit from public services, cost recovery is proportional when costs are divided pro-rata. This means that areas that benefit more will

contribute more to the costs. When '*p.p.t. criteria*' are met, only costs for which no subsidies or other contributions will be received can be recovered. A development location must be able to bear the costs. If costs are recovered via a site development plan, it is not allowed to recover more costs than the proceeds of land development (*Dutch: Macro-aftopping*) as described in Art. 6.16 Wro (Hoekstra, 2020).

### **Cost to be recovered under public law**

Municipalities make costs for acquiring and preparing land for development. The costs for land acquisition that could be allocated an exploitation are described in Art. 6.2.3 Bro. These include:

- a. Land value
- b. Value of to be demolished real estate
- c. Costs for obtaining control of the land, this can be through purchasing or expropriation
- d. Costs of demolishing, removing and relocating real estate, infrastructure and obstacles.

The costs public services that can be included in a site development plan are expressed in Art. 6.2.4. Bro. These costs have to be related to the development area and range from:

- Civil, acoustic, environment, archaeological and other relevant studies.
- Land sanitation and land works
- Public facilities
- Administrative costs for initiating, construction, managing and controlling planning procedures, works.
- Compensation for environmental losses
- Already made expenses
- Future expenses
- Damage compensations
- Interest costs

The types of public facilities for which cost can be recovered are specified in Art. 6.2.5 Bro. These facilities can only be recovered if they cannot be financed with operational revenues.

- a. Utilities
- b. Sewerage systems
- c. Roads, public parking, public squares, pavements, bicycle paths, water works, bridges, tunnels, culverts, quays, docks, piers.
- d. Public transportation networks
- e. Public green, parks, playgrounds, non-commercial sport facilities.
- f. Public lighting and fire hydrant.
- g. Street furniture, playground equipment, decorative elements, art objects and fencing in public spaces.
- h. Built parking facilities
- i. Buildings with environmental, hygienic, archeologic or health purposes.

**Figure 5** Cost that can be recovered under public law (Besluit ruimtelijke ordening)

When a site development plan is established, this public law instrument for cost recovery is activated. After the establishment of a site development plan, it is possible to make development agreements with private landowners. However, these development agreements must then comply with the site development plan. It does offer opportunities to specify topics from the site development plan further, but it is not possible to make agreements about topics that were not included in the site development plan. An agreement that is made after the site development plan has been established is referred to as

a posterior agreement. A municipality and project initiator can also make a development agreement before a site development plan is established, which is referred to as an anterior agreement. If no posterior or anterior agreement is made, and a developer applies for an environmental permit for realising a building plan, requirements for cost recovery, phasing and location, will be imposed as mandatory conditions in the environmental permit (Bregman, 2011).

### ***Anterior Agreements***

Although cost recovery is obligated, this does not necessarily have to be done on a public law basis. Art. 6.12 (2) Wro describes that a site development plan is not required when three conditions are met. First, when cost recovery is guaranteed otherwise, for example, by means of anterior development agreements or land-allocation agreements. Second, when it is not necessary to make location requirements. Third, when it is not necessary to set rules for phasing and execution.

The cost categories and criteria for recovering cost with a site development plan do not apply to anterior agreements. Namely, anterior agreements are a private law instrument. This means there is freedom of contract. However, it seems unlikely that the developer would be willing to voluntarily pay more cost than could be enforced in a site development plan. After all, there is often little benefit in paying more costs than could maximally be recovered on a non-voluntary public law basis. Likewise, a municipality would like to get similar contributions as they would get via the site development plan. If developers contribute less via anterior contracts than they would according to a site development plan, the municipality has to bear more costs, which is undesired from a municipal perspective. It could thus be argued that the potential contents of a site development plan, which are determined by the legal framework for cost recovery under public law, have a consequential effect (*Dutch: reflexwerking*) on the contents of anterior agreements. In most cases (ca. 95%), the municipality prefers anterior contracts over site development plans (Van den Brand, Van Gelder, & Van Sandick, 2008; Heurkens, Hobma, Verheul, & Daamen, 2020; Hoekstra, 2020). By making use of an anterior agreement, the municipality avoids the costly process of drawing up a detailed site development plan. At the same time, anterior arrangements are also interesting for developers because they can steer on the contents in the agreements.

When choosing the route of anterior agreements for an urban (re)development, municipalities and developers can negotiate about the agreement's contents. Although the primary purpose of an anterior agreement is to arrange cost recovery, the contents can also cover things such as the program, land allotment, damage compensation, benefits and risk allocation, location requirements, conditions, time and phasing, general conditions and organisation, collaboration and execution (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2019). Van den Brand, Van Gelder and Van Sandick (2008) state that the following aspects determine the room for negotiation:

- Legal limitations regarding freedom of contract based on Wro, Bro, BW and Awb
- Ownerships positions in the plan area
- Policy documents on spatial planning, housing, public space etc.
- Earlier agreements on the land development of the plan area
- Alternatives in case the development fails/ stagnates
- Room to move around program and land allotment in the plan area
- Influence of local residents and other stakeholders
- For the private developer: the possibility of self-realisation
- For the municipality: Political and administrative support and requirements

According to Schoonhoven (2018), circa 60% of developers and municipalities are unfamiliar with the policy regarding the cost recovery for public facilities. Her research showed that the costs for '*verevening*' and or '*ruimtelijke ontwikkelingen*' come up in 27% of the negotiations. Cost recovery

mostly sees on the '*gebiedseigen kosten*', and less on '*gebiedsoverstijgende kosten*'. The ratio is on average 70%-30%.

Whether a developer decides to initiate a project depends on the feasibility of that project. A project needs to meet five criteria to be feasible: financial feasibility, market appeal, regulation, ownership and physical suitability (Adams & Tiesdell, 2010). Real estate developer decision-making primarily focuses on financial aspects (Ramselaar & Keeris, 2011). The agreement to make financial contributions could make sure value is added to a project. Adding value can make developments more feasible. Whether financial contributions add value depends on the type of contribution. According to De Koning (2020) developer decision-making regarding financial contributions is affected by the added value of the contribution, conditions to making a contribution, the type of contribution and the public role. The benefits of making contributions for developers could be financial, conceptual, procedural, business and external added values. Various types of developers might value these types of added values differently. Conditions that make a developer more willing to contribute are financial feasibility, tender criteria, constructive relationship with the municipality and being involved in area development.

Schep (in Schoonhoven, 2018) addresses three factors that could influence the negotiations on cost recovery: certainty, reasonableness and sufficiency. Schoonhoven (2018) mentions that in terms of certainty, the dependency on the other party's cooperation and the predictability of the investments for which a contribution is required play a role in negotiations. In terms of reasonableness, the size of the contribution, how much a project benefits from an investment, and the necessity of the investments for a project play a role. In terms of sufficiency, the selection of investments for which contributions are asked and the relation of the contribution height and earning potential should be considered.

### ***Types of costs***

As explained, there are different ways to recover the costs for public services. The costs for public services themselves are rather broad. Therefore, it is important to specify different types of costs for public services. The costs for public services can be divided in roughly two categories. The first entails costs directly related to only one development area (*Dutch: gebiedseigen kosten*) and the second refers to costs that are related to multiple development areas (*Dutch: gebiedsoverstijgende kosten*). The latter can be subdivided into three categories. The first type of costs are those for cross-district facilities (*Dutch: bovenwijkse voorzieningen*), for which the legal basis can be found in Art. 6.2.4 e Bro. These consist of costs for public infrastructure and facilities that serve the developed area and adjacent (existing) areas. Cross-district facilities are usually situated outside the development area, although they could also be located (partially) within the development area. An example of this type of costs could be a road that provides access to multiple neighbourhoods. For this type of costs, a municipality could apply a system based on fund contributions. The payments for cross-district facilities will be attributed to a fund, which the municipality will use to pay for the construction of those facilities. The second category entails off-site cross financing costs, whereby financial gains of a development compensate shortages in other areas (*Dutch: bovenplanse verevening*). For example, a municipality wants to realise a new commercial area, while at the same time, they also want to revitalise some older commercial areas. The development of new commercial areas is profitable, unlike the revitalisation of the existing regions that cost more than they gain. The municipality can then use part of the new development's profit to finance the improvement of existing areas. The Spatial Planning Act offers the possibility for off-site cross financing in the form of fund contributions in a site development plan in Art. 6.13(7) Wro. The last type of '*gebiedsoverstijgende kosten*' are financial contributions for spatial developments (*Dutch: financiële bijdragen ruimtelijke ontwikkelingen, hereafter bijdragen r.o.*), for which the legal basis can be found in Art. 6.24(1)a Wro. These consist of contributions for public facilities and interventions that are not directly related to the development area. As can be seen table 1, two types' *gebiedsoverstijgende*

*kosten'*, namely cross-district facilities and off-site cross financing, can be enforced via a site development plan. However, financial contributions for spatial developments cannot be enforced this way (Heurkens, Hobma, Verheul, & Daamen, 2020). The Spatial Planning Act (Wro) and Spatial Planning Decree (Bro) regulate the costs that be included in a site development in great detail. Larger off-site facilities with a less direct relationship with development can only to a limited extend be charged to land owners. Strict juridical requirements only allow municipalities to charge a relatively small share of these costs. Sometimes, in urban regeneration areas, the land evaluation methods prescribed in the 2008 Act and Decree really limit the amount of costs that can be charged and might even force municipalities to grand subsidies to landowners (Muñoz Gielen & Lenferink, 2017). The legal framework did contribute to the fact that the practice of recovering cost for on-site works does not lead to many discussions and municipalities are succeeding in capturing the basic package of on-site, site-specific local infrastructure (Buitelaar, 2010).

	Gebiedseigen kosten	Gebiedsoverstijgende kosten		
		Cross-district facilities (Bovenwijkse kosten)	Off-site cross financing (Bovenplanse verevening)	Financial contributions for spatial plans (Bijdragen aan ruimtelijke ontwikkelingen)
Profitability	The cost for public services are useful for the development	The cost for public services are useful for the development	<i>Bovenplanse verevening</i> under public law is limited to the cost categories of <i>bovenwijkse voorzieningen</i> . The criteria for profitability, accountability and proportionality must be met.	Not necessary, indirectly there is profitability on the level of the <i>structuurvisie</i>
Accountability	The cost would not have occurred if development had not taken place.	The cost would not have occurred if the development had not taken place.		Not necessary, indirectly there is accountability on the level of the <i>structuurvisie</i>
Proportionality	100% applicable to the development area	Partly applicable to the development area; it is useful to distribute the costs consistently and that the municipality follows a steady course of action		Not necessary, partly applicable to the development area; it is useful to explain per expense the criteria that were used to come to this cost division
Formulation of grounds	No need for substantiation in <i>structuurvisie</i>	Substantiation in <i>structuurvisie</i> is not necessary but could be useful	Needs substantiation in <i>structuurvisie</i> for fund contributions in the site development plan	Needs substantiation in <i>structuurvisie</i>
Recoverable via Anterior Agreement	Yes	Yes	Yes (could then be seen as financial contributions in the last column)	Yes, when requirements of Art. 6.24 Wro, BW and Awg are met.
Recoverable via Site Development plan	Yes, but there is macro-capping	Yes, but there is macro-capping	Yes, in form of fund contributions in the exploitation.	No

**Table 1** Different types of costs that can be recovered (Based on van den Brand, van Gelder & van Sandick, 2008)

### *Financial contributions for spatial developments (“Bijdragen aan ruimtelijke ontwikkelingen”)*

As explained before, a municipality is allowed to ask for financial contributions. This option is based on Art. 6.24(1)a Wro. There is no clear definition of what these contributions may contain, although contributions for nature, leisure, infrastructure etc. are suggested (Hoekstra, 2020). Experts have different opinions, particularly when it comes to cultural or social services such as a theatre, swimming pool or kinder garden, and whether the total investment, including the real estate or only the land component, falls under this definition. The '*Handreiking grondexploitatiewet*' states that an example could be financial contributions for scenic areas at a distance from to be developed residential areas that can be used by all inhabitants of the municipality and other visitors. In that case, the scenic area is not explicitly meant to fulfil the need for green of the newly to be developed residential neighbourhood.

Neither is the scenic area meant to compensate nature and water that were lost as a result of the development of the new neighbourhood. The development of the scenic area is part of the municipal policy to accompany every "red" development, such as the residential area, with "green" developments, such as scenic nature areas. To be able to realise this, the municipality can agree with the developer that they will pay a financial contribution to cover the costs of the scenic area (van den Brand, van Gelder, & van Sandick, 2008).

Muñoz Gielen Nijland and van der Heijden (2019) conducted research into the usage of Art. 6.24 (1)a. Their work definition for 'financiële bijdragen ruimtelijke ontwikkeling' also includes off-site cross financing, which falls under Wro 6.13(7) when costs are recovered under public law. Their research showed that 85 of 103 researched municipalities had policies with a basis for requesting financial contributions. From these 85 municipalities, the documents of 59 municipalities provided enough information to categorise financial contributions. The categorisation showed that contributions are asked for investments in green/blue (36%), infrastructure (23%), cultural services (1%), sports & leisure (10%), healthcare and education (6%), housing (9%) and other categories. Earlier research of BVH Ruimte BV & Vreman (2014) used a different categorisation for the investments in 46 municipalities. This categorisation showed that contributions were asked for green/blue/grey (61%), red/brown (5%), unclear (31%), funds and compensational schemes (3%) and 'bovenplans' (16%).

If the municipality wants to ask for financial contributions for spatial developments, it is stipulated in article 6.24 (2)a Wro that a basis should be incorporated in a predetermined municipal structure vision. This document needs to specify and substantiate the need for public services and the distribution of costs among developers. There must be a functional relationship between the developments that pay a contribution and the spatial development to be financed. Municipalities cannot incorporate financial contributions in site development plans but can only ask for these contributions in anterior agreements. Moreover, a municipality can no longer request financial contributions in development agreements after a site development plan has been established (Van den Brand, Van Gelder, & Van Sandick, 2008). The contributions are thus only possible on a voluntary basis and cannot be enforced via public law. It is legally forbidden for municipalities to refuse planning cooperation for the sole reason that developers are unwilling to pay financial contributions. Denying planning cooperation for that reason is known as 'planning for those who pay'. The minister of interior affairs (in Hoekstra, 2020) wrote about this *"It is inadmissible if an agreement on cost recovery or financial contributions is conditional for planning cooperation."* And in the parliamentary history of the Spatial Planning Act was stated, *"A municipality can only deny planning cooperation because of non-payment if the project in combination with the non-payment could result in worsening of the spatial plan quality."*

### **3.3 Cost recovery in the upcoming Environment and Planning Act (Ow)**

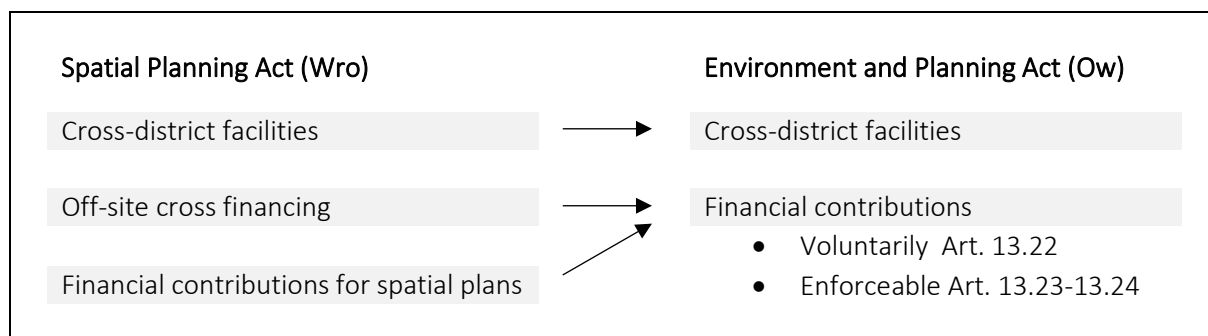
March 10<sup>th</sup> 2020 the Supplementary Act Land possession (Awg) was accepted by the parliament, which describes among others the instruments for cost recovery (Hoekstra, 2020). The current Spatial Planning Act (Wro) offers one tool to enforce cost recovery under public law: the site development plan. In the new Environment and Planning Act (Ow) this instrument continues to exist, although with some changes. Instead of a site development plan, the Environment and Planning Act will have 'cost recovery rules' (Dutch: *kostenverhaalsregels*). These rules will become part of the spatial and environmental plan (Dutch: *Omgevingsplan*), environmental permit for an environmental plan activity (Dutch: *Omgevingsplanactiviteit*) or project decision that goes beyond the scope of the spatial and environmental plan. The Environment and Planning Act does not speak of 'appointed building plans' (Dutch: *aangewezen bouwplannen*) like the Spatial Planning Act, but speaks of 'activities' in Art. 13.11 (1) Ow. Activities could be building activities and activities regarding a change of land use. This is thus a



wider definition than Art 6.2.1 Bro that speaks of only "building' and "renovation' but not of 're-use' (Muñoz Gielen, 2020).

The Environment and Planning Act distinguishes cost recovery rules for a cost recovery area with time-period, also known as integral urban development, and cost recovery rules for a cost recovery area without time-period, also known as incremental urban development. Like the Spatial Planning Act, the cost recovery rules do not allow the municipality to recover more cost than benefits (*Dutch: macro-aftopping*). The variant without time-period does not allow for settlements between more and less profitable projects within the development area but instead carries out a test per building initiative (*Dutch: waardevermeerderingstoets*) to determine the increase in value to keep the contribution to cost recovery fair (Muñoz Gielen, 2020). Two cost lists, table A and B of the appendix IV Environment and Planning Decree (*Dutch: omgevingsbesluit, hereafter Ob*), are made that state the types of costs that can be recovered in these two models.

In the Environment and Planning Act, cross-district costs can also be recovered, and a list of cost categories similar to the list in the Spatial Planning Act will apply. The possibility to compensate shortages in other areas by asking for off-site cross financing to offset deficits in other areas in a site development plan in Art 6.13 (7) Wro, will not return in the Environment and Planning Act in the same public law form. However, this instrument will come back in the new publicly enforceable financial contributions, which in potential is even broader (Muñoz Gielen, 2020). Whereas it seemed like financial contributions would not return in the Environment and Planning Act at first (NEPROM, 2020; Hoekstra, 2020), amendments resulted in the addition of Art 13.22- 13.24 to the Environment and Planning Act. These articles make it possible to recover costs for improving the quality of the physical living environment. There are two types of financial contributions in the Environment and Planning Act: voluntary (Art. 13.22 Ow) and enforceable (Art. 13.23-13.24 Ow). For the enforceable variant, the categories of activities for which these contributions can be asked, as well as the categories of the costs itself, will be prescribed by a general administrative order of the government (*Dutch: Algemene Maatregel van bestuur*). There is no limitative cost lists for the voluntary variant. A draft decision for publicly enforceable financial contributions was published on January 8<sup>th</sup> 2021. In the Environment and Planning Act financial contributions will return as 'bijdragen aan de ontwikkeling van een gebied'.



**Figure 6** Comparison of the types of costs in the Spatial Planning Act and Environment and Planning Act

The Spatial Planning Act requires a basis for financial contributions for spatial plans in the structure vision, whereas the Environment and Planning Act makes a distinction between voluntary financial contributions (Art. 13.22) and publicly enforceable contributions (Art. 13.23-24). For the voluntary contributions, substantiation of financial contributions in the environmental vision or program is needed, while this is not needed for the publicly enforceable contributions. However, since agreements for cost recovery are mostly made via (voluntary) anterior agreements, and substantiation is then necessary to be able to recover financial contributions, it seems wise to include a substantiation nevertheless. Three things should be mentioned in the structure vision or environmental vision to

formulate a basis: the intended expenditure in connection with spatial developments, the development areas to which these expenditures are linked, and the relationship between the expenditure and a development area. Figure 6 compares the types of costs that can be requested in the Spatial Planning Act with the costs that can be recovered in the Environment and Planning Act. From there, it can be seen that *'Bovenplanse vereving'* is no longer seen as a separate category, but these will fall under the financial contributions. Financial contributions have both a public law and a private law variant. The draft decision suggests that most of the cost categories for which financial contributions are asked according to the analysis of Muñoz Gielen, Nijland, & van der Heijden (2019), will also be recoverable in the Environment and Planning Act. The draft decision describes the cost categories for these new publicly enforceable contributions. This list does not include the possibility to recover costs for cultural and societal services, but since the cost list is not applicable to voluntary contributions, recovering costs for cultural and societal services will remain possible in anterior contracts. Costs that can be recovered via the regular cost recovery can also not be claimed (van den Hof, 2020; Muñoz Gielen, 2020).

Costs that are recovered via section 13.6 need to comply with the *'p.p.t. criteria'*, whereas for financial contributions that are recovered via section 13.7 there needs to be functional cohesion (*Dutch: functionele samenhang*) between the development for which a contribution is asked and the development that has to make this contribution. Functional cohesion exists when a building location and envisioned developments have approximately the same function in the municipality, for example, the relation between new residential developments and a contribution for social housing. Substantiation for this functional cohesion can be included in an environmental plan or vision, such as the policy to comply with the municipal housing need. Also, functional cohesion exists when a development location benefits from a development. An activity has a benefit when the quality of the physical environment improves. Geographic location can play a role in this. The criteria of functional cohesion does not mean that a development is necessary for the functioning of a development location, nor can it be seen as compensation. When a development is necessary or compensates a loss of nature value or green- and water, these costs can be retrieved via section 13.6. Just as in section 13.6, financial contributions cannot be requested if there is not enough earning capacity.

### **3.4 Comparison Spatial Planning Act and Environment and Planning Act**

In the two previous sections a description of cost recovery in both the Spatial Planning Act and Environment and planning act was given. In table 2 the legal framework for cost recovery in the two different acts is compared.

	Spatial Planning Act (Wro)	Environment and Planning Act (Ow)				
Public Law	<p><b>Site Development plan:</b> For appointed building plans</p> <p>Spatial and functional relationship within the <i>Exploitation Area</i></p> <ul style="list-style-type: none"> <li>• Cost directly related to plan area</li> <li>• 'Bovenwijkse voorzieningen' (Art. 6.2.4 e Bro)</li> <li>• 'Bovenplanse kosten' (Art. 6.13 sub 7)</li> </ul> <p>'p.p.t criteria' apply</p> <p>Not allowed to recover more costs than the proceeds of the land development (<i>Macro-aftopping</i>)</p>	<p><b>Cost Recovery Rules:</b> For activities Part of <i>Omgevingsplan</i></p> <p>Functional, geographic, spatial or civil-technical relationship within the <i>Cost recovery Area</i>.</p> <ul style="list-style-type: none"> <li>• Cost directly related to plan area</li> <li>• 'Bovenwijkse voorzieningen' (table A&amp;B of appendix IV Ob)</li> <li>• 'Bovenplanse kosten' not possible</li> </ul> <p>'p.p.t criteria' apply</p> <p>not allowed to recover more costs than the proceeds of the land development (<i>Macro-aftopping</i> in integral developments and <i>waardevermeerderingstoets</i> in incremental developments)</p>				
		<table border="1"> <thead> <tr> <th>With Time-period</th> <th>Without Time-period</th> </tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> <li>• Detailed cost- &amp; benefit estimate</li> <li>• Rules on the division of costs over different activities</li> </ul> </td> <td> <ul style="list-style-type: none"> <li>• Maximum of costs that can be recovered per cost recovery area &amp; indication of how these cost will be allocated to activities.</li> <li>• Method for calculation of value-increase</li> </ul> </td> </tr> </tbody> </table>	With Time-period	Without Time-period	<ul style="list-style-type: none"> <li>• Detailed cost- &amp; benefit estimate</li> <li>• Rules on the division of costs over different activities</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum of costs that can be recovered per cost recovery area &amp; indication of how these cost will be allocated to activities.</li> <li>• Method for calculation of value-increase</li> </ul>
	With Time-period	Without Time-period				
<ul style="list-style-type: none"> <li>• Detailed cost- &amp; benefit estimate</li> <li>• Rules on the division of costs over different activities</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum of costs that can be recovered per cost recovery area &amp; indication of how these cost will be allocated to activities.</li> <li>• Method for calculation of value-increase</li> </ul>					
	<p><b>Financial contributions in Spatial and environmental plan</b> Publicly enforceable financial contributions (Art. 13.23-13.24 Ow)</p> <ul style="list-style-type: none"> <li>• No need for basis in '<i>omgevingsvisie</i>' or '<i>omgevingsplan</i>'</li> <li>• Only if regular cost recovery is subject to public law (Art. 13.23 sub 3)</li> <li>• If contributions can (partly) be recovered via regular cost recovery, the cost (or the remaining part) cannot be recovered via these financial contributions</li> <li>• Limitative list of cost categories. The current '<i>bovenplanse kosten</i>' can fall under these. Cultural and social facilities are not included in the list.</li> </ul> <p>'p.p.t. criteria' do not apply, but spatial &amp; functional relationship needs to be substantiated</p>					
Private Law	<p><b>Anterior Agreement:</b> Financial contributions for spatial developments only voluntarily (Art. 6.24 sub 1)</p> <ul style="list-style-type: none"> <li>• Can, but do not have to be part of Art. 6.13(1)c under 1o and 2o</li> <li>• Basis in structure vision</li> </ul> <p>No '<i>p.p.t criteria</i>' or '<i>macro-aftopping</i>'</p>	<p><b>Anterior Agreement</b> Voluntary contributions for spatial plans (Art. 13.22 Ow).</p> <ul style="list-style-type: none"> <li>• Requires basis in '<i>omgevingsvisie</i>'</li> </ul> <p>No '<i>p.p.t criteria</i>' or '<i>macro-aftopping</i>'</p>				

**Table 2** Comparison of the Spatial Planning Act and Environment and Planning Act (based on Muñoz Gielen, 2020)

## 4. Policy Analysis

The policy regarding financial contributions is explored for a selection of 50 municipalities. This chapter describes the results of the desk research.

### 4.1 Municipal policy about financial contributions

In this desk-research land policy reports, and if available, cost recovery reports of fifty municipalities, are explored. Table 3 provides the list of municipalities that were selected for the desk research. In appendix A can be found which documents were used for the analysis. Since the government implemented the current Spatial Planning Act in 2008, only policy reports published after 2008 have been considered to make sure the legal boundaries for cost recovery are equal. The analysed policy reports are thus all based on the Spatial Planning Act. If a municipality published more than one policy document since 2008, the most recent document is analysed. All the used documents were publicly available. Thereby it must be noted that these policies only state the intention to request financial contributions (or not), and this policy analysis thus does not clarify whether these contributions have been incorporated in Anterior Agreements. Per municipality, one or more policy documents is thoroughly read. Based on the theoretical framework that is provided in chapter 3, the municipal policy regarding financial contributions has been analysed and interpreted. The different municipal approaches regarding financial contributions are described below.

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

**Table 3** List of selected municipalities for the desk research.

#### *Almere*

The starting point for the land policy of Almere is unique, because of the reclamation of the province Flevoland. The land where the municipality used to be owned by the state. Public bodies own most land in the municipality, and private land positions are rare. This situation led to a mainly active land policy of Almere in the past. In their current environmental vision, Almere prefers a situational land policy. In addition, the structure vision of Almere states they will not make use of the instruments for requesting '*bijdragen ruimtelijke ontwikkelingen*' and '*bovenplanse verevening*'. However, they do plan to recover cost conform to Art. 6.2.3, 6.2.4 and 6.2.5 Bro, suggesting they do request contributions for '*Bovenwijkse voorzieningen*'.

#### *Alphen aan den Rijn*

Alphen aan den Rijn asks a contribution per dwelling of 150 to 7,500 euro for '*Bovenwijkse voorzieningen*'. These contributions have been specified per neighbourhood. For '*bijdragen ruimtelijke ontwikkelingen*' the height of contribution is calculated based on a feasibility study before a planning decision is made. Based on the municipal structure vision, a list of spatial developments for which '*bijdragen ruimtelijke ontwikkelingen*' can be asked is stated in their '*Nota bovenwijkse voorzieningen*'.

### ***Amersfoort***

The municipality of Amersfoort states the possibility to request *'bijdragen ruimtelijke ontwikkelingen'* and *'bovenplanse verevening'*. However, they mention that asking these contributions results in practical problems and that these costs can only be recovered when developments have enough earning potential. Since many development projects are facing financial pressure, there is limited potential to request these contributions. Therefore, the municipality decided not to request *'bijdragen ruimtelijke ontwikkelingen'* and *'bovenplanse verevening'*. Cost recovery of *'Bovenwijkse voorzieningen'* is mentioned, although Amersfoort does not indicate the cost allocation.

### ***Amstelveen***

Amstelveen plans to prepare a policy report for public facilities serving a wider area to be able to request contributions for *'Bovenwijkse voorzieningen'*. In this note, the investment costs for these public services will be mentioned and estimated. The policy report should also formulate the formal grounds to determine a proportional contribution for each development area. The option to request *'bijdragen ruimtelijke ontwikkelingen'* is mentioned separately. To make requesting these contributions possible the municipality created a fund for quality improvement of the public space. Projects that improve the physical infrastructure of the public space can be funded with the money from this fund after approval of the mayor and aldermen. The heights or allocation method of these contributions is not indicated.

### ***Amsterdam***

Unlike many other municipalities, Amsterdam has a significant land position in the city. This allows them to pursue a mainly active land policy. In most developments, the municipality makes land available by offering developers a land lease. They use the income from land leases to cover the costs for public services. In some cases, the municipality does not own the land, and a facilitating policy is pursued. In their policy, they mention the option to request *'bijdragen ruimtelijke ontwikkelingen'*. However, they state that their structure vision is not detailed enough to determine which locations need to make these financial contributions.

### ***Apeldoorn***

The municipality of Apeldoorn intends to ask all three types of costs, namely *'Bovenwijkse voorzieningen'*, *'bovenplanse verevening'* and *'bijdragen ruimtelijke ontwikkelingen'*. Apeldoorn states to individualise contributions based on the project. No indication of which factors determine the height of financial contributions is given. The municipal council suggested developing a new policy report regarding cost recovery for *'gebiedsoverstijgende kosten'*. Nevertheless, they decided to postpone this until there is more clarity about the rules in the new Environment and Planning Act.

### ***Arnhem***

Arnhem's choice for an active or facilitating land policy differs per location. In their structure vision they mention *'Bovenwijkse voorzieningen'*, *'bovenplanse verevening'* and *'bijdragen ruimtelijke ontwikkelingen'*. In terms of *'bovenplanse verevening'* they ask contributions for costs of restructuring or transformation of areas in different parts of the city. Suggested are contributions from new office developments to finance the transformation and reduction of other existing office locations and contributions from residential developments that do not provide a proportional amount of social housing. In this same document they state that cost allocation for *'Bovenwijkse voorzieningen'* and *'bovenplanse verevening'* will be specified in a yet to be developed policy report.

### ***Assen***

Assen states a preference for facilitating land policy. Assen has a policy report for *'bovenplanse investeringen'* in Kloosterveen. Their description of *'bovenplanse voorzieningen'* – *"Met bovenplanse voorzieningen worden voorzieningen bedoeld die een functie hebben voor meerdere*

*ontwikkelingslocaties. Deze kunnen zowel buiten als binnen de in exploitatie te nemen ontwikkelingslocatie liggen.*” (p.22 of Nota Bovenplanse investeringen in Kloosterveen) – refers to cross-district facilities. For each investment is determined if the *‘p.p.t.-criteria’* apply. The note also states that when one development area has a higher earning capacity than other areas, the more profitable area will not be contributing to deficits in other areas. This means that *‘bovenplanse verevening’* does not take place. The note mentions that agreements can be made about *‘financiële bijdragen’*, although this is not described further.

### ***Barneveld***

Barneveld requests both contributions for *‘bovenwijkse voorzieningen’* and *‘ruimtelijke ontwikkelingen’*. Both types of costs are described in separate paragraphs in the *‘Nota bovenwijks 2019’*. Contributions for *‘ruimtelijke ontwikkelingen’* are not requested from development areas that do not or barely benefit from the developments. Barneveld establishes the cost division for *‘ruimtelijke ontwikkelingen’* by using housing equivalents. The existing stock is compared with the planned developments. From there, Barneveld concludes that approximately 80% of the investments is attributable to the existing supply. The municipality transforms the number of square meters of commercial developments to housing equivalents in the policy report’s appendix. For each housing equivalent, a contribution of 1,015 euro is requested. Barneveld states four investments for which *‘bijdragen voor ruimtelijke ontwikkelingen’* are requested. A total financial contribution for *‘ruimtelijke ontwikkelingen’* is determined for each development location based on the earning potential.

### ***Breda***

Breda has a *‘Nota Bovenwijks’* and explicitly states that only *‘bovenwijkse voorzieningen’* are considered in that note. The option to request *‘bovenplanse voorzieningen’* and *‘bijdragen voor ruimtelijke ontwikkelingen’* is mentioned, although the note does not state whether the municipality plans to request payments for these costs as well.

### ***Delft***

The municipality of Delft states plans to develop specific plans for compensational schemes for *‘bovenwijkse voorzieningen’*. They also mention the possibility of making agreements with private developers about *‘bijdragen voor ruimtelijke ontwikkelingen’*. No indication on the height or allocation of this last type of contribution is mentioned.

### ***Deventer***

In their policy report, Deventer states to prefer facilitating land policy. However, Deventer does not mention the option to request financial contributions. Consequentially, it is not clear whether from the policy documents whether this municipality plans to ask these contributions.

### ***Diemen***

Diemen mainly recovers the municipal costs for small inner-city developments. In some cases, the development or renewal of public transport is needed for development plans, and the municipality will try to recover these costs. For developments with large public areas, Diemen makes financial agreements about developer contributions used to construct parks, new roads, etc. Based on an assessment of the cost for public facilities in the development area Holland Park Zuid, Diemen mentions the need for a better substantiation of cost recovery possibilities.

### ***Dordrecht***

The municipality of Dordrecht requests contributions for *‘ruimtelijke ontwikkelingen’*, which are added to a fund named *‘Reserve bovenplanse investeringen’*. The investment for spatial developments cannot directly be attributed to one or more development area(s) but are essential for developing the city as a whole. Until 2010 a fixed contribution of 13.65 euro per square meter land was requested for

'bovenwijkse voorzieningen'. The current policy suggests determining a contribution separately for each development plan. Their note is not detailed enough to determine the height and allocation method for 'bijdragen ruimtelijke ontwikkeling' and if they in fact ask these in addition to payments for 'bovenwijkse voorzieningen'.

### **Ede**

The municipality of Ede asks a 'vereveningsbijdrage', which offers an additional investment for the quality improvement of the physical environment, such a nature, scenery, leisure routes and water retention. Contributions to a landscape fund are made per square or cubic meter of urbanization of green fields, to which no rules for nature compensation apply. This entails a contribution of 10 euro per cubic meter residential real estate when the land-use changes from agricultural to housing, 10 euro per square meter when the function changes from agricultural to commercial and 5 euro per square meter for "search-zones" near small towns. These contributions are added to a landscape fund. Although not explicitly named, some of these contributions could be interpreted as 'bijdragen ruimtelijke ontwikkeling'.

### **Eindhoven**

The municipality of Eindhoven asks for one uniform contribution for 'bovenwijkse voorzieningen' of 42 euro per square meter GFA (not being social housing, business parks or non-commercial facilities) or 11 euro per square meter land for business parks. An additional contribution for spatial developments remains possible, although Eindhoven does not explain how these 'bijdragen voor ruimtelijke ontwikkelingen' will be determined.

### **Enschede**

Enschede does not ask fund contributions for 'bovenplanse voorzieningen' conform Art. 6.13 (7) Wro. Enschede only asks for contributions for 'bovenwijkse voorzieningen' when a development area benefits from the facilities. The municipality does request 'bijdragen voor ruimtelijke ontwikkelingen'. The financial contribution that will be asked is calculated by dividing municipal costs on locations with deficits by the total building program. This leads to the following contributions per square meter GFA of various real estate functions: 20 euro for residential developments, 14 euro for mid-rent dwellings, 11 euro for offices, 29 euro for shops, 24 euro for restaurants, 11 euro for businesses and 6 euro for social services.

### **Goeree-Overflakkee**

The municipality of Goeree-Overflakkee does not have a policy report for 'bovenwijkse voorzieningen' nor does it have structure vision that allows for 'bovenplanse verevening'. This makes it impossible to request contributions for public facilities serving a wider area. The municipality does intent to prepare the documents mentioned earlier.

### **Goes**

Goes has a strong preference for active land policy. However, suppose landowners are not willing to sell their land to the municipality. In that case, Goes strives to enter into an anterior agreement with developments wherein cost for 'bovenwijkse voorzieningen', 'bovenplanse vereveningen' and 'bijdragen voor ruimtelijke ontwikkelingen' are recovered. No indication of the height or allocation of these contributions is given.

### **Gouda**

When Gouda pursues a facilitating land policy in a development project, the cost list in Art. 6.2.3, 6.2.4. and 6.2.5 Bro form the basis for cost recovery. When spatial developments are important for the municipality, and no agreement with developers is made, other legal forms of cost recovery are applied.

In Gouda's policy reports, the contributions for *'gebiedsoverstijgende voorzieningen'* are not mentioned explicitly. This makes it unclear whether this municipality plans to request financial contributions.

### ***Groningen***

The municipality of Groningen mentions the option to recover costs for the development of *'bovenwijkse voorzieningen'* if the criteria of proportionality, accountability and profitability are met. In 2017 they decided to form a fund for "physical investments" in urban renewal or development projects, supporting the city's growth and the execution of the municipalities environmental vision. The fund is meant for developments that cannot be attributed to land development projects directly. Although it is not explicitly named as such. This suggests they do ask for *'bijdragen ruimtelijke ontwikkeling'*.

### ***Haarlem***

Haarlem prefers a facilitating land policy and aims to recover costs of *'bovenwijkse voorzieningen'*. According to the audit commission, Haarlem's current policy is unclear about the attribution of costs for these public services, making it difficult, if not impossible, to request contributions for these developments. A policy report that gives guidelines for the height of potential contributions could improve transparency about cost recovery. Haarlem plans to investigate the option to prepare such a policy report.

### ***Haarlemmermeer***

Haarlemmermeer asks for *'bijdragen ruimtelijke ontwikkelingen'* in every project according to their *'Beleidskader Strategisch Grondbeleid Haarlemmermeer 2019-2023'*. Haarlemmermeer requests a *'bijdragen voor ruimtelijke ontwikkelingen'* of 9,000 euro per dwelling, 5,400 euro for a small dwelling (<70 m<sup>2</sup>), 3,000 euro per 100 square meters GFA for businesses, 5,000 euro per 100 square meters GFA for offices, 5,000 euro per 100 square meters GFA for other commercial facilities and 6,000 euro per 100 square meters GFA for commercial hotels or recreative functions. In the case of demolition or transformation, Haarlem determines the contribution by comparing the program of the existing situation and the new situation. The municipality will then request the difference in contributions for those two programs. The contributions become part of the RIH fund. According to the structure vision it is also possible to also add contributions for *'bovenwijkse voorzieningen'* to this fund.

### ***Heerhugowaard***

According to their policy report *'Nota Bovenwijkse kosten'*, the municipality of Heerhugowaard asks a contribution for *'bovenwijkse voorzieningen'*. Investments are split in *'bovenwijkse kostensoorten'* that can be recovered based on the Wro (NBK1 Hoofdinfrastructuur) and *'bovenwijkse kostensoorten'* that cannot be recovered (NBK2 Gebouwen en overige voorzieningen). *'Bijdragen ruimtelijke ontwikkelingen'* are not mentioned explicitly, but it seems like these could fall under NBK2. It is not stated how the cost allocation for NBK2 is determined; only an indicative list of investments in NBK2 with associated costs is provided.

### ***Helmond***

Helmond intends to request contributions for *'bovenwijkse voorzieningen'*. *'Bijdragen ruimtelijke ontwikkelingen'* are not mentioned separately, making it unclear whether Helmond plans to request this last type of developer contribution.

### ***Hilversum***

Hilversum states that formal grounds should be formulated in structure vision to be able to request *'Bijdragen ruimtelijke ontwikkelingen'*. However, the policy does not explicitly mention the municipalities' intent to ask for this type of contribution.



### ***Kampen***

The municipality of Kampen asks contributions for *'bovenwijkse voorzieningen'* and *'Bijdragen ruimtelijke ontwikkelingen'*, but not for *'bovenplanse verevening'*. Several spatial developments for which *'bijdragen ruimtelijke ontwikkelingen'* can be asked are defined: parking in the historical city centre, sustainability projects, swimming pool, ecological framework, fund *'ruimtelijke ontwikkelingen'* for which a contribution of 1 euro per square meter land is asked, restructuring the Brunnepe and Flevowijk, restructuring of Kop van Spoorlanden and a fund for urban renewal for which a contribution of 5 euro per square meter land is asked for residential developments and 2 euro per square meter land for businesses.

### ***Katwijk***

Katwijk requests contributions for both *'bovenwijkse voorzieningen'* and *'bijdragen ruimtelijke ontwikkelingen'*. The different investments for each category are listed in separate appendixes of the policy report. Because there are various land uses, the municipality determined factors to define commercial functions as housing equivalents. For *'bijdragen ruimtelijke ontwikkelingen'*, Katwijk estimates a total investment of 28 million euro. In their calculations, a housing production of almost 8,000 units is assumed, resulting in a contribution of 3,509 euro per dwelling. In case of replacing new built, a lower contribution of 1,754.50 euro is requested. This contribution also entails investments in social and cultural services, whereby both the land and real estate component are included in the investment.

### ***Lansingerland***

The municipality of Lansingerland used to have a policy report regarding *'bovenwijkse voorzieningen'*. However, this note was revoked in 2016. Requesting contributions for municipal investments remains possible if costs are included in the cost list 6.2.3, 6.2.4. and 6.2.5 Bro. The option to request contributions for *'bijdragen ruimtelijke ontwikkelingen'* is not mentioned.

### ***Leeuwarden***

In Leeuwarden, contributions of 6.81 to 13.61 euro per square meter land ready for construction are agreed upon in the Zuidlanden development. These contributions are used for *'bovenwijkse voorzieningen'*, urban renewal, public transport, and main infrastructure. The option to request contributions for *'bijdragen ruimtelijke ontwikkelingen'* is not mentioned.

### ***Leiden***

In their land policy report, Leiden mentions the option to request *'bijdragen ruimtelijke ontwikkelingen'*. Their *'Omgevingsvisie 2040'* introduces a *'vereveningsfond fysieke leefomgeving'* for costs that are not related to a single development. Development contributions will be requested that will be added to his fund. The fund is meant for *'bovenwijkse'* infrastructure, social housing, and sustainable mobility.

### ***Nijmegen***

The municipality of Nijmegen makes agreements about the municipality's costs that are a result of the development plans. The policy report does not explicitly mention whether these contributions entail *'bijdragen ruimtelijke ontwikkelingen'*.

### ***Oss***

In the municipality of Oss *'bijdragen ruimtelijk ontwikkelingen'* can be requested. A developer could either make a fund contribution or realise services that improve the area's quality, such as demolishing former agricultural real estate. In their structure vision, the municipality states that it finds a contribution of 20% of development profit for quality improvements reasonable.

### ***Pijnacker-Nootdorp***

Pijnacker-Nootdorp wants to pursue a “directing” land policy. This means they want to participate in developments without taking land positions actively. Pijnacker-Nootdorp mentions the option to request contributions for *‘bijdragen ruimtelijke ontwikkelingen’*. However, this municipality does not state whether they plan to ask for these contributions from developers.

### ***Purmerend***

When the municipality follows a facilitating land policy, developers are requested to make a contribution for *‘gebiedsoverstijgende voorzieningen’*. Purmerend asks for contributions for social housing, parking and mobility. The contributions are used for specific investments in the city. All development locations in the city benefit from the investments and will have to contribute proportionally. In their note *‘gebiedsoverstijgende kosten Purmerend’* they specify a spatial and functional relationship on a “system-level”, whereby mention the criteria of profitability and proportionality but not the criteria of accountability. This suggests that the investments might not always classify as *‘bovenwijks’* since not all of the *‘p.p.t. criteria’* are met. Contributions for mobility are determined based on the earning potential and building volume. Indicative contributions are stated of 31.26 euro per square meter GFA for commercial dwellings, 15.63 euro per square meter GFA offices and businesses, 53.58 euro per square meter for commercial public space and 15.63 euro per square meter parking space. If developers re-use existing real estate or when the project has a lower earning potential, the municipality can ask for a lower contribution. Discounts are not possible for contributions for parking spaces and social housing. Developers of projects in the city centre that cannot realise enough parking spaces on the development site have to compensate for this parking shortage by paying 10,000 euro per missing parking spot to the municipality. Purmerend requires that 30% of residential development should be in the social segment. If a developer cannot reach that norm, he should pay 30,154 euro per missing social dwelling to compensate. The municipality uses this money to realise social housing elsewhere.

### ***Rijswijk***

Rijswijk does not state a preference for active or facilitating land policy. However, facilitating policy is more common since project developers that initiate projects often own the land. The municipality of Rijswijk mentions contributions for *‘bijdragen ruimtelijke ontwikkelingen’* in their policy report. However, Rijswijk does not explicitly state whether it plans to request these contributions.

### ***Rotterdam***

The municipality of Rotterdam pursues both active and facilitating land policy. In a facilitating policy, the municipality only facilitates the development and does this by making public servants available or providing financial support. The policy reports do not mention anything about contributions from developers for public services that serve a wider area.

### ***’s-Gravenhage***

The municipality prefers facilitating land policy and uses active policy within strict financial and political frameworks. The municipality did not yet incorporate a long-term vision about recovering costs for *‘bovenplanse’* or *‘bovenwijkse voorzieningen’*. Nevertheless, it does state that profitable projects support unprofitable projects. They plan to set up a fund for public facilities that serve a wider area.

### ***’s-Hertogenbosch***

’s-Hertogenbosch states to prefer active land policy. However, the municipality will not always be able to get ownership of the land. In a facilitating policy, they will ask for a contribution for *‘bovenwijkse voorzieningen’*. Contributions are made to a fund based on the amount of realised housing equivalents. *‘Bijdragen ruimtelijke ontwikkelingen’* are not mentioned in the policy report, making it unclear whether contributions for this type of cost are requested.

### ***Tilburg***

Tilburg asks for a contribution for *'bovenwijkse voorzieningen'* per dwelling and a contribution per square meter GFA or square meter of allocable land. Although the *'Nota Nota Systematiek Kostenverhaal Bovenwijkse Voorzieningen'* does not mention *'bijdragen ruimtelijke ontwikkelingen'*, the structure vision states that *'bijdragen ruimtelijke ontwikkelingen'* can be included in anterior agreements. For example, developers need to make quality improvements in the landscape or pay a compensational fee to a fund, depending on the type of development that takes place. The height of these compensational fees is not stated.

### ***Utrecht***

The central government makes fewer financial resources available for investments in infrastructure, public space, and greenery. This impacts mainly public facilities that serve a wider area. Therefore, the municipality states that all owners that benefit from public investments should contribute to these developments. Within the legal criteria of proportionality, accountability, and causality, they plan to explore options for more collaborative financial responsibility. When the costs are lower than the earnings, Utrecht has room to ask for *'bijdragen ruimtelijke ontwikkelingen'*.

### ***Veenendaal***

The municipality of Veenendaal periodically actualises the contribution for *'bovenwijkse voorzieningen'*. They request a contribution of 26 euro per square meter LFA for housing and 6 euro per square meter LFA for non-residential functions. *'Bijdragen ruimtelijke ontwikkelingen'* are not mentioned in the policy report, making it unclear whether contributions for this type of cost are requested.

### ***Vlaardingen***

The municipality of Vlaardingen plans to recover the costs for *'gebiedsoverstijgende voorzieningen'*. Vlaardingen does not mention *'bijdragen ruimtelijke ontwikkelingen'* separately, making it unclear if Vlaardingen plans to ask contributions for this type of cost.

### ***Waddinxveen***

The municipality of Waddinxveen does plan to request contributions for *'bovenwijkse voorzieningen'* but does not ask contributions for *'bovenplanse voorzieningen'* and *'bijdragen ruimtelijke ontwikkelingen'*.

### ***Wageningen***

Wageningen has a fund *'bovenwijkse voorzieningen'*. Investments that can get a contribution from the fund are not yet defined. Wageningen states that their policy report for *'bovenwijkse voorzieningen'* needs to be updated to determine a new contribution per housing equivalent for new developments. In the structure vision, some projects for which *'bijdragen ruimtelijke ontwikkelingen'* can be asked are mentioned. However, the costs involved in these projects are not stated.

### ***Westland***

The municipality of Westland does not ask contributions for *'bijdragen ruimtelijke ontwikkelingen'* and *'bovenplanse verevening'*. The municipality does ask contributions for *'bovenwijkse voorzieningen'*, whereby they distinguish facilities that are beneficial for the city as a whole and developments that are only profitable for specific areas.

### ***Zaanstad***

Initiators of building plans benefit from investments in the city. Developers contribute to plan-specific costs already, but less to investments that serve the whole city or multiple development areas. Therefore, Zaanstad made a policy report to make initiators of building plans contribute to these *'gebiedsoverstijgende kosten'* proportionally. In that note is explicitly stated that the term

*'gebiedsoverstijgende kosten'* entails three types of costs from the Spatial Planning Act, namely *'bovenwijkse voorzieningen'*, *'bovenplanse kosten'* and *'bijdragen ruimtelijke ontwikkelingen'*. The addendum to the Structuurvisie provides a list of intended *'gebiedsoverstijgende bestedingen'*. This list makes a distinction between green/blue (nature, infrastructure and water retention), grey (parking, roads, bike lanes, public space), brown (sport halls and fields) and *'bovenplanse verevening'*. This list does not explicitly make a distinction between *'bovenwijkse voorzieningen'* and *'bijdragen ruimtelijke ontwikkelingen'*. However, contributions for the category "brown" cannot fall under *'bovenwijkse voorzieningen'*, which makes it evident that *'bijdragen ruimtelijke ontwikkelingen'* are included in the contribution as well. The policy report determined a standard contribution for new developments of 38.54 euro per square meter GFA or 4,046 euro per housing equivalent, which can be adjusted based on the earning potential. They state that this contribution is on average 1 to 2% of the total development budget.

### ***Zeist***

In their structure vision, the option to request *'bijdragen ruimtelijke ontwikkelingen'* is mentioned. The municipality plans to indicate investments for which contributions are asked in a new policy report. At the moment, the investment costs are not mentioned in the policy report, nor is the height of contributions indicated.

### ***Zoetermeer***

The municipality of Zoetermeer mentions the possibility to request contributions for *'bijdragen ruimtelijke ontwikkelingen'*. However, the municipality does not have a structure vision, making it impossible to request this type of contributions in Zoetermeer.

### ***Zwolle***

Zwolle pursues a situational land policy. At the moment, they are exploring whether a policy report for public facilities that serve multiple areas can contribute to recovering these costs. Currently, the municipality mainly recovers cost for developments within the exploitation area.

Municipality	Province	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 the cost allocation	Suggests developing a policy report(s) for 'gebieds-overstijgende kosten'
Almere	Flevoland	8167	1,8%			X		
Alphen aan den Rijn	Zuid-Holland	2622	0,6%		X		X	
Amersfoort	Utrecht	3600	0,8%			X		
Amstelveen	Noord-Holland	2868	0,6%		X			
Amsterdam	Noord-Holland	36171	8,1%		X			
Apeldoorn	Gelderland	4422	1,0%		X		X	X
Arnhem	Gelderland	4953	1,1%		X			X
Assen	Drenthe	2128	0,5%		X		X	
Barneveld	Gelderland	3004	0,7%		X		X	
Breda	Noord-Brabant	5090	1,1%		X		X	
Delft	Zuid-Holland	2819	0,6%		X			X
Deventer	Gelderland	2785	0,6%	X				
Diemen	Noord-Holland	2674	0,6%		X			
Dordrecht	Zuid-Holland	1726	0,4%	X			X	
Ede	Gelderland	4935	1,1%		X		X	
Eindhoven	Noord-Brabant	7747	1,7%		X		X	
Enschede	Overijssel	3062	0,7%		X		X	
Goeree-Overflakkee	Zuid-Holland	1962	0,4%			X		X
Goes	Zeeland	1275	0,3%		X			
Gouda	Zuid-Holland	2058	0,5%	X				
Groningen	Groningen	7038	1,6%		X			
Haarlem	Noord-Holland	3146	0,7%			X		X
Haarlemmermeer	Noord-Holland	2826	0,6%		X		X	
Heerhugowaard	Noord-Holland	2498	0,6%	X			X	
Helmond	Noord-Brabant	2500	0,6%	X				
Hilversum	Noord-Holland	1904	0,4%		X			
Kampen	Overijssel	1781	0,4%		X		X	
Katwijk	Zuid-Holland	2363	0,5%		X		X	
Lansingerland	Zuid-Holland	2668	0,6%	X				
Leeuwarden	Friesland	3283	0,7%		X		X	
Leiden	Zuid-Holland	4890	1,1%		X			
Nijmegen	Gelderland	7895	1,8%		X			
Oss	Noord-Brabant	2504	0,6%		X		X	
Pijnacker-Nootdorp	Zuid-Holland	2277	0,5%		X			
Purmerend	Noord-Holland	1824	0,4%		X		X	
Rijswijk (ZH.)	Zuid-Holland	1973	0,4%		X			
Rotterdam	Zuid-Holland	9195	2,1%	X				
's-Gravenhage	Zuid-Holland	10838	2,4%		X			X
's-Hertogenbosch	Noord-Brabant	4982	1,1%	X			X	
Tilburg	Noord-Brabant	8067	1,8%		X		X	
Utrecht (gemeente)	Utrecht	15171	3,4%		X			X
Veenendaal	Utrecht	2785	0,6%		X		X	
Vlaardingen	Zuid-Holland	1925	0,4%	X				
Waddinxveen	Zuid-Holland	1853	0,4%			X	X	
Wageningen	Gelderland	2308	0,5%		X		X	X
Westland	Zuid-Holland	4467	1,0%			X	X	
Zaanstad	Noord-Holland	3544	0,8%	X			X	
Zeist	Utrecht	2224	0,5%		X			X
Zoetermeer	Zuid-Holland	2445	0,5%			X		
Zwolle	Overijssel	4456	1,0%		X			X
<b>Total</b>		<b>264.514</b>	<b>51.3%</b>	<b>10</b>	<b>33</b>	<b>7</b>	<b>23</b>	<b>10</b>
<b>Unweighted</b>				19%	64%	14%	45%	19%
<b>Weighted *based housing production</b>				15%	74%	11%	35%	23%

Table 4 Overview of the analysis of financial contributions of municipal land policy reports

## 4.2 Results

In this section, all findings from the policy analysis are brought together to be able to describe the different kinds of municipal approaches regarding asking for financial contributions. An overview of the findings is shown in table 4.

### *Use of definitions*

Not all municipalities distinguish the different types of *'gebiedsoverstijgende kosten'* consistently. In some of the municipal land policy reports, the terms *'financiële bijdragen ruimtelijke ontwikkeling'*, *'bovenplanse kosten'* and *'bovenwijkse voorzieningen'* seem to be used interchangeably. Sometimes it is not mentioned whether payments concern one or multiple types of costs. This confirms the observation of BVH Ruimte (2014) that the framework for cost recovery is unclear and that municipalities seem not able to deal with it appropriately. The fact that terms for different types of costs are not used consistently is important since the explanatory notes of the new Environment and Planning Act state that regulation for cost recovery (section 13.6 Ow) should be seen separately from the regulation for publicly enforceable financial contributions (section 13.7 Ow). If costs can (partially) be requested via section 13.6 Ow, these costs cannot be requested as publicly enforceable financial contributions (section 13.7 Ow). It is thus vital to classify the different types of cost correctly to avoid discussion.

### *Requesting financial contributions*

Table 4 shows an overview of the analysis of financial contributions in municipal land policy reports. Ten out of fifty municipalities - Deventer, Dordrecht, Gouda, Heerhugowaard, Helmond, Lansingerland, Rotterdam, 's-Hertogenbosch, Vlaardingen and Zaanstad, - did not mention the possibility to ask for *'bijdragen ruimtelijke ontwikkelingen'* in their policy documents. However, this does not necessarily mean they did not ask for these contributions. If the structure vision offers a basis, the municipalities can still ask for spatial developments. Seven municipalities, namely Almere, Amersfoort, Goeree-Overflakkee, Haarlem, Waddinxveen, Westland and Zoetermeer, state that they do not intend to ask for this type of financial contributions or are not able to. All other analysed local authorities mention the legal possibility to request *'bijdragen ruimtelijke ontwikkeling'*. However, it is not always clear if they also plan to ask for these contributions. Municipalities with a higher housing production mention the option to request financial contributions more often.

### *Developing additional policy*

As shown in table 4, ten municipalities - Apeldoorn, Arnhem, Delft, Goeree-Overflakkee, Haarlem, 's-Gravenhage, and Utrecht Wageningen, Zeist and Zwolle - suggest or plan to develop specific policy reports for the recovery of public costs that serve a wider area. Such notes allow for a better legal basis to request contributions.

### *Cost allocation*

From the municipalities that mention the option to request *'bijdragen ruimtelijke ontwikkelingen'*, not all municipalities indicate a cost allocation. From the fifty analysed municipalities, 23 indicate a cost allocation for *'gebiedsoverstijgende kosten'*, see table 4. Sometimes it is unclear whether the contribution covers one or more types of costs as distinguished by the Wro. The cost allocation that is described mostly concerns *'bovenwijkse voorzieningen'*. Table 5 shows the twelve municipalities that seem to describe contributions for *'bijdragen ruimtelijke ontwikkeling'* in more detail. From these municipalities, three - Alphen aan den Rijn, Kampen, Wageningen - only mention a list of investments for which financial contributions can be asked. Other municipalities also determined the height of the contribution that will have to be made. Contributions are then defined per square meter, per type of development or per housing equivalent. Barneveld, Katwijk and Zaanstad determined a contribution per

Municipality	Height of contributions
Alphen aan den Rijn	A list of investments for which ' <i>bijdragen ruimtelijke ontwikkeling</i> ' can be asked is defined. The cost involved are not stated, nor is determined which developments will have to contribute
Barneveld	The cost allocation is based on housing equivalents. Almost 80% of the ' <i>bijdragen ruimtelijke ontwikkeling</i> ' are attributable to the existing supply. A contribution of 1,015 euro per housing equivalent is requested. The total contribution for ' <i>ruimtelijke ontwikkelingen</i> ' per development location is stated.
Ede*	Contributions per square or cubic meter urbanization of green fields – to which no nature compensation rules apply – are added to a landscape fund. Three types of contributions are requested: 10 euro per cubic meter house when the function changes from agricultural to housing, 10 euro per square meter for changing the function from agricultural to commercial and 5 euro per square meter land for 'search zones' near villages.
Enschede	Contributions for ' <i>bijdragen ruimtelijke ontwikkeling</i> ' per square meter GFA are 20 euro for residential developments, 14 euro for mid-rent dwellings, 11 euro for offices, 29 euro for shops, 24 euro for restaurants, 11 euro for businesses and 6 euro for social services.
Haarlemmermeer	Contributions for ' <i>bijdragen ruimtelijke ontwikkeling</i> ' are 9,000 Euro per dwelling, 5,400 euro for a small dwelling (<70 m <sup>2</sup> ), 3,000 euro per 100 square meters GFA for businesses, 5,000 euro per 100 square meters GFA for offices, 5,000 euro per 100 square meters GFA for other commercial facilities and 6,000 euro per 100 square meters GFA for commercial hotels or recreative functions.
Heerhugowaard*	Appartements smaller than 50 square meters GFA contribute 500 euro, apartments in categories I and II contribute 1,000 euro, apartments categories III and IV contribute 1,500 euro per dwelling, ground-bound dwellings category I and II contribute 1,500 euro and ground-bound dwellings category III and IV contribute 3,500 euro. Business parks contribute 18.11 euro per square meter of allocable land.
Kampen	Several spatial developments for which ' <i>bijdragen ruimtelijke ontwikkelingen</i> ' can be asked are defined: parking in the historical city centre, sustainability projects, swimming pool, ecological framework, restructuring the Brunnepe, Flevowijk and Kop van Spoorlanden. In addition, there is a fund ' <i>ruimtelijke ontwikkelingen</i> ' for which a contribution of 1 euro per square meter land is asked, and there is a fund for urban renewal for which a contribution of 5 euro per square meter land for residential developments and 2 euro per square meter land for businesses is asked.
Katwijk	For ' <i>bijdragen ruimtelijke ontwikkelingen</i> ' a contribution of 3,509 euro per dwelling is requested. In case of replacing new built, a lower contribution of 1,754.50 euro is requested. This contribution also entails investments in social and cultural services, whereby both the land and real estate component are included in the investment.
Oss	The municipality states that it finds a contribution of 20% of development profit for quality improvements reasonable.
Purmerend*	They ask a contribution for mobility and greenery per square meter GFA of 31.26 euro for free-market dwellings, 15.63 euro for offices and businesses, 53.58 euro for commercial public space and 15.63 euro for built parking space. They also ask for a contribution of 10,000 euro per missing parking spot in the city centre and a contribution of 30,154 euro per missing social dwelling in the whole city.
Wageningen	In the structure vision, some projects for which ' <i>bijdragen ruimtelijke ontwikkelingen</i> ' can be asked are mentioned. However, the costs involved in these projects are not stated.
Zaanstad*	The addendum to the Structuurvisie provides a list of intended ' <i>gebiedsoverstijgende bestedingen</i> '. The list does not explicitly make a distinction between ' <i>bovenwijkse voorzieningen</i> ' and ' <i>bijdragen ruimtelijke ontwikkelingen</i> '. The policy report determined a standard contribution for new developments of 38.54 euro per square meter GFA or 4,046 euro per housing equivalent.

\* For these municipalities, the description did not explicitly state whether the contribution concerns (only) '*bijdrage ruimtelijke ontwikkeling*'

**Table 5** Heights of contributions per municipality

housing equivalent varying from 1,015 to 4,046 euro. Other municipalities - Ede, Enschede, Kampen, Heerhugowaard and Purmerend - ask a contribution per square meter, varying from 1 to 29 euro, whereby the height of the contributions is defined per type of development or the purpose of the contribution. Haarlemmermeer and Heerhugowaard ask for a contribution per development, varying from 500 to 9,000 euro per dwelling and 3,000 to 6,000 euro per 100 square meters GFA of non-residential developments. Oss does not define a cost allocation but does indicate the height of financial contributions by stating it finds a contribution of 20% of the development profit reasonable. Some municipalities – Ede, Kampen, Heerhugowaard and Purmerend - ask for multiple types of contributions, some per dwelling, some per square meter of (non-)residential developments or some for specific purposes.

### 4.3 Conclusion

The desk-research aimed to describe the different kind of municipal approaches regarding financial contributions. The policy analysis of fifty municipalities resulted in five main conclusions about the financial contributions in municipal policy.

First, municipalities do not use the definitions for the different types of costs consequently. Several municipalities seem to use the terms *'bovenwijkse voorzieningen'*, *'bovenplanse verevening'* and *'bijdragen ruimtelijke ontwikkelingen'* interchangeably or do not specify which types of cost are recovered with the determined contribution. This makes it difficult to determine the heights of different contributions in the selected municipalities.

Second, most municipalities (62%) state the option to request *'bijdragen ruimtelijke ontwikkelingen'* in their policy documents. Municipalities with a higher housing production state this option more often.

Third, 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 contribution or focus on a more active land policy.

Fourth, municipal policy regarding financial contributions is still under development. Ten of the selected municipalities (18%) indicated that they are planning on renewing or preparing new policy documents to improve the recovery of public costs.

Fifth, municipalities determine the height of contributions in various ways. Where the cost allocation for *'bovenwijkse voorzieningen'* is specified quite detailed more often, contributions for *'bijdragen ruimtelijke ontwikkelingen'* are mentioned less often. Only thirteen municipalities say something about financial contributions for spatial plans in more detail. Some municipalities restrict themselves to stating they will determine a contribution per project, or they provide a list of investments for which contributions can be asked. It is then not stated which development locations should contribute to these investments on this list. Few municipalities have a relatively detailed policy whereby they indicate the height of the contribution per housing equivalent or even specify different contributions per type of development. When housing equivalents are used, they state how many square meters GFA or land of non-residential developments represents a housing equivalent. The heights of contributions stated in the policy documents vary significantly.



## 5. Case studies

---

In chapter four, the various policies about cost recovery, and more specifically, financial contributions, were analysed. In this chapter, a multiple case analysis is conducted to understand the policy decisions made and the policy implementation in practice. Interviews are held with seven municipalities that ask for financial contributions according to their policy. This chapter describes the different cases and presents the results of the analysis. In addition to the perspectives of municipalities, the role of developers was also considered since these parties are also involved in the negotiations about financial contributions. In the end, the results and theory are synthesised, and relationships are identified.

### 5.1 Case selection

The case studies focus on the application of the policy regarding financial contributions in municipalities in practice. For this, proper cases must be selected. This section presents the selection criteria for the cases. The criteria are used as a starting point for selecting the possible municipalities to study. The criteria help to narrow down which municipalities are relevant to research and to make the choice more profound. To be able to select appropriate cases, the following criteria have been used:

1. The municipality has a structure vision
2. The municipality states in their policy documents they plan to ask for financial contributions.
3. The municipality has planned or realised multiple projects of various sizes.
4. The municipality has made anterior agreements after July 1<sup>st</sup> 2008.

The first criterium is put up since it is a legal requirement to have a structure vision if a municipality wants to request financial contribution. If municipalities do not have a structure vision, they would not be allowed to request these contributions, thus making it impossible to study negotiations on developer contributions in these municipalities. In line with the first criteria is decided to only select municipalities that have a pre-defined policy explaining how they plan to ask for financial contributions. This allows the researcher to analyse whether the contributions they planned to ask according to their policy, were in fact also incorporated in development agreements. To be able to analyse which factors might influence the decision to (not) include contributions in agreements a third criteria is put up. The municipality must have realised multiple projects of various sizes. This allows the research to discuss the potential differences in decision making for projects with different characteristics. The fourth criterium is put up to make sure that the legal boundaries for cost recovery are equal for the negotiations that are being discussed.

Based on the selection criteria seven municipalities have been selected for the case study research, namely Barneveld, Bodegraven-Reeuwijk, Delft, Haarlemmermeer, Katwijk, Purmerend and Zaanstad. The selected municipalities all mentioned financial contributions in their policies – some in a more detailed manner than others - and all made anterior agreements in the past few years. From each municipality one, or multiple representatives in the field spatial planning, and in the role of a policy advisor and or project leader, were interviewed that had knowledge on the topic.

#### *Data collection*

Interviews are used in case study research to gain insight into a phenomenon in its real-life context. Semi-structured interviews are held with public servants from the municipality's spatial planning and or land department. The interviews are conducted to gather knowledge about the negotiation and decision-making process regarding financial contributions. It is explored whether contributions are incorporated in anterior agreements conform their policy or not, and why. In addition to this decision the (potential) consequences thereof are also discussed. Finally, the interviewees are asked about their expectations regarding the impact of the new publicly enforceable variant of financial contributions in the draft

decree. The findings from the interviews with municipalities are validated afterwards by also analysing the developer perspective.

According to Yin (2018), the quality of the case studies in terms of validity and reliability can be ensured through case study tactics and design. The validity and reliability can be improved by using multiple sources of evidence, the definitions of the case study selection criteria, posing follow-up questions such as "Why?" and "How?" to explain answers, using a replication logic in multiple-case studies, and determining key concepts during the data collection phase (Yin, 2018). These methods are all used to ensure reliability and validity are implemented during the research. Multiple sources of evidence are used by researching the cases through studying documents and conducting interviews. In the interviews, an interview protocol (Appendix B) is used to create a replication logic, wherein the same topics are discussed in a logical order. Semi-structured interviews are chosen to allow for follow-up questions to significant answers. The interviews are held in Dutch with Dutch-speaking interviewees to prevent misinterpretations. Each interview is recorded. Interviews are first held with municipalities to analyse the municipal perspective on the topic. Hereafter, the perspective of developers is analysed to validate the findings from the municipal cases. Considering the perspectives of both parties involved in the negotiations creates a better insight into the dynamics during the process and improves the statements' validity.

Interviews are held with representatives of a total of seven municipalities. All the interviewed municipalities have made statements about recovering financial contributions in their policy. During the interviews, four topics were explored: (1) policy considerations, (2) negotiations about anterior agreements, (3) consequences of asking for financial contributions and (4) expectations of the new legislation. During the interviews, the reasoning behind some policy decisions regarding financial contributions is explored, after which the implementation of this policy is discussed. Discussed are the nature of the agreements that have been made with developers and the reasoning behind the eventual decision to (partly) include contributions in agreements. After analysing all cases independently, a cross-case analysis is done. The results of the analysis are presented in a way that information cannot be linked to a specific participant because of the sometimes confidential nature of some statements.

### ***Barneveld***

Barneveld is a mid-size municipality in the province of Gelderland with 59,993 inhabitants (1 January 2021, CBS). The municipality is situated in the middle of the Netherlands, close to the Veluwe. The municipality plans to build 500 new dwellings per year and grow to a minimum of 75,000 inhabitants by 2040. The municipality has developed a policy report to request payments for cross-district facilities and financial contributions. The municipality has no policy for off-site cross financing. The basis of the investments and developments mentioned in the note can be found in their structure vision and later detailed plans. In their note, the total payment for a development location is determined. A separate contribution is determined for cross-district facilities and financial contributions. A detailed total contribution per developer will be determined in a later stage when plans are more concrete. The height is based on the earning potential of the different plots within a development location. For the financial contributions, they ask a contribution of 1,015 euro per housing equivalent for bike lanes, roads, a tunnel and a green zone.

### ***Bodegraven-Reeuwijk***

Bodegraven-Reeuwijk is a municipality in Zuid-Holland and counts 35,281 inhabitants (1 January 2021, CBS). The municipality is planning on building on average 250 dwellings per year. The municipality has a predominant facilitating land policy. The municipality has made a policy report to recover the above-plan costs. Their note describes the investments in terms of cross-district facilities and financial contributions. The municipality also has a policy for off-site cross financing, but this is described in

separate execution policy reports. The investments for financial contributions are quality improvements of public space, greenery, a marina and multiple cultural and social facilities. Different contributions for cross-district facilities and financial contributions are determined for six separate settlements. The payments for cross-district facilities vary from 2,90– 14,40 euro per square meter per settlement, and financial contributions vary from 1,60 to 3,10 per square meter per settlement. In addition to this, weight factors are established to determine a final contribution per function, whereby they distinguish ground-bound dwellings (1.0 x m<sup>2</sup> allocable land), businesses (0.6 x m<sup>2</sup> allocable land), apartments (1.0 x m<sup>2</sup> GFA), commercial services (1.8 x m<sup>2</sup> GFA), social services (0.5 x m<sup>2</sup> GFA) and other (1.0 x m<sup>2</sup> GFA).

### ***Delft***

Delft is a municipality in Zuid-Holland with 103,588 inhabitants (1 January 2021, CBS) and is part of the Metropole region Rotterdam-Den Haag. The city has a historical inner-city and is known for the presence of the Technical University. The municipality has the ambition to develop 650 dwellings per year. Their current structure vision mentions the possibility to request financial contributions but does not explicitly state if they request one. The municipality is in the process of developing a policy report for cost recovery. According to their draft omgevingsvisie they plan on asking one contribution for the above-plan costs for the whole city. More details of the cost recovery policy are expected to be published in summer 2021.

### ***Haarlemmermeer***

Haarlemmermeer is a municipality in the province Noord-Holland with 157,778 inhabitants (1 January 2021, CBS) and is part of the Metropole Region Amsterdam (MRA). The national airport of Schiphol is situated in the municipality. In their housing policy, Haarlemmermeer stated an ambition to develop 20,000 dwellings by 2040, a housing production of 1,000 houses per year. In addition to the internal and external costs that are necessary for a functioning plan, the municipality also requests financial contributions. They have made a table which indicates a contribution for diverse categories, dwellings (9,000 euro per dwelling for dwellings > 70 m<sup>2</sup> GFA, 5,400 euro per dwelling for dwellings <70 m<sup>2</sup> GFA), offices (50 euro per m<sup>2</sup> GFA), business (30 euro per m<sup>2</sup> GFA) and commercial facilities (60 euro per m<sup>2</sup> GFA). In cases of replacing new built, the existing program is compared with the new program, and only the contributions of the old and new program are offset, so that contributions are only asked for the additional program. Contributions are for asked for investments in infrastructure and greenery.

### ***Katwijk***

Katwijk is a municipality in the province of Zuid-Holland near the coastline and has 65,979 inhabitants (1 January 2021, CBS). The municipality plans to add 2,500 dwellings in the coming five years, which is a considerable amount for the size of the municipality. The municipality recovers costs for cross-district facilities and defined a contribution per neighbourhood for this. The municipality also asks for financial contributions, namely a contribution of 3,509 euro per dwelling in the whole city. In the case of replacing new built, they ask 50% of the normal contribution. When more program is added than in the original situation, 100% of the contribution will have to be paid for the additional program. The municipality does not have a policy for off-site cross financing. In non-residential developments the municipality uses weight factors to determine the contributions for other functions, whereby one dwelling is equal to 100 m<sup>2</sup> of land for businesses, 150 m<sup>2</sup> of retail and hospitality and 10,000 m<sup>2</sup> of greenhouses.

### ***Purmerend***

Purmerend is a municipality in the province of Noord-Holland and has 81,676 inhabitants (1 January 2021, CBS) and is part of the Metropole Region of Amsterdam. Purmerend plans to build 10,000 dwellings by 2040, which is a housing production of 500 houses per year. In their cost recovery policy Purmerend speaks of above-plan costs and does not specify which of the investments are classified as cross-district facilities, off-site cross financing or financial contributions. Contributions are asked for

mobility and greenery and are proportionally allocated based on the earning potential and building volume of development areas. The following contributions are stated in their policy: 31,26 euro per m<sup>2</sup> GFA for commercial dwellings, 15,63 per m<sup>2</sup> GFA for offices and business, 53,58 euro per m<sup>2</sup> for commercial public space and 15,63 per m<sup>2</sup> GFA for built parking space. Social houses and non-commercial facilities are exempted from a contribution. The final contributions depend on the amount of re-use of existing buildings and the earning potential. Discounts are possible based on the addendum principle and macro-capping to avoid plans becoming infeasible. In addition to contributions per square meter, compensational schemes are implemented for parking shortages (10,000 euro per missing parking spot in the city centre) and shortages (<30%) of social housing (30,154 euro per missing social dwelling). No discounts are possible on these compensational payments.

### **Zaanstad**

Zaanstad is a municipality in the province of Noord-Holland and has 157,013 inhabitants (1 January 2021, CBS) and is part of the Metropole Region Amsterdam. The municipality has the ambition to build 15,000 to 20,000 dwellings by 2040, a housing production of 750-1,000 dwelling per year on average. Zaanstad has developed a policy report for above-plan costs and does not specify which of the investments are classified as cross-district facilities, off-site cross financing, or financial contributions. They determined a standard contribution for new developments of 38.54 euro per square meter GFA or 4,046 euro per housing equivalent. They state that this contribution is on average 1 to 2% of the total development budget. According to their policy, they do not request contributions from projects of less than five dwellings. The municipality can deviate from the contributions when it makes plans infeasible, and the development is essential for the city. This is referred to as macro-capping. The municipality does allocate to social housing in their calculations to determine the contribution, but they exempt this category from making contributions in their policy.

## **5.2 Municipal Perspective**

This results section will describe the findings of the case study research. The first subsection will elucidate the considerations behind policy decisions. It explains why municipalities made certain decisions in their context. In the second subsection, the findings of the negotiation process will be described, with attention to the contributions that are incorporated in anterior agreements and the reasoning for (not) deviating from the contributions as stated in municipal policy. In the third subsection, the potential consequences of asking for contributions are described. In the fourth subsection, the expectations of municipalities regarding the newly introduced publicly enforceable contributions will be discussed.

### **5.2.1 Policy considerations**

#### ***Role in land policy decisions***

As explained in chapter 3, municipalities can recover cost on public law and private law basis. Since the Spatial Planning Acts strictly describes the types of cost that can be recovered under public law, less costs can be recovered via a site development plan than via anterior agreements. One interviewee exemplified this by saying, *“For one particular development, we calculated the cost we would be able to recover via a site development plan. The calculation showed that we would have had to subsidize a considerable amount if we had pursued the public route. While if we made anterior agreements, which we ended up doing, we would be able to receive contributions from developers instead of subsidising them.”* Although the usage of site development plans in practice is limited, some of the interviewed municipalities have had one or multiple site development plans. Municipalities were asked about the decision-making process for (not) drawing up site development plans. One participant said about drawing up a site development plan, *“sometimes there is not really a choice. Cost recovery is obligated, and if no private agreements are made, you need to draw up a site development plan.”* Another

interviewee stated, *“sometimes developers are just not reasonable, then you still have to organise something”*. Upon directly asking whether the possibility to ask for financial contributions was a factor in the decision to draw up a site development plan, all municipalities confirmed stated this did not play a role in their decision-making process. The possibilities for cost recovery of the above-plan costs were also not a factor in the choice for active or facilitating policy. The method for cost recovery is merely a consequence of the type of land policy that is applied. Other factors, such as land ownership, internal capacity, strategic interests and risks, determine what municipalities decide. These mentioned reasons for choosing a type of land policy are aligned with the research of Witting (2019). As one participant stated, *“the method of cost recovery is just a later step in the further trajectory where we decide how we deal with the costs.”* The possibilities for requesting financial contributions are thus not a conditional argument to do something or to not do something.

### ***Reasons for a cost recovery note***

Municipalities have realised that facilitating land policy might not be as fruitful as they thought or as the legislator intended. One of the interviewees stated that *“the steering possibilities in a development project, financially speaking, are limited under a facilitating policy.”* Therefore, they started exploring their options for broader cost recovery within the existing legal framework. Another participant addressed the unawareness among municipalities of these options and said, *“It would be good if municipalities were more aware of the possibilities for cost recovery under facilitating policy and realise that active land policy is not the only way to achieve funds”*. One attendee even stated that some municipalities do not even recover costs and only ask for municipal charges (*Dutch: leges*). A participant explained, *“cost recovery is especially relevant for municipalities with a growth ambition because they need to develop more public facilities to support this growth”*. This statement is in line with the earlier policy analysis, which showed that municipalities with a higher housing production mention financial contributions more often in their policy. This notion makes sense since local authorities need to finance the growth of facilities. Where municipalities formerly financed almost all public infrastructure from the profits of their land company, now that municipalities are working more facilitative, this stream of income fell away, and new ways of funding had to be explored. Thus, they try to make use of the potential possibilities for cost recovery. To proceed with the possibilities for cost recovery, some municipalities, like the analysed cases, have established a specific policy document.

Interviewees gave multiple reasons for drawing up policy report for cost recovery. The most often mentioned reason was that a policy document as such helps to create a uniform working method for all projects. Municipalities said that their policy’s goal is to make all locations contribute to the costs of public facilities. Legally speaking, a policy report is not necessary. However, to be able to request financial contributions, substantiation of a functional relationship between development locations and the investments for which contributions are asked is needed in the structure vision. A municipality can restrict itself to describing the functional relationship in a structure vision and not determine specific contributions in a policy report on the recovery of above-plan costs. However, it is essential to realise that making a policy report does not take away the requirement of substantiating a functional relationship in the structure vision. Although it is not required, not having a policy report could make requesting contributions more difficult in practice. One of the participants illustrates the added value of a policy report as followed: *“if you have to explain why you ask for a certain contribution in a single specific project, that is doable, but once you have quite a few projects and a lot of planned facilities, and you have to explain why you ask certain contributions for each development project individually, that is relatively time-intensive. Once you have a note, it takes less time per project.”* Not only is it time-intensive to determine which facilities can be attributed to a particular project, but there is also a risk of forgetting to recover costs for certain facilities. An interviewee exemplified this risk by saying, *“In the past, we developed certain facilities of which we did not recover the costs, while developers did benefit from the*

*investments we made. So, they had the benefits, but all costs were for the municipality. We want to avoid situations as such.*" Multiple statements were also made about project sizes in relationship to the above-plan costs. Participants mention that this risk of not recovering above-plan cost is higher with smaller projects since recovering these costs is not always as evident in those situations. A participant explained that recovering above-plan costs can be complicated with smaller projects, saying, *"It is hard to apply the p.p.t. criteria to small projects."* The interviewee exemplified this statement about smaller projects, *"It is hard to argue that a new road is necessary for only a few new dwellings. However, if you have many of these smaller projects, it starts to add up."* Thus, there is a more significant risk that investments that are also beneficial for small projects are being overlooked during negotiations. The difficulty of dealing with smaller projects in terms of cost recovery also comes forward in other interviews. Another interviewee said, *"We have quite a lot of smaller projects, and we foresee more of those in the future. If we did not ask for contributions in smaller projects, we would not have gotten the money we needed for developing public facilities."* Not asking for contributions could thus result in financial problems on the long run. Besides, asking for contributions from smaller projects is also deemed fair: *"it would be unfair if we would only ask contributions from bigger projects, and small projects would be exempted"*. Having a uniform contribution explained in a policy report for cost recovery thus occurs to be especially useful when dealing with smaller projects. Having such a document makes it easier to get insight into the investments that must be made in the future and makes it more obvious to ask for contributions from smaller-sized projects. Although the municipalities mention their desire to ask all projects for a contribution, some make an exception and do not ask the above-plan costs for five or fewer dwellings. An argument not to ask for contributions from a very small project often has to do with the juridical fees that come with drawing up agreements. An attendee explained, *"It is hard to organise contributions in anterior agreement for small projects. For an agreement, you need to go to a legal advisor, and project initiators often do not understand it. Then initiators need to hire consultants to explain it, which only leads to more plan costs"*. Municipalities can indeed decide not to recover costs when the costs stay below a certain threshold value. However, another attendee stated, *"Not requesting payments for above-plan costs because of high legal fees is an invalid argument. You can use standard agreements in such situations. By not also requesting contributions from those projects, you just leave money behind, while those projects do require some work."* Municipalities thus take some different approaches for very small projects. This conflicts with the goal of equality, which is an important principle for public authorities. Making exceptions undermines their aim to create a uniform working method with the policy report.

A second factor for deciding to make a policy report is transparency and predictability. A document as such makes it clear from the start which contributions will be asked and how they determined these. An interviewee explained, *"with the report we want to make the above-plan costs foreseeable. Then a developer knows in time that he will have to contribute to those facilities. At the same time, we also make our own municipal financing needs clear."* Most municipalities mention the importance of this transparency for developers, one states, *"Developers actually just want clarity so they can take into account the contributions in their calculations, not knowing is the worst"*. A participant adds to this that developers want to know where the money is spent. This desire for clarity on the expenditure also comes forward in the research of Koning (2020) about value capturing.

Developing a policy report for cost recovery is a one-time effort, and it requires some effort to keep the document up to date afterwards. Participants explain that making a policy report 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 policy report itself does not lead to more costs that can be recovered, but it does make these costs more explicit. In fact, it is an efficient way of undertaking the necessary steps for recovering the above-plan costs all at once, actions that would also have been

needed per project separately if no policy report existed – assuming municipalities decide they want to recover above-plan costs. Moreover, by making a report, developers will know that they must contribute to certain facilities, and simultaneously, municipalities will understand their financing requirements in time. Nevertheless, a participant said, *“sometimes you wonder if developing a cost recovery note is worthwhile and the time and effort we put in actually paid off”*.

### ***The categorization of types of costs***

The theoretical framework and the policy analysis already showed that the definitions for different types of costs are somewhat vague. As could be seen in the policy analysis, some municipalities actively try to categorise the different kinds of above-plan costs, while others intentionally speak of above-plan costs and thus do not distinguish cross-district facilities, off-site cross financing and financial contributions, and some municipalities do not mention above-plan costs at all. Participants of the interviews were asked how they dealt with this ambiguity of definitions in practice. Interviewees explain that they have had discussions about categorising cost types among colleagues and experienced difficulties themselves. One participant explained, *“The reality is not so black-and-white, sometimes facilities are not clearly a cross-district facility or a financial contribution. In fact, the same facility or investment can be necessary for one location, thus meeting the p.p.t. criteria, whilst that same facility might not fulfil the criteria for another development location. Trying to define and categorise investments is thus a discussion that does not always have a clear answer, which could be problematic.”*

In terms of categorisation, a distinction should be made between cost recovery via the public route (site development plan) and the private route (anterior agreements). Most municipalities strive towards organising cost recovery via private contracts, and policy reports are thus mainly developed for that purpose. There is no need to define or categorise the different investments in the private route because all types of above-plan cost can be requested if there is a substantiated functional relationship in the structure vision. It is only in the public route that it becomes relevant whether something is a cross-district facility or a financial contribution since contributions cannot be requested in a site development plan. Some municipalities from the policy analysis mention their intention to use the contributions they determined in their cost recovery note in both the private and the public route, which explains their choice for categorisation. However, an interviewee explained, *“It is questionable whether the contributions that are often roughly determined in the note would hold the public route since the case law shows a stringent interpretation of the application the p.p.t. criteria and cost list in site development plans.”* The relevance of this ‘rough’ categorisation in reports, which is only needed in the public route and will likely not hold in this route because of strict application rules, is thus questionable. In one of the interviews, a participant even explicitly addressed this lack of relevance for categorisation and said, *“I’m not sure if talking about how to categorise above-plan costs is a relevant discussion, you can try to cut it up in smaller pieces. I think you should see the three types of above-plan costs more as juridical terms that are used and applied in a certain way based on the desired outcome. (...) The categorisation of the above-plans costs is not really a discussion with developers in practice, they just want to know where we ask money for and how much, not which type of cost that is. It is the national government that overcomplicates it.”* However, a participant did mention that the cost category can be important during negotiations: *“Because cross-district facilities can also be requested via the public route, and financial contributions cannot, it is easier to make parties agree to pay for the former”*. This seems to be a more tactical decision for appearance during negotiations since it remains to be seen if the categorisation of certain investments as cross-district facilities in a policy report would hold in a site development plan in terms of the applicability of the p.p.t. criteria.

### ***Calculation per square meter or per unit***

From the analysis became clear that municipalities use different allocation methods to determine a contribution, for example, some ask a contribution per square meter development while others ask a contribution per dwelling, sometimes with the addition of weight factors. Municipalities were asked why they chose a certain allocation method. A participant said they based their contributions per dwelling on research that said that every dwelling had a particular need for facilities and that this need was not based on the size of a dwelling. Another participant explained that asking for a contribution per dwelling can be a practical decision. He explained, *“financial contributions are the first thing developers want to negotiate about. After all, it is a voluntary contribution. If you are negotiating about the height of the contribution, it does not make sense to define all sorts of different contributions for different segments upfront. Then it is just quicker and easier to define a contribution per dwelling.”* Other municipalities chose a contribution per square meter to be able to consider the financial capacity of various development projects. They explained, *“Social houses are often smaller than free-market dwelling. By asking a contribution per square meter, those social houses will get allocated smaller contributions”*. Although there is some truth in this statement, it could be less valid in cities with significant differences in land prices, whereby a house of the same size could have a very different value in different neighbourhoods. One could imagine that a more expensive house in the city centre has more earning potential than the same size house in the suburbs and would thus be able to pay higher contributions. In this respect, others explain they consider the earning capacity to determine the contributions that must be paid and do not speak of a specific contribution per dwelling or square meter. To calculate the contribution, they compare the definitive program of a project with the total program, whereby the earning capacity is calculated based on the land values for different development categories, for which the *‘grondprijzenbrief’* is a good indication. With the changing legislation in mind, some attention was also given to off-site cross financing since this will fall under the publicly enforceable contributions in the future. In terms of off-site cross financing, specific contributions are stated for particular purposes, namely for missing social houses or parking spots. Contributions are only asked if plans do not fulfil the requirements in those fields; the requested payments are then based on local reference projects. Municipalities that have defined contributions stated that these types of contributions are rarely implemented in practice. Instead of using compensational schemes, they strive to implement the desired program, such as enough social housing and parking.

### ***A contribution for the whole city or per neighbourhood***

Some municipalities define different contributions per neighbourhood, while others have just defined one contribution for the whole city. This approach might also differ based on the cost type being a cross-district facility or financial contribution. From the interviews appeared that the main consideration in this respect was the sphere of influence, or catchment area, of certain investments. Sometimes facilities only have one or very few of their kind in the whole city, such as societal or cultural facilities like a swimming pool, library, or sports facility, and are thus beneficial for the entire city, independent of the development location. At the same time, other facilities might be more beneficial for one location than another, which is often the case for infrastructural investments. A participant mentioned, *“Dealing with different cost allocations per neighbourhood is fairly complex. Some municipalities indeed determine facilities that are beneficial for the whole city, and those facilities are then seen as 100% proportional. Of course, you can state that, although it is questionable whether it will hold in court if someone objects, it can be a principle you want to formulate upfront, and which is defensible. It will make the calculations a lot simpler. It would be good if we could deal with things like this in a more practical matter.”* As already mentioned earlier, a distinction should be made between the public and private route. A simpler allocation method on a city level could be a pragmatic approach for the private route since a stringent application of the p.p.t criteria is not required and substantiating a functional relationship would suffice.



However, that practical approach would most likely not hold if the same contributions for the whole city, or at least the cross-district facilities from those, would be asked in the public route with the same argumentation.

### ***The heights of the contributions***

As also stated in the policy analysis, the bandwidth of the contribution heights is relatively wide. This can be partly explained by the fact that some municipalities 'pile' all types of above-plan costs and do not explicitly distinguish cross-district facilities, financial contributions, and off-site cross financing. This makes it hard to compare the different heights of the mentioned contributions and determine the financial contribution's heights separately. Not only the lack of insight in the proportion of different types of costs in the indicated contribution is a factor, but the context is relevant as well. One of the participants explained, *"comparing the contributions can be complex since the contributions are locally dependent"*. Not only are contributions locally dependent, but they also concern investments that will have to be made in the future. It thus entails expectations regarding the number of required facilities and expectations of the production of housing or commercial developments for which those facilities are needed. An interviewee referred to this *"Every municipality deals differently with the foreseeability of investments, the investment horizon. They all have to determine what the investments are in 10 or perhaps even 20 years within their own political context. You cannot determine that with certainty. This could lead to a kind of 'trench war' between developers and us as a municipality. Process-wise, we stand in our right by asking for contributions for those facilities in the future, but nobody checks whether the contributions we ask are logical and explainable. The contributions will therefore vary significantly depending on the municipality. The fact that there is no guideline for it is, in my eyes, arbitrary"*. Others explain that differences do not have to be a problem as long as these differences are based on something and are thus explainable. A participant explained, *"Of course the contributions we asked are based on something, namely an investment program. It should not be 'benefit skimming' (Dutch: baatafroming)."*

Some municipalities have determined a policy for replacing new built situations. The reason for this is that the existing buildings already had occupiers that already made use of facilities. New occupiers will do that too. In that respect, new facilities are not really required for those replacing new builds. Only the surplus of new dwellings or other functions would lead to a higher demand for facilities. Thus, some municipalities choose only to allocate cost to the actual new additions to be fair. However, this approach is not required. Some municipalities do not have arrangements for replacing new build situations or do not go as far. Municipalities explain that they want to gain as many contributions as possible to finance the new facilities. Not requesting contributions for replacing new builds results in less income for the municipality.

Besides the exception from payments for replacing new builds, some municipalities also decided to make exceptions for social housing since those facilities often cannot afford to contribute. In Zaanstad, the social houses are included in the calculations for determining the contribution sum, but their current policy is not to request contributions from social dwellings. If municipalities already formulate an exception upfront, they will not gain contributions in those situations indefinitely, whilst the contributions would perhaps be feasible in some projects. Some municipalities, therefore, decided not to formulate an exception upfront, but during the negotiations, they will discuss whether a contribution is possible or not. Whereby one of them said, *"You should have a realistic look when it comes to determining whether a project is able to contribute. You should not want to squeeze the last drop. That is not the intention of this policy. We want to create an equal playing field"*. Not defining an exception upfront does thus not necessarily mean that no exceptions are made.

Some municipalities have updated their policies for the above-plan costs, while others continued the contributions they defined from the beginning. A participant explained, *“We kept the contributions the same. We did that intentionally. Everyone knows these contributions now, so we do not want to increase them suddenly.”* Another interviewee said, *“You see that it takes a few years before you can actually credit those payments. If you change the policy, you introduce deviations, which makes it more complicated, and you do not want to come across as an unreliable partner.”* Some municipalities did update their policy. A participant said, *“It was actually requested by the municipal council. Quite a lot changed, and they wanted us to check whether we recovered everything that we (planned) or had built in terms of facilities.”* Changing the policy also has a relationship with the municipal structure vision. Namely, contributions can only be asked if they are substantiated in a structure vision. Thus, if the municipality did not change that document first, they would not have the formal grounds that are required to ask for (new) investments that were not known previously.

## 5.2.2 Negotiations

### **Preparations**

Some municipalities have defined more specific policy for recovering above-plan costs than others. Therefore, municipalities were asked how they prepared negotiations about anterior agreements with project initiators. Municipalities explain that they always ask for contributions for above-plan costs in every project. Mostly not only in external projects but also in their own exploitations. To start negotiations, the policy report forms a starting point for municipalities, *“We make a calculation upfront of what they should be paying for cross-district facilities and for financial contributions. Based on that, we start negotiations”*. Municipalities also try to get a feeling of how difficult negotiations will become. A participant said, *“We always look up the purchase price of the land that the initiator paid. For us, that is a good signal to determine whether negotiations will be difficult.”* It also appeared that the preparation for negotiations might differ a bit per project. Some explained that they have been professionalising the negotiation process, *“Formerly, we restricted ourselves to asking the maintenance management department if there were any high costs in the direct environment. Only in big projects with many above-plan costs, we drew up a development budget or a business case for the whole development. In smaller projects, we did not really prepare for the above-plan costs. We were not good at it or were just not used to doing it. In big developments, you talk about huge sums, so we approached it more seriously then. With the policy report, we improve this process more.”* A difference in preparation for big and small projects also comes forward in other interviews, whereby person said, *“Also with the policy report, we rarely draw up development budgets, only for some very big projects. Those projects are just too complex not to do it.”* Thus, it seems as if there is not much preparation required once there is a policy report, only for some huge projects the preparations become more extensive. In most projects, the municipalities determine what a developer should pay based on the policy report and the development at hand and ask that contribution from the developer. Negotiations can start from there.

### **Negotiation attitude**

As already explained before about the preparations, municipalities try to determine upfront whether negotiations about above-plan costs, and financial contributions in particular, might become difficult. Not only do they check this, but they also adjust their negotiation strategy accordingly. A participant stated, *“Sometimes you see upfront whether you are dealing with a development where profits will be made, then we take a tougher position in negotiations. When we see we are dealing with a difficult location, with, for example, a lot of cheaper houses, then we will be realistic enough to negotiate a lower contribution.”* As described in the theoretical framework, in basis, the financial contributions are currently only possible voluntarily. However, during the interviews, some municipalities indicated that the contributions are a point of negotiation, while others rarely negotiate about the contributions and state that the contributions as described in their policy are (almost) always agreed upon in the eventual

agreement. A participant said, *"Paying for cross-district facilities is legally enforceable and, for us, is thus not negotiable. We do negotiate about financial contributions."* And someone else said, *"The contributions in our policy are a good starting point for negotiations. We will not get everything off that. You can convince people to contribute by giving them a discount. You can play with it because of the voluntary character of contributions."* Another explained that their attitude in negotiations about financial contributions changed a bit over time *"In the beginning, we had a lot of discussion about financial contributions with developers. We had to explain why we did so. Since we are dealing with a lot of the same developers, after some time, they just know what to expect, and we do not really negotiate about the contributions anymore."*

### **Impact on project feasibility**

Municipalities that negotiate about financial contributions explain that they are willing to lower the contributions when developers can show that projects will become infeasible because of the contributions. An interviewee said, *"When a developer says he cannot afford to pay contributions, we ask him to open up his books and show a cost estimate which proves they cannot or should not pay those contributions. If they can show that, we can explain to municipal executives why we lowered or did not ask for a contribution."* All municipalities indicate that developers are willing to open up their books to some detail whenever this occurs. The public servants then must look with a critical eye to determine if developers make a valid point. A participant explained, *"Because you know the area, you know the local difficulties, and thus you understand whether they are upholding a pipe dream, a sad story, or whether their argument holds any water, we will see that."* It is stated that requests of developers for lower contributions because of financial infeasibility, a form of macro-capping, are not always exonerated. In the different interviews, some situations when contributions are lowered are given, namely sanitation cost, inner-city redevelopments, archaeological land. In some cases, when the projected costs or earnings are questioned, municipalities can make agreements about subsequent costing. Then municipalities can lower the contributions with a discount, but developers will need to prove they made costs or sold the houses for a specific price. If the result is more favourable than expected upfront, developers will have to pay back the discount on contributions they received earlier. Although this seems a fair system, a participant explained that agreements based on subsequent costing are a lot of work and should be used seldomly. In addition to this financial argument for lowering contributions, one municipality indicated that they ended up not including the contributions because of the other parties' professional knowledge about the subject. Some professional actors, such as specialised advisors, know that financial contributions are not enforceable in the Spatial Planning Act. This legal argument can be brought up in negotiations, whereby developers then indicate they are unwilling to make financial contributions. Another participant also addressed the potential influence of the professionalism of a developing party during negotiations and said, *"Sometimes you are dealing with a professional party, the developer's consultant, that knows how to read the policy for above-plan costs, and I think that parties with that knowledge will attempt to make use of the possibilities of the cost recovery policy, such as macro-capping."*

Other municipalities say that the argument that projects will become infeasible because of contributions is invalid. An interviewee said, *"If a developer says his plan will become infeasible because of the contributions we ask, we can dismiss those arguments immediately. It is not a factor at all. Especially nowadays."* Another said, *"Developers have the freedom to develop for the market, also with their program, besides the required percentages for social and mid-rent housing. If a developer then says we cannot make it work financially, it means they just procured wrongly, and they will need to take a second look at the purchase price of the land."* However, it is hard to determine whether the purchase price a developer paid is fair. A participant exemplified this: *"Developers sometimes say they had to pay X for the land, and when they bought the land, there were different or no requirement for the amounts for*

*affordable housing, or perhaps other requirements. Then it is difficult to determine whether you, as a municipality, should honour the high, maybe speculative, land price a developer paid. In how far is that legitimate? You can also say they should not have paid as much for the land. Then you should look each other in the eye and weigh the stakes of the development at hand.” Besides the validity of the land prices you calculate with, the financial impact of the contributions itself is argued to be limited by some, “The financial impact is not big. I do not say it does not play a role, but other subjects, such as the program, a minimum percentage of social housing or not, that is something that really hits the development budget and profit expectation.” Another also addressed that the alternative public route is not per se less expensive, “Financially speaking, financial contributions have barely any impact. It might seem to be price-increasing, but the developer has the final say about the program and the phasing. Making anterior agreements with those contributions thus has benefits apart from the financial aspects you do not have in a site development plan. When you make a site development plan, more costs are added in the ‘ministeriële regeling plankosten’, which also makes the public route more expensive. If they agree to the contributions in anterior agreements, that is not necessarily more expensive, but they benefit from the pre-made agreements.”*

It is thus evident that some municipalities state that contributions can make a project infeasible while others indicate not. A few things seem to play a role here. Firstly, all municipalities ask for different contributions of different sums, and one could imagine that if a city asks for higher contributions, this has more financial impact. Secondly, all municipalities operate within their own context. Some of the reasons that were given for lowering financial contributions for spatial plans – sanitation cost, archaeological value, inner-city redevelopments – are locally dependent and do not occur (as often) in other municipalities. Thus, those municipalities might not experience this need for lowering contributions. One of the participants said, *“If developers build for the free market in the green lands, of course, there is more room for contributions.”* It is thus essential to put contributions in perspective. An interviewee states, *“You need to look at the big picture. Sometimes there are all sorts of circumstances that you might not bring up in the negotiations, but you do consider. Sometimes you are already happy that there is a party willing to develop, maybe not financially, but in other perspectives.”* Thus, these contributions are only one part of a bigger negotiation, and if a developer meets some other requirements, they might be willing to lower contributions.

### **Importance of the topic financial contributions**

During the interviews was asked if the financial contributions for spatial plans were an important subject during negotiations. From the interviewees became clear that contributions are indeed an important topic, but not on their own. One participant said, *“Financial contributions are a topic that comes back in every negotiation. It always requires some time to talk about it. However, other subjects, such as building height, seem to be more important during negotiations.”* Financial contributions should also not be seen as a separate topic. They are related to other subjects, which another interviewee indicated: *“Financial contributions are one of the many topics during negotiations. Sometimes they also impact each other. For example, suppose there are high demands for greenery, which could lead to fewer dwellings being built. In that case, you can consider lowering contributions.”* The importance of contributions during negotiations might also depend on the moment in time. This appeared from the statement that *“contributions are not as conflictive as you might expect, at the moment at least.”* It suggests the willingness to contribute will most likely decrease if the economic circumstances would worsen.

Although contributions thus seem to be an important topic, it is not considered to be a dealbreaker during negotiations by municipalities. A participant stated, *“If negotiations fail, that’s always the result of the overall picture, not only the financial component. If that is the only reason, we will check how we deal with it. It is never a breaking point.”* As became clear from the legal framework, financial

contributions are only possible on a voluntary basis. Municipalities explain that, although they indeed acknowledge this voluntary character, they do not emphasize it during negotiations. One mentioned, *“we often do not discuss the validness of asking for contributions. We end up discussing more the details of how much should be attributed and for what purposes.”* Developers are aware of the voluntary character of making contributions, but for planning permission, they also depend on cooperation from the municipality. Therefore, developers might be willing to contribute in the hopes of being treated more friendly. The latter might be especially relevant when there is a lot of development interest, and there is only limited capacity available at the municipal office. Although not stated explicitly, in some circumstances, ‘planning for those who pay’ could be experienced in practice, which compromises the voluntary character.

### ***The contributions in anterior agreements***

As already indicated with the negotiations, some municipalities really negotiate about contributions and lower these if needed, while others rarely negotiate about the height and do not see any apparent reason for this. It is not insightful to talk about the average contribution in the municipalities with different contributions per project. Namely, in every project, there are unique situations. There is no project that can be normative for the whole. A participant said, *“the eventual height of the project is very project-specific. It is hard to say anything generic about the contribution”*.

In some municipalities, they almost always include the contributions stated in their policy report in anterior agreements. Whereby one remarked, *“We ask the contribution from the note, or no contribution at all, we do not implement discounts.”* In the municipalities where they do negotiate about the contributions, in most cases, the contributions are lower than stated in the policy report. Municipalities seem to find it hard to indicate how much lower a contribution was and how often this lowering really occurred. A participant said, *“It is hard to determine how often we end up agreeing on a lower contribution. It can be brought up in bigger projects, but we do not always honour it when they ask for macro-capping. I have to make a qualitative estimate because I do not have the numbers. So I say a lower contribution often occurs in bigger projects. Then you might ask what is often? I can only say often. My feeling is more often than not, but I cannot say that with certainty.”* Another interviewee said, *“I cannot calculate whether there are any differences between big and small projects. In retrospect, we should have administered how many dwellings were realized in each project, but you do not think of that upfront. You only think of that when someone asks questions about it, and then you realize it would have been easier.”* Thus, it is hard to make any objective statements about the heights of contributions in anterior agreements and how often contributions are lowered, and in which sorts of projects.

Some statements were made about the relationship between project sizes and the contribution height. One municipality suggests that agreeing on the contribution as stated in the policy proves to be more difficult in big projects and said, *“We see that it is challenging to make agreements about financial contributions in big projects. In those bigger projects, they often realise some facilities in their plan internally, which makes them contribute in that way. Besides, the parties involved in those projects are also bigger. You also have to deal with that”*. As an example of these additional internal costs, he explained, *“If an initiator also develops, for example, a big green park in the plan area, they should pay fewer financial contributions. They cannot pay endlessly.”* Another municipality also indicated that small projects pay the whole contribution more often. They said, *“Small developers usually pay the whole contribution. For them, it is a relatively small sum of money. The contributions remain important, but they understand it.”* Another municipality said the contrary: it is harder to gain contributions from smaller projects. The participant explained, *“In big projects, it is easier to shift some costs and generate more income. Bigger projects have more financial capacity to afford contributions,”* and regarding the argument of compensating by realising some internal facilities is said, *“If you built a big neighbourhood,*

*then a green park or something alike is just part of it. Those are costs that belong to that development. Thus, that is, in my opinion, not a reason to lower the contributions.”* A municipality said about lowering the costs, *“In the most recent years, I did not see a project where no contributions were paid at all. There was a discount, or we requested the full contribution. The discounts we gave were often significant, sometimes half, a third or fourth of the total sum.”* Besides lowering contributions, a municipality can decide not to ask for contributions at all. A municipality said, *“It is very seldom that we do not include any contribution at all. There is almost always some contribution”.* Another said, *“I think we did not include a contribution in about 20% of the projects.”* A participant addressed the role of the economic situation, *“A few years ago it would have been a lot harder to make agreements about contributions. Not a lot of contracts were signed at that time. Municipalities were already happy when a developer took the risk and started developing. They were more willing to lower contributions then. (...) With the current market prices, and common contributions being in the range of 20 to 50 euro per square meter, the contributions are about 1 to 2% of the selling price of the houses. If you see the price development of houses in recent years, those are higher percentages.”* One could conclude that it would thus become more challenging to agree on contributions if market prices drop in the future.

As explained earlier, in general, contributions are lowered when the development is difficult. A development could be (financially) complex because of many affordable houses, archaeological value or land sanitation. In some cases, subsequent costing agreements are made to make sure that parties would still pay if cost were lower than expected, although these are used seldomly. A participant who made use of subsequent costing indicated that the developer ended up paying the full contribution afterwards in all cases.

### **5.2.3 Consequences**

#### ***Changing plans***

Municipalities were asked whether asking for contributions had any consequences for (the initiation of) development projects. Municipalities indicated that it is not the contributions that affect the plan. *“Contributions you should see as purely something financial, that is something you negotiate about. The spatial requirements have way more influence on a plan”.* Another interviewee stated, *“A plan is not changed because of contributions. Developers will not build fewer dwellings because they need to pay a contribution per dwelling. A developer makes a profit per dwelling, so building fewer dwellings only reduces his profit.”* Sometimes developers try to use the policy to their advantage and say they will pay more contributions if they can build more by allowing, for example, a higher building height. Some municipalities have determined different contributions for dwellings in different segments. It was asked whether they experienced that developers adjusted their building program because of this. According to a municipality, *“The build housing segments are not a consequence of the contributions being asked. Other aspects play a more important role there, such as the sales. Some developers build more mid-price housing for quicker sales, while others build more expensive housing to earn more money and risk that the dwellings will not sell as fast. The contributions are not a factor in deciding for which segment they built.”* One of the participants noted, *“I do not know in how far the fact that a developer has to pay a contribution plays a role. Of course, they want to optimise their plans so that they can maximise their profits. However, I never experienced a developer who said I need to build higher if you ask this. Although I cannot confirm if this is a reason for a developer, I cannot see their thought process.”* Thus, it seems that contributions do not affect the development plans, although developers might have made decisions based on the contributions, of which municipalities have no knowledge.

### ***Pressured affordability***

One of the most upbrought critiques of financial contributions is that it would be price-increasing and lead to less affordable housing. A municipality says about this, *“We do not make agreements about selling prices – besides the percentages for housing segments. The market is just the market. Developers can ask whatever people are willing to pay for it. We, as people, are crazy enough to pay 10% more for houses without getting anything in return. That the result of the ECB policy. We have no influence on that as a municipality.”* Usually, developers indeed ask the market value, which represents what people are willing to pay for something. A developer does not have a reason to ask less than what people are willing to pay for it. Namely, if they ask less than that, they would be missing potential profits. Contributing can in some cases influence the market value. Some investments for which contributions are asked, such as realising a city park, can improve the quality of the physical environment, which could result in a higher market value of developments. This is not necessarily the case for all investments for which contributions are asked. Independent of the increase in market value, asking contributions does increase the costs, and if the market value of the development does not increase as well, making a contribution could pressure the returns of developers. A pressured return could result in less housing development, especially in the affordable segment, where returns are already lower. Municipalities sometimes use contributions as a trade-off in negotiations, whereby they can lower contributions or not ask for contributions at all in an attempt to convince developers to build more affordable housing. A municipality explained, *“Sometimes we ask a developer to build more mid-price housing. In return, we ask for fewer contributions. This way, we can use the contributions as leverage to convince developers to build more affordable housing.”*

### **Local competition**

As appeared from the policy analysis, municipalities ask for very different contributions. Municipalities were therefore asked whether they experienced any competition among similar or close by municipalities. All municipalities indicated that they have not experienced competition amongst municipalities and are not afraid developers will leave either. One said, *“Developers are not less willing to develop in our city because we ask for financial contributions. That does not play a role at all. It is all about location. I do not feel like they're leaving us to build elsewhere.”* Another explained that it could be difficult to avoid contributions by leaving elsewhere *“Developers usually already have a land position. They cannot take that land position with them to a different city. Perhaps that early in the acquisition process, which we do not know, that our cost recovery policy played a role in a developers decision to (not) invest in our municipality.”*

A participant said that developers bring up the fact that they do not have to pay contributions in other cities. The interviewee mentioned that if this is brought up, it requires some explanation. The fact that more municipalities ask for contributions helps in these discussions. A participant explained, *“We know we cannot enforce contributions, but when developers keep saying they do not want to pay for it, you can say that this is the reality in multiple cities. Luckily, you currently have multiple cities with a policy report on cost recovery that ask for these contributions.”* Some municipalities indicate that their neighbouring municipalities ask for similar contributions, although they say it would not have played a role in the decision-making of developers. Another participant said, *“I think we are a bit of a frontrunner in our region when it comes to asking for financial contributions, but I do not feel like developers are less willing to invest in our municipality because of it. It does occur that developers bring it up, but for us, it is not a reason to stop with this policy.”* It is also said that the height of a contribution could determine whether competition is experienced, *“If a developer sees that a contribution in one municipality is a lot lower than in other places, that that could help to avoid discussion. However, I do not know whether a developer does comparative research in this matter.”*

#### 5.2.4 Expectations of the new legislation

As explained in chapter 3, the new Environment and Planning Act introduces publicly enforceable financial contributions. Municipalities were asked about their expectations regarding this new legislation. Overall, municipalities do not think that the new legislation for publicly enforceable contributions will change a lot. Most municipalities stated they will take the opportunity to assess their current policy and adjust it because it needs a slightly different juridical basis in the new law. *“We want to keep asking for a contribution via the policy report and will make sure we have the right juridical basis for that. Some things will (remain to) be possible, while others might not. I do not see a lot changing, will try to keep as much, and a small portion needs to be adjusted.”* It is also not expected that the contributions, or the height thereof, will change because of the new legislation. Although they do not think they will act differently, some indicate that the new publicly enforceable contributions could improve their negotiation position. One said, *“I expect very few changes due to the publicly enforceable contributions (as in the current draft decree). I do think it might give us a stronger negotiation position in the beginning. I think that we would get less discussion about ‘planning for those who pay’. That is an accusation we sometimes get, especially in the beginning.”* Although most others agree that the negotiation position might improve, one noted, *“You can try to enforce payments, but if you allocate too many costs to a plan, the plan cannot financially carry it. If you then want a plan, you will have to apply macro-capping or invest yourself as a municipality. (...) You cannot ask for more costs than a plan can carry. We might want to enforce it, but that will only lead to problems.”* Or said otherwise, assuming municipalities already ask the maximal contributions, by taking into account the financial capacity of plans, and parties already agree to those contributions now, the new legislation will not change a lot since plans cannot carry more costs.

One of the interviewees mentioned that the current draft decree has some pitfalls. The explanatory notes leave room for multiple interpretations of the requirements to be able to ask a contribution for something: *“One interpretation is that is cost HAVE TO be recovered via cost recovery, so if it is on the cost list and meets the p.p.t. criteria, there is a legal obligation to recover those costs, section 13.6 Ow, if you assume that first interpretation you would not be able to recover those costs via the new regulation, section 13.7 Ow. A second interpretation can be that if costs CAN be recovered, which means that cost should be on the cost list and meet the p.p.t. criteria. But then it should also still be possible concerning macro-capping. It could be that the two first criteria are met, but that because of macro-capping, you still cannot recover those costs. A third interpretation says if cost ARE recovered. That last interpretation gives room to municipalities to choose how they want to recover costs.”* In addition to the interpretation of the new legislation, there are also some practical aspects. Suppose you want to choose the route of publicly enforceable contributions. In that case, other costs also need to be recovered and thus have to be included in an Environment and Spatial plan, in the form of cost recovery rules. The benefit is that there is no discussion about whether contributions are enforceable, and anterior agreements would not be necessary. A participant stated, *“There are so many conditions, which makes me skeptical about its application in practice. Nevertheless, I am very positive, and I will see if there are possibilities to use the new regulation.”* Depending on how the new regulation should be interpreted and the practical application, municipalities could decide whether they want to pursue this new regulation. However, not a lot of changes are expected, and it is expected that the anterior route remains to be used most often, as is also preferred by the legislator.



### 5.3 Developer perspective

To be able to validate the findings from the interviews with municipalities, an interview was held with a representative of developers' organisation NEPROM. The main findings from the interviews with municipalities were discussed to explore the developer perspective and further shape conclusions. The results are presented in this section.

The earlier policy analysis has already shown that only few municipalities have a pre-defined policy on the recovery of above-plan costs. Moreover, the different types of above-plan costs are also not used consistently in the various municipal policy reports. NEPROM (personal communication, 2021) confirmed this general observation and said, *"in the current legislation, we have article 6.24 Wro, the contributions under private law. In practice, municipalities do not mention these in their 'omgevingsvisie'; Contributions come up in negotiations and are not always as visible."* NEPROM thus addresses the fact that contributions are requested often, also if they have not been specified clearly upfront. This shows that municipalities are not always transparent about their policies.

Municipal representatives indicated that the categorisation of investments is not really a point of discussion with developers. In the interview (NEPROM, personal communication, 2021) was confirmed that developers indeed primarily want to get clarity on the planning and cost of a project as early as possible. Developers are aware of the p.p.t. criteria and the cost list, and discussions in negotiations are based on these principles. However, it is noted that when questions are asked, for example, about the investments for which contributions are asked, or the relationship of those investments with the project at hand, the answers of the municipality are often unclear and unsatisfying, *"sometimes they bring up a very old policy report and say that developers have to contribute more because prices have increased. We get complaints about it. There needs to be a fair and transparent discussion about it. Municipalities should not demand a contribution just because it is mentioned in some kind of policy report. You have to prioritise together and not hide behind a report."*

The fact that contributions are not specified upfront does not have to be a problem. All of it plays a role in negotiations. It is a game you must play as a developer. A realistic conversation with the municipality is needed, independent of the existence of a note. Negotiations as such are not always easy and can take a long time. NEPROM explained, *"If a municipality shows willing to think along the lines of the development, whereby they offer clarity on the contributions for specific investments, and substantiate why they ask for those contributions, that would be very helpful for developers"*. In this respect, the existence of a note is valuable.

In addition to the above, it became evident from the policy analysis there are big differences in contributions among municipalities. Developers indeed see the differences between cities and learn from them. NEPROM explained that adjusting decisions or basing decisions on the policy reports is often tricky since developers usually already have a land position, making it difficult to develop elsewhere. They state that height of contributions or the investments for which contributions are asked are not main problem, it is the overall financial picture that is important. In this respect, further demarcation is not a panacea. Developers would rather negotiate than limit their freedom of contract. Developers often take a pragmatic approach *"Sometimes you don't look at every penny, where it's from or where it is going. If it is feasible at the bottom line, and you want to do business, you become very pragmatic"*. According to the NEPROM, the developers return should be 'sustainable' to determine whether something is feasible. To assess this, investments in public services are also considered. They stated, *"project developers also want to develop something pretty, future proof and sustainable to be happy with. They also look beyond the 'house' itself."*

According to the NEPROM, the differences among municipalities will only increase due to the further decentralisation, whereby everything is moved from the *'exploitatiewet'* to the cost recovery rules in the environment and spatial plans. This means that developers need to become more proactive if they have a land position, and if they are not in the picture at the time the environmental plan is established, they cannot participate or object against it.

While developers do not seem interested in all the details, they often argue that 'planning for those who pay' is occurring in practice. They explain that municipalities often threaten with site developments plans or to not cooperate with land-use changes. At the same time, NEPROM (personal communication, 2021) justifies that this is also part of the current legislation, it is a mechanism to force contracts. According to NEPROM the planning powers of local authorities could result in *"distorted negotiations, that are no longer the result of pure market forces."* In a letter, they go even further and state that *"The current practice of requesting financial contributions goes further than was intended by the legislator."* Whereby argue that research showed that municipalities recover more than they are entitled to, and that market parties pay to make sure they can continue with their developments if they remain to have enough return. NEPROM (2019, p.20) stated, *"There is no such thing as voluntary contributions. Jurisprudence shows that agreements have to be made and that developers must pay to get permission for projects. That is not voluntary."* According to developers the current Art. 6.24, therefore, leads to problems and misuse: *"The article leads to discussion and planning for those who pay."* Although an imbalance of power might be experienced, overall, the balance of the power of municipalities to make planning decisions and the developers position in terms of initiating development is seems to be mostly fair in the Spatial Planning Act. NEPROM (personal communication, 2021) stated, *"As long as both parties are happy with the outcome, it is good. The negotiations can go along with some pressure, whereby it could be said that municipalities will not organise something if developers refuse to agree to some things. That can be how negotiations go."* The negotiation attitude of municipalities can be experienced as unreasonable, so developers need to take a firm position to protect their interests. At the same time developers also feel pressure because they want to continue developing in a city in the future or are afraid that a competitor will get an advantage. The balance here is thus fragile since developers cannot go to another party to get development permission or change a land-use plan.

Although the contributions are thus voluntary, municipalities do not emphasize this in negotiations. Discussions about the voluntariness seem to have resulted in no contributions in some cases. About the role of knowledge on the subject is mentioned by NEPROM (personal communication, 2021), *"it would be weird if municipalities hope for someone that does not have the knowledge and think that a developer just wants to make a deal and will 'fall for it' in terms of agreeing without realising they are not actually obliged to contribute."* Although some municipalities indicated they did not negotiate on contributions, NEPROM said developers will always try to negotiate, and room for negotiation will be sought. Negotiations might not happen when something comparable is developed recently as they are unsurprised by what the municipality asks. Sometimes recent negotiations are not comparable at all, and it is experienced that the contributions that are requested have increased drastically in next phases of a project.

According to NEPROM developers experience negotiations as slow, and public servants as undecisive *"if you ask something, it takes a long time; they have to go back for permission or need to think about it. Developers then wait for it, but it is a long process. It is not a pragmatic way of doing business"*. More transparency and reasonable contributions that are properly substantiated could make developers more willing to contribute. Clarity and explanation upfront in policy reports that are publicly available, makes sure developers are not caught by surprise, which could avoid lengthy discussions about contributions, and thereby speed up the building process.

The contributions mentioned in policies are, based on an average housing price of approximately 300,000 euro, roughly 1-2% of the selling prices of houses. According to municipalities this is a realistic contribution. Municipalities argue that the financial impact of contributions is limited. Municipalities mentioned that building prices have not increased as fast as house prices, and thus there is more room for contributions. Fokkema (2019) says asking for voluntary contributions raises concerns with market parties since building prices did in fact increase substantially. He says developers are almost forced and that municipalities justify a contribution by saying, *“We ask this contribution from all parties”*, and this raises objections from developers, especially when the relationship with the own building plan is missing. According to NEPROM *“The sky is not the limit, you already see that people are no longer able to afford a house. You might think that there is so much scarcity that people will pay, but consumers are not crazy”*, to which they add *“Developers also have a social responsibility to make sure housing remains affordable and that people will continue to have access to the housing market, it is really underestimated how this all works”*. They explain that house prices are based on cost and the earnings and, of course, the developer's margin therein. According to them, *“it gets to a point where it is hard to realise all of that, and at some point, it just becomes unfeasible.”* The increase in building prices combined with the higher quality demands, for example, in terms of sustainability, play an essential role as well. Those things increased the costs, while according to the NEPROM, developers' margins have not changed a lot. NEPROM states that developers' margins are sometimes only 3%, a contribution of 1-2% is then a lot. A contribution can thus be indeed very doable for some projects, while it can be a burden for other projects. Developers and Municipalities thus say different things when it comes to the impact on feasibility. Although there is some general data available on the house prices and building costs, there is little to no data available on specific project finances since this is sensitive business information. This makes it hard to say how big the actual financial impact of developer contributions is. Although it is thus suggested that more contributions could pressure developments, at the same time, NEPROM also explained that developers do not want to sell no. Developers want to conduct business and thus try to find a pragmatic solution *“what could occur in practice is that developers ask to build additional volume, an extra floor, to be able to make sure a development becomes feasible.”*

NEPROM (2019) is critical about the new rules for cost recovery in the Environment and Planning Act and says, *“The legislation makes the financial contributions (Art. 6.24 Wro) return, while these were scrapped from the Environment and Planning Act at first for good reasons.”* Thereby they refer to the explanatory notes of former Minister Schültz (2014), who said, *“Scrapping financial contributions will lower the land costs of building locations. Financial contributions are meant to get contributions for social services that cannot be recovered via a site development plan, while research showed that most of these contributions entailed cross-district facilities instead. To recover cross-district facilities, the p.p.t. criteria have to be met. By scrapping financial contributions, time will be saved, and the legislation is simplified, while most costs that are currently asked as financial contributions can still be recovered.”* NEPROM argues that the new legislation, in the current unrestricted form, will lead to planning for those who pay and benefit skimming (Dutch: *baatafroming*), while this should not be happening. They state, *“Under the current conditions, the legislation has negative effects on the costs, and the building production, and consumers will experience the negative consequences of it.”* According to the NEPROM (2019), the additional legislation is unnecessary since the new Environment and Planning act already offers more opportunities and boundaries to recover financial contributions. They argue that the proposed legislation leads to an accumulation of regulations that jeopardises the financial execution and increases costs, which will further pressure the affordability of houses. They state that further demarcation of the articles is necessary to make sure that the situations in which 'voluntary' contributions are requested are related to measures that compensate for a loss of quality resulting from new developments. Without a demarcation as such, the legislation allows municipalities to recover

unlimited cost. About a publicly enforceable variant, they say, “A regulation on top of the regular cost recovery that allows for additional contributions undermines the voluntary character completely. One way or another, the developers will have to pay. That is just planning for those who pay” (NEPROM, 2019, p. 17).

## 5.4 Synthesis

In this section the results from the analysis are synthesized. The empirical findings from the research are compared with the theory.

### *Findings about the policy*

The research has shown that despite the extensive legislation for cost recovery, it has resulted in a messy practise. This messy practice sees on the above-plan costs, whereby there is a lot of variety in municipal policies in terms of investments for which contributions are asked, the cost allocation and the height of the contributions. The practice of recovering cost for on-site works does not lead to many discussions and municipalities are succeeding in capturing the basic package of on-site, site-specific local infrastructure. The findings for the policy are summarised in table 6.

	THEORETICAL FINDINGS	EMPIRICAL FINDINGS
<b>The legal framework</b>	<i>Extensive legislation for the recovery of costs, which distinguishes multiple types of costs.</i>	<i>Municipalities do not use the definitions for the different types of above-plan costs consequently.</i>
<b>Investment expenditure</b>	<i>There is no clear definition of what is considered to be a ‘bijdrage ruimtelijke ontwikkeling’. It is not clear contributions can be asked for only the land component of investments or that contributions for real estate (e.g. cultural and societal services) can also be requested.</i>	<i>Municipalities ask contributions for different kinds of investments. Some only ask contributions for greenery and infrastructure, while others also ask contributions for other types of facilities.</i>
<b>Cost allocation</b>	<i>For cross-district facilities the p.p.t. criteria need to be met and for financial contributions for spatial plans a functional relationship needs to be substantiated in a structure vision.</i>	<p><i>The cost allocation for ‘bovenwijkse voorzieningen’ is specified quite detailed, contributions for ‘bijdragen ruimtelijke ontwikkelingen’ are mentioned less often. There is some variety in the allocation methods:</i></p> <ul style="list-style-type: none"> <li>• <i>Contributions per square meter GFA or per housing equivalent</i></li> <li>• <i>Different contribution per neighbourhood or one contribution for the whole city</i></li> <li>• <i>Extent to which different contributions per development category are specified</i></li> <li>• <i>Also asking contributions for replacing new-builds or not</i></li> <li>• <i>Existence of pre-defined exceptions to the policy</i></li> </ul> <p><i>Considerations with regards to this are based on practicalities and or the catchment area of the investments for which contributions are asked.</i></p>
<b>The height of the contribution</b>	<i>No guidelines for maximum height of contributions is defined. In the public route it is regulated that it is not possible to recover more costs than there are earnings from a project based on ‘macro-aftopping’. No legal restrictions or rules exist for private agreements.</i>	<i>The contribution heights vary significantly among municipalities. The mentioned contributions in policy documents vary from 2 to 55 euro per square meter GFA or 500 to 9,000 euro per dwelling.</i>

**Table 6** Summarised findings of the policy

### **Findings about the negotiation process**

The research has investigated which kind of contributions were incorporated in anterior agreements and which factors might have influenced the decision to include contributions. The findings on the negotiation process are summarised in table 7.

	THEORETICAL FINDINGS	EMPIRICAL FINDINGS
<b>Anterior agreements</b>	<p><i>Empirical evidence shows that municipalities prefer the route of anterior agreements (used 95% of time) over the usage of a site development plan. Agreements about 'Bijdragen ruimtelijke ontwikkelingen' can only be made on a voluntary basis.</i></p>	<p><i>The fact that financial contributions cannot be recovered via the public route is not a consequential argument for municipalities' land policy decisions.</i></p> <p><i>Some municipalities (almost) always include the contributions as stated in their policy and do not negotiate on the height of the contributions. Other municipalities actively negotiate on the height of the contribution. Then, contributions are often lower than stated in their policy. If applied, 'discounts' are often considerable and range from 30 to 50%. In some cases, relatively few, no agreements about financial contributions are made at all. In some situations, agreements are made based on subsequent costing.</i></p>
<b>Influential factors</b>	<p><i>Schep (in Schoonhoven, 2018) addresses three factors that could influence the negotiations on cost recovery: certainty, reasonableness and sufficiency. Schoonhoven (2018) mentions that in terms of certainty, the dependency on the other party's cooperation and the predictability of making contributions play a role in negotiations. In terms of reasonableness, the contribution size, how much a project benefits from an investment and the necessity of investments for projects play a role. In terms of sufficiency, the selection of investments for which contributions are asked and the earning potential of projects should be considered.</i></p> <p><i>According to De Koning (2020), developer decision-making regarding financial contributions is affected by the added value of the contribution, conditions to contributing, the type of contribution and the public role. The investments for which contributions are asked can increase the value of development and improve the earning potential, making a developer more willing to contribute. Having a constructive relationship with the municipality, which could be the result of contributing, can also be of influence.</i></p>	<p><i>Municipalities are willing to lower the contributions if projects become infeasible because of it. Reasons for this could be complex (re)developments in the inner-city, land sanitation or archaeological value. Developers have to 'prove' this infeasibility by providing insight in calculations.</i></p> <p><i>In terms of knowledge about the legal restrictions on cost recovery, professionalism also seems to play a role. Discussions about the voluntarily character, in some cases, resulted in not including financial contributions in development agreements. Although developers often feel pressured to contribute, agreements are reached most often, which would mean that despite the contributions, developments remain feasible.</i></p> <p><i>Timing also seems to play a role in some ways. It takes some time before developers get acquainted with policies and (can) take this into account. Long-standing relationships with local developers and the existence of transparent policies for a longer period seem to avoid discussions about contributions. Whether making contributions is feasible also depends on the economic circumstances at the time. Agreements about contributions were made less often in the period wherein parties still had to recover from the financial crisis.</i></p>

**Table 7** Summarised findings of the negotiations

### **Findings about the consequences of asking for financial contributions**

No research was available about the consequences of asking for financial contributions had been found in literature. The findings on the consequences for developments projects that were found in the empirical research are summarised in table 8.

	THEORETICAL FINDINGS	EMPIRICAL FINDINGS
Plan changes	<i>No research is conducted in the consequences of asking for financial contributions for spatial plans</i>	<i>According to municipalities financial contributions did not have an impact on the development plans in terms of the program and should be seen as purely a financial aspect. It did occur that developers tried to build more, arguing they would also pay more contributions then. Developers on the other hand indicate that contributions do have an impact on the program, and that it leads to more expensive housing being built.</i>
Development location	<i>(not applicable)</i>	<i>Municipalities do not experience (local) competition among municipalities as a result of the contributions that are being asked and are not afraid that developers will leave to develop elsewhere because of it. The difference in contributions that are being asked is sometimes brought up in negotiations.</i>
Financial impact	<i>(not applicable)</i>	<i>The contributions are ca. 1-2% of the development value. It is explained that contributions are lowered if a project does not have enough earning potential to contribute. The financial feasibility is thus considered during negotiations to make sure the contributions height is realistic. Developers argue that asking for contributions is price increasing, which leads to less affordable housing. The fact that agreements are made indicates parties can reach an acceptable outcome.</i>

**Table 8** Summarised findings for the consequences

### **Findings about the expectations regarding the Environment and Planning Act**

In the literature review was researched what the Environment and Planning act were in terms of cost recovery. During the research the expectations of municipalities and developers regarding this new legislation was explored. The findings in terms of expectations of the Environment and Planning Act for cost recovery are summarised in table 9.

	THEORETICAL FINDINGS	EMPIRICAL FINDINGS
Usability	<i>Making use of the regulation for publicly enforceable contributions (Art. 13.23-13.24 Ow) is only possible if rest of the cost recovery (section 13.6 Ow) is also done publicly.</i>	<i>Municipalities indicate that they do not expect any significant differences as a result of the new legislation. They expect to continue using the anterior route as this offers more flexibility and the public route is more time-consuming.</i>
Effect	<i>In the Environment and Planning Act enforceable financial contributions for spatial developments are introduced. The cost list for enforceable contributions does not include cultural and social facilities. Private contracting remains possible and no limitative cost lists applies then.</i>	<i>It is expected that municipalities might get a better negotiation position because of the new legislation. It is not expected that it will change how much contributions are incorporated in anterior agreements, but it helps to avoid discussions about the legitimacy of asking for contributions. Developers think the new legislation will lead to more planning for those who pay.</i>

**Table 9** Summarised findings for the expectations of the Environment and Planning Act

## 6. Conclusion

---

This research aimed to give more insight into the policy implementation of financial contributions and the role of these contributions in urban development projects. Therefore, this thesis's central research question was: *"What are the consequences of incorporating financial contributions for the initiation of development projects, and how does the legal framework play a role in this?"* Several sub-questions were posed to be able to answer this central question. This chapter describes the conclusion of the research, whereby the different research questions are answered.

### 1. What is the legal framework for cost recovery?

The Spatial Planning Act (Wro) obligates municipalities to recover the costs they make for public services from project initiators. They can recover these costs in multiple ways. Under an active policy, these costs are usually recovered in the land sale prices. Under a facilitating policy, there are different instruments available, whereby a public route or a private route can be pursued. In these two routes, different types of above-plan costs can be recovered. In the public route, costs are recovered via a site development plan and in the private route via anterior agreements. Financial contributions – the research topic – can only be recovered on a voluntary basis and cannot be requested in a site development plan and thus can only be agreed upon in developer agreements. To be able to ask for financial contributions, a functional relationship between investments and the developments that benefit from those investments needs to be substantiated in the structure vision.

The new Environment and Planning Act (Ow), which is expected to be implemented in July 2022, introduces a publicly enforceable variant of the financial contributions in a draft decree. The types of investments for which financial contributions can be asked via this new regulation are stated in Art. 8.22 Ow. This cost list for publicly enforceable contributions does not apply to voluntary financial contributions, which will remain to exist in the Environment and Planning Act.

### 2. Which kind of municipal approaches regarding financial contributions for spatial developments can be found in municipal policy documents?

The theoretical framework showed the three types of above-plan costs that can be distinguished in legislation. The policy analysis has shown that municipalities use the terms *'bovenwijkse voorzieningen'*, *'bovenplanse verevening'* and *'bijdragen ruimtelijke ontwikkelingen'* interchangeably or do not specify which types of cost are recovered with an indicated contribution sum. This makes it difficult to determine the heights of the actual contributions that can be categorised as *'bijdragen ruimtelijke ontwikkelingen'* in the selected municipalities. The policy analysis of fifty municipalities that produced the most housing showed that only a limited number of municipalities has a defined policy for financial contributions. Although most (64%) mention the option to request *'bijdragen ruimtelijke ontwikkelingen'* in their policy documents, only a few go into more detail and indicate the investments for which contributions are asked and or indicate a contribution height herein. Municipalities with a higher housing production mention the option to request financial contributions more often. Only a few municipalities (14%) clearly state they do not ask for *'bijdragen ruimtelijke ontwikkelingen'*. These particular municipalities either miss formal grounds to request this contribution, think projects do not have enough financial capacity to contribute or focus on a more active land policy.

Where the cost allocation for *'bovenwijkse voorzieningen'* is specified quite detailed in policy of almost half of the municipalities in the policy analysis, contributions for *'bijdragen ruimtelijke ontwikkelingen'* are mentioned less often. Only twelve municipalities seem to say something about financial contributions for spatial plans in more detail. The municipalities that do say something about financial

contributions indicate the height of contributions in various ways. Some municipalities restrict themselves to stating they will determine a contribution per project or provide a list of investments for which contributions can be asked. It is then not stated which development locations should contribute to these investments on this list. Few municipalities have a relatively detailed policy whereby they indicate the height of the contribution per square meter gross floor area (GFA) or land, or per housing equivalent. When housing equivalents are used, they often state how many square meters GFA or land of non-residential developments represents a housing equivalent. In some cases, specific contributions per development category are specified. Some municipalities have indicated one contribution for all developments in the whole city, while others have defined different contributions for developments in different areas. The heights of contributions stated in the policy documents vary significantly. The bandwidth seems to be in the range of 2-55 euro per square meter GFA or 500-9,000 euro per dwelling. However, it should be kept in mind that municipalities might have included multiple cost types in these contributions, which makes it impossible to make a fair comparison of these contributions' heights. In addition, some municipalities have mentioned pre-defined exceptions for contributing, such as special arrangement for replacing-new-build projects.

It became clear that from the analysis that municipal cost recovery policies are still under development. Ten of the selected municipalities (18%) indicated that they are planning on renewing or preparing new policy documents to improve the recovery of public costs.

3. What was the rationale behind (not) including the financial contributions that were mentioned in policy documents in anterior agreements?

Some municipalities from the case studies have indicated that they always incorporate contributions from the note. Others state that contributions are often lower than was stated in their policies. The main reason for lowering is that projects become financially infeasible if they would contribute. If this is the case, developers should 'prove' this by giving insight into their development budgets, which parties are willing to give. Reasons for infeasibility are often related to the context and are primarily the result of complex inner-city redevelopments, land with archaeological value or land sanitation. Contributions might also be lowered in exchange for some other demands, for example, more greenery or a higher quality of public space.

Municipalities seem to find it hard to indicate how much lower a contribution was and how often this lowering really occurred. Municipalities did not really administer their contributions in an elaborative way, which made it hard for them to indicate whether lowering the contributions occurred more often in certain types of projects. Municipalities only gave qualitative indications about when and how often they deviated from the contributions that were stated in their policy. Where some said that contributions were often lowered in big projects, others said the contrary, which means no generic relationship between the heights of contributions and project sizes can be indicated, although it does seem to play a role in some situations.

The last argument that is brought up for not including financial contributions lies in the parties' professionalism. Some professional advisors or organisations are aware of the legal limitations of financial contributions and knew contributions could only be agreed upon on a voluntary basis. They brought this up in negotiations, which result in no contributions being incorporated in the agreements.

4. How far did the decision to include financial contributions in anterior agreements influence the initiation of specific development projects?

All municipalities said that financial contributions did not have an impact on the development plans in terms of the program and that it should be seen as purely a financial aspect. It sometimes occurred that



developers tried to build more, arguing they would also pay more contributions then. Municipalities do admit that, although this is not brought up during negotiations, they cannot say if it might play a role in the development optimisation of the developers. NEPROM, on the other hand, suggests that contributions would lead to more expensive housing and less affordable homes being built.

The height of contributions varies a lot among municipalities, but municipalities indicate that they do not experience any (local) competition among municipalities because of it. They say they do not experience less interest from developers to initiate projects because of the contributions, although they cannot substantiate this since they have no insight into the developers' decision-making process for investing in specific locations.

The financial contributions that are agreed upon in anterior agreements are mostly 1-2% of the selling prices of development. Whether a contribution as such is realistic really depends on the project at hand. Although developers might feel pressured during negotiations, the fact that agreements are being made suggests that projects are still feasible, even if they make considerable contributions. If economic circumstances would worsen, contributions could become a more conflictive point, which was also seen in the past; contributions were barely agreed upon in the years where the market was still recovering from the financial crisis.

5. What are the expected effects of the new Environment and Planning Act on the decision to include financial contributions in anterior agreements and the initiation of urban (re)development projects?

Municipalities do not expect significant changes as a result of the new legislation for publicly enforceable financial contributions. They explain they are almost always able to agree on contributions with developers in reasonable terms with the current legislation. The new legislation would not change that, although they suggest that negotiations can become a bit easier when developers know that contributions are also enforceable and that it could lead to fewer discussions. On the other hand, developers are afraid that this new legislation will increase the abuse of power, and it would lead to more planning for those who pay.

As already explained in the theoretical part, the enforceable variant does not allow contributions for cultural and social facilities. At the same time, voluntary contributions will remain possible, and no cost list is defined there, which could allow municipalities to keep asking for contributions like these via the private route.

**Main question:** What are the consequences of incorporating financial contributions for the initiation of development projects, and how does the legal framework play a role in this?

Although the legislation in the spatial planning act on cost recovery is extensive, the practices of recovering above-plan costs seem to be a bit messy. Different types of above-plan costs are used interchangeably in various municipal policies. The legal framework allows municipalities to use the potential possibilities for cost recovery, although not all municipalities use these possibilities. The policy analysis conducted for 50 municipalities showed that 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 and that there needs to be a functional relationship to make sure it remains fair. In-depth case studies analysed the implementation of these policies. 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. Contributions seem to come down to approximately 1-2% of the sales prices of the development. It is difficult to assess the actual financial impact of financial contributions, and the consequences for the provision of affordable housing. Municipalities are willing to lower contributions if developers can show their project becomes infeasible because it, whether this lowering of contributions or leaving them completely, depends on project characteristics and the location. In the cases where paying contributions might become a problem, contributions are lowered to ensure developments remain feasible. Parties do not seem to change their plans because of the contributions and do not seem to make decisions based on these contributions. Although contributions are an important topic during negotiation in some municipalities, it is never a dealbreaker.

## 7. Discussion & Recommendations

---

This chapter will discuss and review the research and its findings. Thereafter some recommendations for future research and for practice will be done.

### 7.1 Main findings

The usage of financial contributions must be positioned in the context of various developer obligations internationally. Financial contributions are a type of negotiable developer obligations that are, just as in many other countries, used in combination with non-negotiable developer obligations. Literature suggested that using a combination of both NDO's and N-NDO's can have multiple causes (Muñoz Gielen & Pastor, 2019). First, legislative problems with the implementation of N-NDO's can result in insufficient financial revenues for municipalities. This also occurs to be the case in the Netherlands, where financing public infrastructure is increasingly seen as a problem (Muñoz Gielen & Lenferink, 2017). Secondly, NDO's are more flexible in adapting to changing market conditions and are easier to introduce because it requires less regulation. This argument can also be recognized in the Dutch context. Negotiating on financial contributions does indeed offers flexibility to both developers and municipalities and is therefore preferred by both. Thirdly, NDO's often show transparency problems, which leads to them becoming more institutionalised and regularised over time. In the Netherlands NDO's and N-NDO's are not perse used simultaneously. The fact that municipalities are able to apply N-NDO's has a consequential effect on negotiated development agreements. Nevertheless, there is some debate on the negotiability and transparency of financial contributions. Trends towards institutionalising and regularising developer obligations can be recognized by the introduction of publicly enforceable contributions in the Environment and Planning Act.

Although contributions are indeed heavily criticized by developers, contributions are incorporated in agreements. As also found in this study, developers often aim to deal with contributions in a pragmatic manner. Other than discussing the validness of contributing endlessly, sometimes payments will be made to move forward, as long as developments remain feasible. This pragmatic attitude also came up in earlier research in England that studied the negotiated development agreements. This research also showed that as far as planning obligations concerned, developers are prepared to exceed the boundaries set by the central government in order to secure a profitable development (Ennis, 1996). Cost considerations for commercial interests are thus the prime concern, whereas planning policy on contributions, also in the Netherlands, does not show how policy may affect the profitability of the development process. Besides, making planning obligations were also seen as a means to speed up planning permission (Ennis, 1996). The slowness of negotiations is also brought up in the Dutch context.

As became apparent from this study, the implementation of recovering above-plan costs and requesting contributions, other than recovering the costs for on-site works, seems to be messy in practice. This does not only occur in the Netherlands, but other countries, such as Spain, have also struggled with the application of a vague legal framework (Muñoz Gielen & Pastor, 2019). As in the Netherlands, the lack of transparency and slowness of negotiations has also been criticised in other countries. Over time negotiation criteria in Spain were sharpened and the debate has focussed on the need of more regularisation, homogenisation, previous description, and publicity of the negotiations. A gradual evolvement of the legal framework for financial contributions that provides more certainty, for example by clarifying the contributions that can be asked, and making negotiations more transparent, could improve the implementation of these contributions in the Netherlands as well.

## 7.2 Limitations of the research & recommendations for future research

This research is bound to limitations in relation to the methodology, data, and timing. These limitations are important to consider. Some of the limitations offer opportunities for later research.

Firstly, this research used a limited number of cases due to the timeframe in which the research is conducted. Multiple cases were conducted, although the research only focussed on municipalities that had formulated policies on financial contributions. The earlier policy analysis made it evident that multiple municipalities are somewhat vague in their policy and leave a lot open for interpretation. It would have been interesting to see how not formulating contributions upfront turned out and what kind of consequences this had for the initiation of development projects. In the same manner, it would also be interesting to conduct additional research to investigate whether municipalities that did not mention financial contributions in their policy also did not make agreements about these.

The data that has been collected on financial contributions in anterior agreements is of a more general nature. Decision-making about contributions was discussed in a qualitative manner since empirical evidence was not provided at the time. More quantitative data would improve the research and could be used to validate the qualitative statements. It occurred that municipalities did not have this information available or were unwilling to share this.

Parties are in general reluctant to share financial information about projects because they do not wish to reveal trade secrets. They do not want to provide information which may be helpful to the opposite party in negotiations. More research into the market strategies of developers, the way they negotiate on developer obligations and absorb the costs would be valuable future research.

In this research, the expectations regarding the new legislation were explored. These statements are thus speculative as the new legislation is not yet implemented. Therefore, a recommendation is to research, sometime after the new legislation has been implemented, if municipalities make use of the new regulation for publicly enforceable contributions and, if not if it has impacted negotiations about contributions in private developer agreements.

## 7.3 Practical recommendations

The legislation defined different types of cost, but this research into the implementation shows a messy practice with a lot of variety in how municipalities approach negotiations about financial contributions. Based on the findings of the research, some recommendations are formulated.

Investments are indeed location-specific, which explains some level of variation in contributions that will be asked. However, this research has shown significant variations in contribution heights and the investments for which these contributions are being asked. Big differences in policy on cost recovery among municipalities could negatively influence legal certainty and equality, and this should be avoided. The current legislation and description thus seem to be inadequate in terms of avoiding significant differences among municipalities. Establishing more detailed guidelines could help municipalities to make more coherent policy on the recovery of public services.

Although it is not researched whether municipalities that did not formulate policy for contributions request contributions, it is advised that municipalities develop policy on this upfront if they plan to request these contributions. Formulating a policy can give developers certainty on the height of contributions in an early stage and offers transparency that can improve developers' willingness to contribute and could have a damping effect on land prices.

As explained developers decide to contribute based on financial arguments. They are willing to contribute as long as they are able to realise a profitable project. By focusing, in addition to the costs of

investments, on the added value of the investment for which contributions are requested, the willingness of developers to contribute will increase.

Municipalities had little to none, or at least not very detailed, empirical evidence concerning the various contributions that were negotiated and incorporated in agreements for different projects. A more thorough administration of the contributions that are included in contributions, and or the costs of works that are provided by developers as a contribution in kind, could help with properly evaluating the effectiveness of policy.

#### **7.4 Contribution of the research**

This research focuses on the field of land policy, and more specifically, cost recovery. This research contributes to the existing body of knowledge and closes a gap in literature by studying the implementation of negotiated developer obligations in the Netherlands.

The research gives insight into the policy considerations and the factors that influence the decision to (not) include the financial contributions in development agreements. By taking into account both the municipal and developers perspective a comprehensive view of the practice is provided by this thesis.

## 8. Reflection

---

In this chapter is reflected on three parts of the research. Firstly, it reflects upon the thesis topic in relation to the study program and the relevance in the broader scientific and societal context will be discussed. Secondly, it reflects on the methodology of the research and the ethical considerations in within it. The last part of this reflection is on the graduation process and is from a more personal perspective.

### 8.1 Research topic

This research has been undertaken as part of the Master Management of the Built Environment. The Management in the Built Environment master engages with the managerial dimension and processes involved in de building industry. This thesis is on the theme of urban (re)development. More specifically, it focuses on the initiation phase of projects, whereby municipalities negotiate with developers about, among others, the recovery of costs for public facilities. The research gives insight into the financial implications of requesting financial contributions from developers. In addition, it also gives insight into the dynamics between the different parties involved in such negotiations, which suits the goal of understanding the multidisciplinary context of the building sector of the master program.

Cost recovery is an important topic during negotiations between developers and municipalities. The topic is especially relevant in the recent context, where the current Spatial Planning Act will be replaced by the new Environment and Planning Act in the near future, which is expected to bring along some changes in cost recovery. A draft decree introduced financial contributions in spatial plans that are enforceable via public law. Currently, developers can only agree to make these contributions in a development agreement voluntarily. The new publicly enforceable financial contributions are highly criticised by NEPROM, an organisation representing Dutch project developers. Their main critiques are that the new legislation leads to planning for those who pay and that enforcing financial contributions jeopardises the development of affordable homes. Critics argue that research into the financial consequences is lacking and that a realistic image of the room for contributions for urban (re)developments in development projects is needed. In the context of the already existing housing crisis, stagnating development has a societal impact, and studying whether financial contributions implicate the initiation of development projects is thus relevant.

Several studies have researched different types of public value capturing instruments, sometimes from an international perspective. However, only fragmented data is available about the actual use of financial contributions and the results in practice (Hobma, 2014; Muñoz Gielen, Salas, & Cuadrado, 2017; Muñoz Gielen, 2010). Data about the use and results of financial contributions in practice could help understand the consequences of financial contributions for urban (re)development projects. This research fills a gap of knowledge on the implementation and consequences of financial contributions in practice.

### 8.2 Methodology

The research investigates the consequences of asking for financial contributions and how the legal framework for cost recovery plays a role in this. The main aim is thus generating knowledge and understanding. An empirical research method is used for formulating explanations by using a descriptive methodology. This study is explorative since fragmented data is available about the use of financial contributions in practice.

This research made use of three different steps. Firstly, the legal framework for cost recovery and the expected changes in the Environment and Planning Act were researched from a theoretical perspective in the literature review. Hereafter the empirical research followed, which consisted of two steps. First,

an explorative desk research was conducted, whereby the policy documents of 50 municipalities were analysed. After the policy analysis, in-depth case studies were conducted to analyse the implementation of these policies in practice. The findings of the empirical research were synthesised to draw conclusions and come up with recommendations.

The literature review made use of various sources such as academic journals, commercial reports, books, and online websites. The literature review resulted in a theoretical framework, which was complemented throughout the different stages of the research. It resulted in a few figures that give a clear overview of the legal framework for cost recovery and how this relates to the new Environment and Planning Act.

At the start of the research, it was attempted to set up the case study research as an embedded multiple case study design by analysing specific projects within the different municipalities, which turned out to be infeasible. Municipalities did not have or were unwilling to share specific information about financial contributions that were agreed upon in specific projects. Municipalities were able to say something about the differences regarding financial contributions in anterior agreements for different projects in a more qualitative comparative manner. The data collected thus ended up being not as detailed as what was expected beforehand. The empirical research thus required some adjustments throughout the process.

Only municipalities that described a cost allocation in their policy were interviewed in terms of the case selection. During the interviews was explored how their policy was implemented in practice and which agreements were actually made about financial contributions. By focusing on municipalities that did formulate a clear policy, the results in practice could be compared to it. This provided insight into the circumstances where municipalities deviate from their policy, and it allowed for discussion about reasons for lowering or not asking for contributions. The earlier policy analysis made it evident that there are also multiple municipalities that are somewhat vague on the topic in their policy and leave a lot open for interpretation. However, it would have been interesting to see the consequences of not formulating contributions upfront and how this turned out in practice.

#### ***Ethical considerations.***

At the start of the research, it was already clear that financial contributions could be a politically sensitive topic. All participants of the research were professionals and participated voluntarily. Each interviewee signed an informed consent letter that explained the purposes of the research. Although some participants did not state that things were confidential, it was decided to present the results in such a way that statements cannot be traced back to a specific municipality to ensure the negotiation position of participants of the research is not compromised. Some statements have therefore been rephrased to make them more anonymous.

### **8.3 Graduation process**

During the Management and the Built Environment masters, both financial and legal aspects of real state were topics that invoked my interest. In land policy, these two topics play a significant role. By exploring the concept of financial contributions in this thesis, I hoped to better understand the dynamics between private and public parties during the initiation phase of development projects and gain insight into the financial implications and barriers for development projects.

The research process was with ups and downs. From the start of the graduation towards the P2, the research went fairly smoothly. The scope of my research was clear and narrowed down relatively early in the process, which allowed for a good start. During this first semester, I also followed other courses next to the graduation lab, which made this an intensive period. At the same time, it also gave a lot of structure and focus in my graduation planning at the time. In addition to this, the relatively many

extracurricular courses I took during this time also allowed me to have a lot of informal contact with my fellow graduate students about the graduation process, which I experienced as helpful and motivating. In the process toward P2 the literature review was conducted and a first draft of the policy analysis was already executed. In the last phase towards P2 I also found a graduation internship at Metafoor which allowed me to get access to expert knowledge and experience with the topic, while it also functioned as a good entry for contacting interviewees.

Although I felt prepared for the period after P2 toward P4, I feel like this second part of the research was more challenging. Reflecting back on this period, I think there were a few factors that played a role here. First of all, during this period, I almost entirely worked from home due to the covid-19 restriction. During this time, I did not follow any additional courses and had very limited contact with my fellow students, which made writing the thesis more individualistic and really decreased my productivity and motivation. Although I had not realized it before, I have become aware that contact with fellow students is pivotal for my learning experience and will most likely remain important in my future endeavours. Secondly, other than preparing research proposals and or literature reviews, I have not had experience conducting actual research, or at least not so extensively. Because this was relatively new, I was not aware enough of what to expect and underestimated some parts of the process. In hindsight, I would probably have contacted interviewees earlier on because I experienced that it takes some time before this is organized. Although the interviews themselves went relatively smoothly, during the interviewees, it became clear I would not be able to collect the level of detail in the data I expected upfront, namely project-specific information. Because of this, I had to adjust the research method. Because the information on financial contributions was on a more abstract level, it was decided the developer perspective would be used to validate the findings from the interviews with the municipalities. Although I struggled with how to proceed at the time, I feel like I have dealt with it in a good matter eventually. I have learned from it that I should be aware that the research might not go as I planned upfront; by being flexible and adjusting, a good result can still be achieved, although it might be different than expected upfront.



## References

---

- Alterman, R. (2012). Land use regulations and property values: The 'Windfalls Capture' idea revisited. In N. Brooks, K. Donaghy, & G. Knaap, *Chapter in: 'The Oxford Handbook of Urban Economics and Planning'* (pp. 755-786).
- Batt, H. W. (2001). Value capture as a policy tool in transportation economics: an exploration in public finance in the tradition of Henry George. *American Journal of Economics and Sociology*, 60(1), 195-228.
- BPD. (2017). *1 miljoen woningen nodig tot 2030 [Blog post]*. Retrieved from <https://www.bpd.nl/actueel/blog/integrale-gebiedsontwikkeling/1-miljoen-woningen-nodig-tot-2030>
- Bregman, A. (2011). *Een regeling inzake grondexploitatie bij de herziening van het omgevingsrecht*. Den Haag: Instituut voor Bouwrecht.
- Buitelaar, E. (2010). Cracks in the myth: Challenges to land policy in the Netherlands. *Tijdschrift voor Economische en Sociale Geografie*. 101(3), 349-356.
- BVH Ruimte BV & Vreman. (2014). *Vervolgonderzoek bovenplanse kosten en bijdragen ruimtelijke ontwikkelingen*.
- BVH Ruimte BV. (2013). *Onderzoek forfaitaire bijdrage bovenplanse kosten en bijdrage ruimtelijke ontwikkelingen*. 's-Hertogenbosch.
- CBS. (2020). *Gemeentelijke indeling op 1 januari 2020*. Retrieved from CBS: <https://www.cbs.nl/nl-nl/onze-diensten/methoden/classificaties/overig/gemeentelijke-indelingen-per-jaar/indeling%20per%20jaar/gemeentelijke-indeling-op-1-januari-2020>
- De Koning, J. (2020). *Stimulating Urban Redevelopments through Value Capturing [Master thesis]*. Retrieved from <http://resolver.tudelft.nl/uuid:bf2741eb-19e3-4390-90b6-086a4851694a>
- Debrezion, G., Pels, E., & Rietveld, P. (2007). Debrezion, G., Pels, E., & Rietveld, P. (2007). The impact of railway stations on residential and commercial property value: a meta-analysis. *The Journal of Real Estate Finance and Economics*, 35(2), 161-180.
- Ennis, F. (1919). Planning Obligations and Developers: Costs and Benefits. *The Town Planning Review*, Vol. 67, No. 2, 145-160.
- Fokkema, M. (2019, June 3). *Bijdrage ruimtelijke ontwikkelingen is klare wijn, maar bijsmaak dreigt*. Retrieved from [gebiedsontwikkeling.nu](https://www.gebiedsontwikkeling.nu): <https://www.gebiedsontwikkeling.nu/artikelen/bijdrage-ruimtelijke-ontwikkelingen-klare-wijn-maar-bijsmaak-dreigt/>
- Groetelaars, D. (2004). *Instrumentarium locatieontwikkeling: Sturingsmogelijkheden voor gemeenten in een veranderende marktsituatie*. Delft: DUP Science.
- Hess, D. B., & Almeida, T. M. (2007). Impact of proximity to light rail rapid transit on station-area property values in Buffalo, New York. *Urban studies*, 44(5-6), 1041-1068.
- Heurkens, E. W., Hobma, F. A., Verheul, W. J., & Daamen, T. A. (2020). *Financiering van gebiedstransformatie: Strategieën voor het toepassen van verschillende financieringsvormen bij binnenstedelijke gebiedsontwikkeling*.

- Hobma, F. (2014). *Internationale vergelijking financiering en kostenverhaal bij organische gebiedsontwikkeling*. Delft.
- Hoekstra, J. (2020). Een beschouwing bij de Aanvullingswet grondeigendom Omgevingswet, onderdeel kostenverhaal, zoals aangenomen door de Eerste Kamer. *Vastgoedrecht*, 3, 81-87.
- Kim, M. (2020). Upzoning and value capture: How U.S. local governments use land use regulation power to create and capture value from real estate developments. *Land Use Policy*, 1-12.
- Korthals Altes, W. (2014). Taking planning seriously: Compulsory purchase for urban planning in the Netherlands. *Cities: the international journal of urban policy and planning*, 41 (Part A, December), 71-80.
- Korthals Altes, W. (2018). *Financiële gegevens bouwgrondexploitatie gemeente: Jaarcijfers 2017 en cijfers tot en met 2e kwartaal 2018 (1e plaatsing)*. OTB-Onderzoek voor de gebouwde omgeving. Faculteit Bouwkunde, TU Delft.
- Korthals Altes, W. K. (2013). Grondbeleid: Dienend of bepalend? *VHV Bulletin*, 40 (3) , 11-13.
- Korthals Altes, W., Nieuwenhuizen, S., Stevens, M., & Harkes, N. (2003). *Organisatie van prestatie: regie in de stedelijke ontwikkeling*. Rotterdam.
- Kostenverhaal bij gebiedsontwikkeling onder de Omgevingswet*. (2020). Berghauser Pont Publishing.
- Lam, T., de Bruijne, F., & Sluysmans, J. (2012). *Ten gronde beschouwd. Een onderzoek naar alternatieven en verbeteringen voor het juridische instrumentarium op het gebied van het grondbeleid in het kader van de totstandkoming van de Omgevingswet en de evaluatie van de Ontheeningswet*.
- Lawson, J., & Ruonavaara, H. (2020). *Land policies for affordable and inclusive housing* .
- Ministerie van Binnenlandse Zaken en Koninkrijksrelaties. (2019). *Reiswijzer Gebiedsontwikkeling 2019*. Retrieved from <https://www.neprom.nl/SiteAssets/Lists/Nieuws/BO/Reiswijzer%20Gebiedsontwikkeling%202019.pdf>
- Muñoz Gielen, D. (2010). *Capturing Value Increase in Urban Redevelopment [Doctoral dissertation]*. Leiden: Sidestone Press.
- Muñoz Gielen, D. (2020). Verruiming onder Wro en Omgevingswet van afdwingbaarheid kostenverhaal gebiedsoverstijgende investeringen. *Bouwrecht*(54).
- Muñoz Gielen, D., & Lenferink, S. (2017). The role of negotiated developer obligations in financing large public infrastructure after the economic crisis in the Netherlands. *European Planning Studies*, 26(4), 768-791.
- Muñoz Gielen, D., & Pastor, M. G. (2019). Transparency and evolution in the use of negotiated developer obligations within land readjustment in Spain. *Urban Research & Practice*, 13(5), 500-524.
- Muñoz Gielen, D., & Tasan-Kok, T. (2010). Flexibility in planning and the consequences for public-value capturing in UK, Spain and the Netherlands. *European Planning Studies*, 18(7), 1097-1131.

- Muñoz Gielen, D., Nijland, H., & van der Heijden, T. (2019). *Rapportage naar het gebruik van Art. 6.24, lid 1 onder a Wro (financiële bijdrage aan ruimtelijke ontwikkelingen)*. IHS, institute for housing and Urban development studies of Erasmus University Rotterdam.
- Muñoz Gielen, D., Salas, I. M., & Cuadrado, J. B. (2017). International comparison of the changing dynamics of governance approaches to land development and their results for public value capture. *Cities*, 123-134.
- Murre, B. (2020). *Value capture funding in the Netherlands: A study into the application of value capture funding instruments in the Netherlands [Master Thesis]*. Delft.
- Needham, B. (1997). Land Policy in the Netherlands. *Tijdschrift voor economische en sociale geografie*, Vol. 88, No. 3, pp. 291-296.
- Needham, B., & Geuting, E. (2006). *Afschaffing van het zelfrealisatiebeginsel economische effecten*. Radboud Universiteit Nijmegen Faculteit der Managementwetenschappen.
- NEPROM. (2019, April 18). *NEPROM-reactie op de nota van wijziging aanvullingwet grondeigendom [Letter]*. Retrieved from <https://www.neprom.nl/SiteAssets/Lists/Nieuws/BO/Bijlagen%20bij%20brief%201411.pdf>
- NEPROM. (2020, July 6). *NEPROM-reactie afdwingbare financiële bijdragen [Letter]*. Retrieved from <https://www.neprom.nl/SiteAssets/Lists/Nieuws/BO/AMvB%20financiele%20bijdragen.pdf>
- Raad voor de Financiële Verhoudingen. (2015). *Grond, geld en gemeenten. De betekenis en gevolgen van de gemeentelijke grondexploitaties voor de bestuurlijke en financiële verhoudingen*. Retrieved from <https://www.raadopenbaarbestuur.nl/publicaties/g/grondexploitatie/documenten/publicaties/2015/07/09/grond-geld-en-gemeenten>
- Ramselaar, A., & Keeris, W. (2011). Een beslissingsondersteunend model bij projectontwikkeling: Voor investeringsselectie, monitoring en evaluatie. *Real Estate Magazine (Special)*, 25-30.
- Rijksoverheid. (2020, juni 15). *Staat van de woningmarkt 2020*. Retrieved from [Rijksoverheid.nl: Staat van de woningmarkt 2020](https://www.rijksoverheid.nl/onderwerpen/woningmarkt)
- Schoonhoven, N. (2018). *Van verhalen naar verdelen [Master Thesis]*.
- Schultz van Haegen-Maas Geesteranus, M. (2014). *Memorie van toelichting omgevingswet [Kamerstuk]*. Den Haag.
- Ten Have, F., Celik, F., Van Kuijck, F., & Reezigt, M. (2012). *Financiële effecten crisis bij gemeentelijke grondbedrijven*. . Utrecht: Deloitte Real Estate Advisory.
- Valtonen, E., Falkenbach, H., & Viitanen, K. (2018). Securing public objectives in large-scale urban development: Comparison of public and private land development. *Land Use Policy*, 78, 481-492.
- van Baardewijk, E. (2020). Stand van zaken kostenverhaalsregeling omgevingswet. *Grondzaken en gebiedsontwikkeling*, 29-31.
- van Baardewijk, E. (2020). Vergelijking kostenverhaalsregeling Wro en Omgevingswet. *Grondzaken en Gebiedsontwikkeling*, 14-15.

- van den Brand, J., van Gelder, E., & van Sandick, H. (2008). *Handreiking Grondexploitatiewet*. Den Haag: Sdu Uitgevers bv.
- Van den Brand, J., Van Gelder, E., & Van Sandick, H. (2008). *Handreiking grondexploitatiewet*. Den Haag: Sdu Uitgevers bv.
- van den Hof, J. (2020). *Kostenverhaal bij gebiedsontwikkeling onder de nieuwe omgevingswet*. Berghauser Pont Publishing.
- van der Krabben, E. V., & Needham, B. (2008). Land readjustment for value capturing: a new planning tool for urban redevelopment. *Town Planning Review*, 79(6), 651-673.
- van Rij, E., & Korthals Altes, W. (2010). Looking for the optimum relationship between spatial planning and land development. *The Town Planning Review*, Vol. 81, No. 3, 283-306.
- Walters, L. (2013). Land value capture in policy and practice. *Journal of Property Tax Assessment & Administration*, 10(2), 5-21.
- Witting, M. (2019). *Active versus Passive Land Policy [Master Thesis]*.
- Woestenburg, A., Van der Krabben, E., & Spit, T. (2018). Land policy discretion in times of economic downturn: How local authorities adapt to a new reality. *Land Use Policy*, 77, 801-810.
- Wolf-Powers, L. (2019). Reclaim Value Capture for Equitable Urban Development. *Metropolitica*.
- Yin, R. (2003). *Case study research: Design and methods*. Thousand Oaks, Calif: SAGE Publication Ltd.
- Yin, R. (2018). *Case study research and applications: Design and Methods*. Sage Publications Inc.

# Appendix A – List of analysed policy documents

---

## **Almere**

Kadernota Grondbeleid Almere (2 maart 2009)

Structuurvisie Almere 2.0 (juli 2009)

Omgevingsvisie Almere: Structuurvisie Almere conform Wro (9 oktober 2017)

## **Alphen aan den Rijn**

Structuurvisie Alphen aan den Rijn 2031 (juni 2013)

Nota Bovenwijkse voorzieningen (21 juni 2018)

## **Amersfoort**

Structuurvisie Amersfoort 2030 (juni 2013)

Grondbeleid 2014 gemeente Amersfoort (z.d.)

## **Amstelveen**

Nota Grondbeleid (10 mei 2012)

Structuurvisie Amstelveen 2025+ (September 2011)

Uitvoeringsparagraaf Structuurvisie Amstelveen 2025+ (September 2011)

## **Amsterdam**

De grondprijsbepaling voor nieuwe erfpachtrechten 2019 (31 januari 2019)

Koers 2025: Ruimte voor de stad (April 2016)

Spelregels voor woningbouwprogrammering (z.d.)

Structuurvisie Amsterdam 2040 (17 februari 2011)

## **Apeldoorn**

Structuurvisie “Apeldoorn biedt ruimte” (30 mei 2013)

## **Arnhem**

Ontwerp-structuurvisie Arnhem 2020 | doorkijk 2040 (januari 2012)

Koersdocument Arnhem 2040 “Samen bouwen aan Arnhem” (10 juli 2020)

## **Assen**

Nota Bovenplanse investeringen Kloosterveen 2017-2035 (15 juni 2017)

Strategienota Ruimte 2016

## **Barneveld**

Structuurvisie kernen Barneveld 2022 (oktober 2011)

Nota Bovenwijkse Investerings (NBI) 2019 tbv kostenverhaal

Nota grondbeleid 2016

## **Breda**

Nota Grondbeleid 2014: Een heroriëntatie op het grondbeleid (februari 2014)

Nota Bovenwijkse Voorzieningen (9 juli 2020)

Structuurvisie Breda 2030: Keuzes maken in een dynamische tijd (26 september 2013)

## **Delft**

Ruimtelijke structuurvisie Delft 2030

Nota grondbeleid 2017-2020 (1 juni 2017)

Ontmoetingen met Delft 2030: een ruimtelijke structuurvisie

## **Deventer**

Gemeentebrede Structuurvisie (25 juni 2013)  
Structuurvisie Stadsaszone Deventer (oktober 2013)  
Nota grondbeleid 2013 (oktober 2013)

## **Diemen**

Structuurvisie Diemen (februari 2011)  
Nota Grondbeleid - Actualisatie per 1-1-2019

## **Dordrecht**

Structuurvisie Dordrecht 2040 (september 2013)  
Raadsvoorstel Herziening Nota Bovenwijkse Voorzieningen (11 November 2014)  
Nota Grondbeleid 2018 "Regie op exploitatie"

## **Ede**

Nota grondbeleid 2016 (april 2016)  
Structuurvisie buitengebied Ede "Ruimte voor Kwaliteit" (29 september 2011)  
Stadsvisie Ede 2030 (april 2017)

## **Eindhoven**

Nota Kostenverhaal Bovenwijkse Voorzieningen (7 februari 2019)  
Ontwikkelperspectief 2040 Centrum Eindhoven (april 2020)

## **Enschede**

Nota grondbeleid Enschede (januari 2020)  
Bijlage 4 Uitwerking beleid kostenverhaal

## **Goeree-Overflakkee**

Kadernota Grondbeleid Goeree-Overflakkee 2013 (31 oktober 2013)

## **Goes**

Programmabegroting 2020  
Structuurvisie Bedrijvenpark Poelbos (mei 2018)

## **Gouda**

Nota grondbeleid 2017 (29 november 2017)  
Handboek grondzaken (september 2017)

## **Groningen (gemeente)**

Nota Grondbeleid 2017 (18 oktober 2017)

## **Haarlem**

Nota Grondbeleid 2018 e.v. (20 november 2018)  
Grondexploitatie in Beeld: Nota RKC Onderzoek Grondexploitatie in Haarlem (februari 2013)

## **Haarlemmermeer**

Beleidskader Strategisch Grondbeleid Haarlemmermeer 2019-2023 (15 oktober 2019)

## **Heerhugowaard**

Herziening Nota Bovenwijkse kosten deel 1 Hoofdinfrastructuur ( 14 maart 2017)  
Nota Bovenwijkse kosten – deel 2 (Maart 2014)

## **Helmond**

Nota Grondbeleid 2017-2020 (21 september 2016)

## **Hilversum**

Nota grondbeleid (27 november 2009)

## **Kampen**

Nota Kostenverhaal Gemeente Kampen 2010 (3 juni 2010)

Nota Grondbeleid Katwijk 2015

## **Katwijk**

Nota Kostenverhaal Gemeente Katwijk 2016

Nota Grondbeleid Katwijk 2017

## **Lansingerland**

Raadsvoorstel Fonds Bovenwijkse Voorzieningen (22 december 2016)

Nota grondbeleid 2019-2022 (18 april 2019)

## **Leeuwarden**

Nota Bovenwijkse voorzieningen (November 2007)

Nota grondbeleid 2012

## **Leiden**

Nota Grondbeleid Leiden 2015, 'Ruimte voor kansen, kansen voor ruimte'

Ontwerp Omgevingsvisie Leiden 2040 (26 februari 2019)

## **Nijmegen**

Nota grondbeleid 2018

## **Oss**

Structuurvisie Buitengebied Oss 2015

## **Pijnacker-Nootdorp**

Geconsolideerde versie van de nota grondbeleid 2015- 2019 verlengd tot 2023 (28 maart 2019)

## **Purmerend**

Grondbeleid Purmerend 2019 (26 september 2019)

Nota Gebiedsoverstijgende Kosten Purmerend (GKP) (9 juli 2019)

## **Rijswijk (ZH.)**

Nota Grondbeleid Gemeente Rijswijk 2016 (24 mei 2016)

## **Rotterdam**

Grondprijnsbeleid 2013 (9 juli 2013)

De veranderstad: Op weg naar de Rotterdamse omgevingsvisie (oktober 2019)

## **'s-Gravenhage (gemeente)**

Nota grondbeleid 2019 (maart 2019)

Wereldstad aan Zee: structuurvisie Den Haag 2020 (17 november 2005)

## **'s-Hertogenbosch**

Financiële verordening gemeente 's-Hertogenbosch (artikel 212 Gemeentewet) (10 november 2017)

Nota Grondbeleid 2010 (19 januari 2010)

Ruimtelijke Structuurvisie Stad tussen Stromen (28 januari 2014)

## **Tilburg**

Nota Systematiek Kostenverhaal Bovenwijkse Voorzieningen (juni 2015)  
Ontwerp-Omgevingsvisie Tilburg 2040 (maart 2015)

## **Utrecht (gemeente)**

Het Utrechts grondbeleid (Technische actualisatie 2017)  
Ruimtelijke strategie 2016  
Op weg naar een ruimtelijke strategie Utrecht 2040 (december 2019)

## **Veenendaal**

Nota Bovenwijkse voorzieningen 2020

## **Vlaardingen**

Nota grondbeleid (4 april 2011)

## **Waddinxveen**

Nota kostenverhaal Waddinxveen 2017

## **Wageningen**

Structuurvisie Wageningen (3 december 2013)  
Programmabegroting 2019-2022 (september 2018)

## **Westland**

Nota grondbeleid Westland 2013 (25 juni 2013)  
Nota Kostenverhaal- deel 1: beleidsdeel (19 mei 2015)  
Nota Kostenverhaal- deel 2: uitvoeringsdeel (19 mei 2015)

## **Zaanstad**

Nota Gebiedsoverstijgende Kosten Zaanstad (GKZ) (17 december 2020)  
Addendum Ruimtelijke Structuurvisie Zaanstad 2020 (wijziging onderdeel C Kostenverhaal)  
Uitvoeringsnota Sturend Grondbeleid 2006 (24 mei 2006)  
Strategienota Kogerveldwijk (2020)

## **Zeist**

Structuurvisie 2020 hoofdstuk 7 (2 februari 2011)

## **Zoetermeer**

Nota Kostenverhaal (14 juli 2017)  
Nota Grondbeleid 2011 Veranderende stad nieuwe koers nieuw beleid (3 oktober 2011)  
Raadsbesluit Technische actualisatie Nota grondbeleid 2018 (5 maart 2018)

## **Zwolle**

Informatienota voor de raad: Opstellen nota kostenverhaal Govo (29 oktober 2020)



# Appendix B – Interview protocol municipalities

---

## **Introductie mijzelf & onderzoek**

*Mijn naam is Lianne van der Velde en momenteel ben ik bezig met mijn afstudeeronderzoek voor de Master Management in de Built Environment aan de TU Delft. Hiervoor loop ik gelijktijdig stage bij Metafoor Ruimtelijke Ontwikkeling. Mijn afstudeeronderzoek richt zich op financiële bijdragen aan ruimtelijke ontwikkelingen. In het onderzoek kijk ik welke bijdragen door gemeenten worden gevraagd en of deze bijdragen daadwerkelijk in anterieure overeenkomsten zijn vastgelegd. Daarbij onderzoek ik welke rol deze bijdragen hadden tijdens de onderhandelingen en wat de mogelijke consequenties zijn van het vragen van dergelijke bijdragen. Om hierin meer inzicht te krijgen neem ik interviews af om te kijken hoe onderhandelingen omtrent deze financiële bijdragen verliepen.*

*In dit interview zal ik u na een paar korte vragen over uw achtergrond eerst een aantal vragen willen stellen n.a.v. het beleid dat jullie in de gemeente hebben ten aanzien van gebiedsoverstijgende kosten, met daarbij specifieke focus voor de bijdragen r.o. Daarna wil ik u een aantal vragen stellen over de onderhandelingen over deze kosten en de afspraken die hierover worden gemaakt in anterieure overeenkomsten. Het zou fijn zijn als u daarbij zaken kunt toelichten aan de hand van projecten in jullie gemeente. Ten slotte zal ik een aantal vragen willen stellen over uw verwachtingen en voorbereiding ten aanzien van de toekomstige omgevingswet.*

*Zoals ik eerder per mail aangaf zou ik graag het interview opnemen voor mijn eigen analyse Het transcript wordt niet gepubliceerd. Als u een vraag niet wilt of kunt beantwoorden kunt u dit uiteraard aangeven. Ik wil u daarom ook nu nogmaals kort om toestemming vragen voor het opnemen van het interview.*

## **Persoonlijke achtergrond**

*Graag zou ik u voorafgaand een paar vragen stellen om te weten wat uw achtergrond is en om te begrijpen wat u rol is binnen de gemeente.*

- Wat is u rol in de gemeente (afdeling, beleid, uitvoerend etc)?
- Hoe lang vervult u deze rol al? Heeft u eerder vergelijkbare functies uitgevoerd, bijvoorbeeld bij andere gemeentes?

## **Algemene vragen m.b.t. grondbeleid in de gemeente**

*Op dit moment zou ik graag een paar korte vragen stellen over grondbeleid en kostenverhaal in jullie gemeente.*

- Heeft de gemeente op het gebied van grondbeleid een overwegend actief of faciliterend grondbeleid en wat zijn de belangrijkste redenen hiertoe?
- Op welke manier spelen de mogelijkheden tot het verhalen van gebiedsoverstijgende kostensoorten een rol bij de keuze voor actief of faciliterend grondbeleid?
- Zijn er binnen de gemeente exploitatieplannen opgesteld? Zo ja, voor welke projecten was dit het geval en welke afwegingen hebben geleid tot de keuze van het opstellen van een exploitatieplan.

## **Beleid gebiedsoverstijgende kosten**

*De volgende vragen gaan specifiek in op kostenverhaal binnen uw gemeente. De focus hierbij ligt op het gebiedsoverstijgend kostenverhaal en dus niét het gebiedseigen kostenverhaal. Binnen de categorie gebiedsoverstijgende kosten wordt er onderscheid gemaakt tussen bovenwijkse voorzieningen, bovenplanse verevening en bijdragen aan ruimtelijke ontwikkelingen. Kosten kunnen publiekrechtelijk worden verhaald als deze voldoen aan de criteria proportionaliteit, profijt en toerekenbaarheid. Bijdragen ruimtelijke ontwikkeling kunnen (onder de huidige Wro) alleen minnelijk via private (anterieure) overeenkomsten worden verhaald als er sprake is van een functionele samenhang.*

- Zijn jullie voornemens om voor elk van deze kostensoorten een bijdrage te vragen? Heeft een van de kostensoorten daarbij prioriteit?
- Welke afwegingen hebben jullie gemaakt bij het besluit om (een deel van) deze kostensoorten te verhalen?

- Op welke manier maken jullie onderscheid tussen de verschillende kostensoorten bovenwijks/bovenplans/bijdrage r.o.? Vindt hierover discussie plaats?  
*Voorbeeld: kosten voor bijvoorbeeld de aanleg van een natuurgebied worden door sommige gemeentes geclassificeerd als bovenwijks en door anderen als bijdrage r.o. Hoe bepalen jullie concreet of een voorziening bovenwijks of toch een bijdrage r.o. is.*
- Wat waren de afwegingen die jullie heeft doen besluiten een nota kostenverhaal op te stellen?

*De volgende paar vragen gaan over jullie beleid ten aanzien van de bijdragen.*

- Voor welke investeringen vragen jullie bijdragen r.o.? Welke afwegingen zijn daarbij gemaakt?  
*Bijvoorbeeld: infrastructuur, groen/blauw, cultureel, maatschappelijk, alleen grondcomponent of ook opstal*
- Hoe vaak actualiseren jullie deze lijst van voorzieningen?
- Op welke manier bepalen jullie de toerekening van bijdragen aan ruimtelijke ontwikkelingen?  
*Bijvoorbeeld: Per woningequivalent, per woning, per vierkante meter bvo, per vierkante meter grond, per project apart?*
- Waarom hebben jullie voor deze toerekenmethode gekozen?
- Maken jullie onderscheid in de hoogte van de bijdrage per functie of zijn er uitzonderingen? Waarom hebben jullie hiervoor gekozen?

### **Onderhandelingen Anterieure overeenkomst**

*De volgende vragen gaan over onderhandelingen over bijdragen ruimtelijke ontwikkelingen.*

- Hoe bereiden jullie onderhandelingen omtrent kostenverhaal voor?
- Maken jullie altijd een schaduwberekening?
- Wordt deze methodiek bij alle projecten toegepast? Groot en klein?
- Hebben jullie het idee dat er in projecten financiële ruimte is om dergelijke bijdragen te betalen? Verschilt dit per project, kunt u voorbeelden noemen?
- In welke projecten is concreet om een bijdrage r.o. gevraagd? Waarom voor sommige wel of niet? Voor welke projecten wel of niet? Voor welke investeringen zijn de bijdragen gevraagd?
- Wat zijn de redenen om bijdragen voor dergelijke kosten wel/niet te vragen? Verschilt dit per project?
- Kunt u een indicatie geven van de hoogte van de bijdragen die jullie vroegen voor verschillende projecten?
- Verschillen de doelstellingen voor de hoogte van de bijdrage per project? Kun je daarbij voorbeelden noemen

*De volgende vragen gaan over de gesloten overeenkomsten*

- Zijn de bijdragen die jullie gevraagd hebben ook opgenomen in anterieure contracten? Waarom wel/niet?
- Zijn deze bijdragen gelijk aan wat jullie (in eerste instantie) vroegen of wat de uiteindelijk overeengekomen bijdrage lager? Wat was de reden hiertoe? Verschilt dit per project?

*De volgende vragen gaan over de consequenties die het vragen van bijdragen r.o. mogelijk heeft. Ik zou u willen vragen om te proberen antwoorden toe te lichten aan de hand van een (of meerdere) voorbeeldproject(en) waarin jullie bijdragen r.o. zijn overeengekomen.*

- Ervaren jullie bijdragen ruimtelijke ontwikkelingen als een belangrijk onderwerp of spelen andere onderwerpen een grotere rol tijdens de onderhandelingen?
- Hebben jullie het gevoel dat ontwikkelaars bereid zijn om dergelijke bijdragen te betalen? Op welke manier vindt hierover discussie plaats?
- Is er in algemene zin kritiek geuit vanuit ontwikkelaars op de gemeentelijke werkwijze inzake het kostenverhaal van gebiedsoverstijgende voorzieningen, specifiek bijdrage r.o.?

- Lopen onderhandelingen over bijdragen r.o. ook wel eens vast of trekken partijen zich terug? Zijn de bijdragen die jullie vragen voor ruimtelijke ontwikkelingen daarbij een van de redenen voor het mislukken van de onderhandelingen?
- Zijn de initiële plannen die er waren aan het begin van onderhandelingen gewijzigd door het vragen van bijdragen r.o.? Op welke manier? Waardoor kwam dit?  
*Voorbeeld: Wijzigingen van programma om dergelijke bijdragen te kunnen bekostigen?.*
- Hebben jullie het idee dat ontwikkelaars minder bereid zijn om in jullie gemeente te ontwikkelen omdat jullie dergelijke bijdragen vragen (bv. ten opzichte van omliggende gemeenten)?

### **Verwachtingen in de toekomst**

*De volgende vragen gaan over jullie verwachtingen in de toekomst. In het ontwerpbesluit publiekrechtelijk afdwingbare financiële bijdragen is een verplichte variant geïntroduceerd van de bijdrage r.o. Bent u bekend met deze nieuwe regelgeving? (Zo niet kort toelichten).*

- Denkt u dat dit veranderingen teweeg brengt in jullie huidige praktijk?
- Hoe anticiperen jullie op deze nieuwe regelgeving in de omgevingswet? Hebben jullie beleidsvoornemens op dit gebied?
- Gaan jullie onderhandelingen in de toekomst anders aanpakken?
- Stellen jullie projecten uit om hiervan gebruik te kunnen maken of versnellen jullie projecten juist?
- Denken jullie in de toekomst gebruik te maken van de nieuwe regeling? Waarom wel of niet?

*Hiermee zijn we aan het einde gekomen van dit interview. Zijn er nog zaken die u met mij wilt delen waarvan u denkt dat deze relevant zijn?*

*Ik wil u bedanken voor de medewerking aan dit interview. Uiteraard kan ik u bij interesse op de hoogte stellen van de uitkomsten van mijn onderzoek.*

# Appendix C – Informed Consent

---

Wassenaar, Maart 2021

Geachte heer, mevrouw,

Mijn naam is Lianne van der Velde en momenteel ben ik bezig met mijn afstudeeronderzoek voor de Master Management in de Built Environment aan de TU Delft. Hiervoor loop ik gelijktijdig stage bij Metafoor Ruimtelijke Ontwikkeling. Mijn afstudeeronderzoek richt zich op financiële bijdragen aan ruimtelijke ontwikkelingen. In het onderzoek kijk ik welke bijdragen door gemeenten worden gevraagd en of deze bijdragen daadwerkelijk in anterieure overeenkomsten zijn vastgelegd. Daarbij onderzoek ik welke rol deze bijdragen hadden tijdens de onderhandelingen met ontwikkelaars en wat de mogelijke consequenties zijn van het vragen van dergelijke bijdragen. Om hierin meer inzicht te krijgen neem ik interviews af.

U wordt uitgenodigd om deel te nemen aan dit onderzoek. Het interview zal door mij, Lianne van der Velde, worden uitgevoerd en duurt ca. 60 minuten. Ik zou graag het interview opnemen om dit achteraf uit te kunnen werken en te analyseren.

Vanuit de universiteit zijn wij gewend om u apart toestemming te vragen voor uw medewerking aan dit onderzoek en het opnemen van het interview. U mag uzelf later nog bedenken en uw deelname intrekken. U mag iedere vraag die gesteld wordt weigeren te beantwoorden.

Als u mee doet, vraag ik u om uw handtekening onderaan deze brief te zetten en in pdf aan mij te retourneren. Ikzelf zet ook een handtekening, zodat u zeker weet dat wij vertrouwelijk omgaan met uw gegevens en antwoorden. Als u vragen heeft omtrent het onderzoek, kunt u contact met mij opnemen.

Met vriendelijke groet,

Lianne van der Velde

### In te vullen door de deelnemer & student

Ik verklaar op een voor mij duidelijke wijze te zijn ingelicht over dit afstudeeronderzoek. Mijn vragen zijn naar tevredenheid beantwoord.

Ik begrijp dat het geluids- en/of beeldmateriaal (of de bewerking daarvan) wordt opgenomen met als doel het transcriberen en analyseren van de informatie.

Ik begrijp dat de door mij verstrekte informatie en de overige verzamelde gegevens uitsluitend voor academische doeleinden, (wetenschappelijke) publicaties en presentatie van dit afstudeeronderzoek zal worden gebruikt, tenzij is aangegeven dat bepaalde informatie vertrouwelijk is.

Ik sta toe dat de door mij gegeven informatie kan worden geciteerd in de onderzoeksresultaten.

Ik geef toestemming voor de publicatie van de afstudeerscriptie in de TU Delft educational repository, om gebruikt te kunnen worden voor toekomstig onderzoek en educatieve doeleinden.

Ik behoud me daarbij het recht voor om op elk moment zonder opgaf van redenen mijn deelname aan dit onderzoek te beëindigen.

**Ik heb dit formulier gelezen of het formulier is mij voorgelezen en ik stem in met deelname aan het onderzoek.**

- Graag ontvang ik aan het eind van het onderzoek een samenvatting van de resultaten van het onderzoek. Om deze reden verleen ik toestemming om mijn naam- en adresgegevens tot het eind van het onderzoek te bewaren.**

Plaats:

Datum:

-----  
(Volledige naam, in blokletters)

-----  
(Handtekening deelnemer)

'Ik heb toelichting gegeven op het onderzoek. Ik verklaar mij bereid nog opkomende vragen over het onderzoek naar vermogen te beantwoorden.'

Lisanne van der Velde

-----  
(Handtekening)