

## 7 Combining land ownership and land exchange in Zeeland (Herman de Wolff, TU Delft)

### 7.1 Introduction

The province of Zeeland ('Sealand') is one of the twelve provinces in the Netherlands (Figure 7). It is the most rural province in the Netherlands. Almost half of the population in this province lives in local authorities classified as rural areas. According to the provincial Food agenda about 15% of employment is in the food sector, which includes next to agriculture also fishery (Provincie Zeeland, 2018).



Source: <https://commons.wikimedia.org/wiki/File:2019-Provincie-1200.png>

**Figure 7 Zeeland (nr. 9) as one of the twelve provinces in the Netherlands**

In the Netherlands, the government is organised on three levels: state level or the national level, the provinces on the subnational level and the municipalities on the local level.

In general, the provinces take care of the policy fields they consider in the provincial interest - within the boundaries set by central government. For specific tasks, central government has decided that the provinces are in charge. All provinces take the responsibility for the planning and guiding the development of rural areas, both for the areas outside existing urban areas as well as for developments that exceed the local interest. They are, amongst others, in charge of the nature policy (protection of natural habitats, protection of animal and plant species - all based on the European Habitats Directive), the realisation of recreational areas, the water policy (together with Water authorities), realisation and maintenance of infrastructure on the regional level (provincial roads, cycleways), the organisation of public transport and besides these also the financial supervision of municipalities.

Since the 5<sup>th</sup> of September 2012, the province of Zeeland has established a land exchange agency. With the further decentralisation of rural areas related policies and land transfer from central government to the provinces, this land exchange agency has developed towards an important agency in the realisation of rural policies of the province, being part of the active land policy of the province. The land exchange agency, helps the provincial government in making land available for public goals and for improving the agricultural structure, using a land bank in combination with land exchange. Since 2016, the use of this land exchange agency in provincial policies has been intensified (Provincie Zeeland, 2016b).

## 7.2 Context (legal, policy and socio economic)

Until 2007, central government was the initiating government as far as governmental interventions in rural areas concerned. The legal basis for these interventions was the *Landinrichtingswet*, the Rural areas development act (1985). Based on this act, integrated area development projects for the improvement of rural areas were set up. Besides an improvement of the agrarian structure, also other policy goals were taken into account in the improvement of rural areas: amongst others the quality of landscape, nature and biodiversity, recreational projects and infrastructure measures. Central government made in cooperation with the provinces a priority list for these integrated area development projects, and these projects were set up with the provincial government; central government facilitated the projects with financial aid and with the aid of a central land agency, *Bureau beheer landbouwgronden* (BBL). An organisation that tried to buy land in areas in which projects were going to be realised; land that could be strategically used during the project realisation, for example as exchange land if a specific piece of land was necessary for a public purpose. For the realisation of the projects land was needed, the province used land acquisition and enforced land consolidation in the projects. If necessary, the province could also use expropriation, but that was not a preferable option. In practice, the procedures to follow were rather complex and rather long lasting (Wilg, 2006a, section 3.4). Furthermore, the involvement of central government in land development projects, did not fit in changes in the perspective on governance in which decentralisation became a more important principle. With the province taking over in these projects, also the wish came up to make the procedure for the integrated rural development project less comprehensive and more tailor made, and with a much faster realisation period.

In 2007, a new act came into force to facilitate this approach, the *Wet inrichting landelijk gebied*, the Act on rural development (Wilg, 2006b). Besides fewer comprehensive procedures for rural land development and a more flexible approach, this act introduced an investment budget for a rural investment programme set up in cooperation between central government and the province involved. Within certain boundaries, the province got the freedom to optimize the use of the budget for the tasks and the goals agreed upon in the investment programme. But the wish to decentralize governmental policy went on. Before the first period of the investment programme based on the investment budget has been over, it was already ended by another decentralisation in 2011 (MBZK *et al.*, 2011). From that moment, the provinces got a central role in the realisation of development projects in rural areas.

However, related to the initiating role central government had for a long time in the rural land development, central government still owned a lot of land in rural areas. To enable the provinces to continue the plans related to the realisation of a nature network in the Netherlands, the land owned by the central government agency *Bureau beheer landbouwgronden* (BBL) was handed over to the provinces. The value of the land was a compensation for the obligation for provinces to take over the responsibility for the realisation of the nature network. Formally in 2014, the land portfolio was transferred from central government to the provinces and the central government agency was closed. The provinces agreed to take over civil servants that used to work for the central government agency.

In the above-mentioned legislation, land exchange – both enforced land exchange and the land exchange on a voluntary basis - is facilitated by the government. For enforced land exchange, or land consolidation, the province can start a procedure to change the ownership structure in an area by allocating land if necessary to different owners and making land available for public goals. In practice, this procedure however is hardly used anymore. The voluntary land exchange is facilitated by central government in legislation. Land consolidation and voluntary land exchange are exempted from paying transfer tax.

### 7.3 Narrative of the case

In 2016, the province of Zeeland has published a memorandum on land policy, the '*Nota grondbeleid 2016*' (Provincie Zeeland, 2016b).

The *Nota grondbeleid* is closely related to the policy agenda of the province for the upcoming years (Provincie Zeeland, 2016c). In this policy agenda, for different fields of attention land is a crucial factor. Land is needed related to the nature protection policy, the improvement of the water quality in the province and the improvement of road infrastructure in the province. But land is, furthermore, needed for helping farmers and landowners with the improvement of the agrarian structure in the province.

The province is responsible for the protection of areas which are of importance with regard to the European Habitats Directive. Besides the preservation of existing habitats in designated areas, the province wants to extent the nature network within the province (Provincie Zeeland, 2016a). For the protection of the areas, the land is often acquired by the province and handed over to an organisation capable of the conservation and the development of the nature quality of the area involved, e.g., *Staatsbosbeheer*, a public body commissioned by the Dutch government to strengthen the position of nature in the Netherlands, *Vereniging Natuurmonumenten*, a Society for the Preservation of Nature in the Netherlands or the *Stichting Zeeuws Landschap*, a foundation for preservation of nature in province. For the period from 2016 – 2027 the estimation is that 1000 ha of land is needed for the further realisation of the nature network in the province.

For the improvement of the quality of the open water in the province, which is necessary according to the European Water Framework Directive (WFD, 2014), the policy of the province is amongst others the realisation of nature friendly banks along watercourses, this is an often used and successful strategy in the Netherlands (Verhofstad *et al.*, 2021). The nature friendly banks make the water system more natural by which the water quality can improve, but

improve also the ecological quality of the water and the quality of the environment. The intention of the province is to realise 150 kilometre of nature friendly banks until 2027; the estimation is that 150 ha of land is needed for this task.

The network of provincial roads in the province, needs some adjustments in relation to the enlargement of the accessibility of parts of the province and the improvement of the road safety. Based on the intended interventions, for the period from 2016-2027 125 ha of land is needed (Table 3).

Aim	Extra area needed
nature network	1000 ha
nature friendly banks	150 ha
adjustments to provincial road infrastructure	125 ha
Total	1275 ha

**Table 3 Estimation of land needed for public goals 2016-2027 (based on Provincie Zeeland, 2016b)**

Besides these public goals for which land is needed, the province also aims to improve the agrarian structure of the rural areas in the province. The province concludes based on research done by Kadaster and LEI (van Rheenen *et al.*, 2016), that the allotment structure in all areas in the province needs improvement and that also on the long run attention is needed. Sometimes the amount of land close to the farmhouse is relatively low, and parcels are spread out over a larger area. Concentrating the land, and allocating the land close to the farmhouse can reduce the travel costs and travel time for the farmer, and has as a side effect for other provincial goals: less traffic with a positive effect on road safety in the province: less agrarian traffic reduces the risks on accidents.

To be able to reach these policy goals, the availability of land is a precondition. And land is needed on the right location, the location necessary for improvement of the infrastructure, the bank of a watercourse, an area within the intended nature network or a plot located closer to a farmhouse. Often this land is not owned by the government, but privately owned.

In the provincial land policy, two strategies are distinguished to make land available for the government.

The first one is the use of **active land policy and trying to buy the land needed for the specific policy goal**. However, very often the present owner of the land is not directly prepared to sell the land. And selling land can also cause problems for the viability of a farm, if the amount of land the farmer has for farming is reduced and he is not able to buy land elsewhere. So, the provincial goal of a viable agrarian structure can also be at risk.

In case of a stalemate, caused by a landowner unwilling to sell his land, the province can use expropriation. The use of expropriation is possible based on the Expropriation Act in combination with the Act on rural development and the Spatial Planning Act (*Wet ruimtelijke ordening*) if it is in the public interest, following certain procedures in which Provincial Staten, the provincial council, has to make a formal decision to use expropriation (see also Van Straalen and Korthals Altes, 2014). However, the province has decided that the use of expropriation in the provincial land policy should be avoided; the use of expropriation should

be limited to situations in which there is no other option. In practice, that means that only for measures related to the road infrastructure expropriation might be an option and even in those cases will be used a very restrictively. The central policy principle is that land that is necessary for public goals, is obtained on a voluntary basis.

The second strategy is based on the **exchange of land** (*kavelruil*) (Provincie Zeeland, 2016b). If land is needed for a policy goal, the province tries to reach an agreement with the present landowner to exchange the land needed with land elsewhere in province. And if that land is for example located closer to the farmhouse, or if the land is located closer to other parcels the farmer owns in the area, the exchange can also result in an improvement of the agrarian structure. And if more landowners can be included in such a voluntary land exchange project, even for more people the situation can be improved and an optimum can be reached. To be able to offer land in exchange, it helps if the province owns suitable land, and therefore the province has a landbank.

In the provincial practice, the success of getting the land on a voluntary basis in the first strategy is enlarged by the combination with the second strategy: the possibility of land exchange and to offer land for land, and often even more suitable land, on a voluntary basis make it easier to negotiate.

For the strategy **land exchange agreements** are used. Different people can be involved in these agreements: land exchange is not limited to two people, but much more people can be involved. Sometimes only farmers are involved, making agreements with other farmers on exchanging land to improve the agrarian structure of the farms involved in the exchange project. But often also the government is involved as a party who tries to get land for a specific public goal. Besides the province, also other governmental organisations sometimes participate in these land exchange projects, for example the municipalities or the waterboard.

Obtaining land as part of a land exchange is attractive for the land owners involved. For land exchange in rural areas a tax exemption exists: land owners do not have to pay land transfer tax. Also, the other transactions costs (the work of the land exchange agency) are mostly paid by the provincial government; only a small contribution of 200 euro for every ha of new land that is part of the exchange agreement. In specific areas, there is also the possibility to receive subsidy for some improvement measures to make the soil more useful (for example the realisation of drainage).

In a land exchange project, it is possible one of the parties involved ends up with more land of land of a different value, than the land handed in in the exchange. In such as case, a financial contribution is asked, which is part of the negotiation process about the land exchange project.

To enhance the potential of these land exchanges projects, the province has set up a **provincial landbank**. The land owned by the land bank can be used in land exchange projects, to smoothen the process of reaching an agreement.

In 2012, as part of the decentralisation with regard to the development of rural areas and the realisation of nature areas, the provinces and central government came to an agreement that

land owned by central government land agency (bureau beheer landbouwgronden) was handed over to the provinces; in Zeeland this land is now available as exchange land in the landbank.

In one of the interviews, it turns out that the former BBL land is not always that attractive to be used in a land exchange project.

In the policy development of the Nota grondbeleid (Provincie Zeeland, 2016b), the province has investigated how much land is needed in the landbank, on an ideal basis. If the landbank facilitates projects to improve the agrarian structure, about 2% of the surface of the total amount of agricultural land in the province is needed for the landbank, that means 2% of 119,000 ha = 2,380 ha. However, if land is also needed for the other policy goals of the province mentioned before, the assumption is that the landbank should be filled with 3% of the surface of the land (which means 3,570 ha). In 2016 only in a few areas, the land position of the land bank exceeds the 3%; the total amount of land available is 777 ha.

Therefore, the province decided in 2016 to make an extra budget available for the land bank, to enlarge the amount of land in the land bank to 1,200 ha (Provincie Zeeland, 2016b). The total budget for the land bank is 96 million euro.

New land for the landbank, can be obtained by the province by using the land dynamics in an area: every year a certain number of farmers stops or wants to sell the farm to someone else. The enlargement of the land takes place by strategic land acquisition; in the decision to acquire land or a farm that is for sale, the province takes into account if the land is suitable as exchange land, for example because of the location close to areas in which a public goal is going to be realised and the amount of exchange land already owned in the region.

New land for the landbank is not only necessary to enlarge the amount of land to improve the possibilities for land exchange, but also because land also leaves the landbank: if in a land exchange project land is obtained on a location which is needed for one of the policy goals (for example: for the realisation of the nature network), the land is handed over to the organisation that is going to realise and manage the area on the long term; the money that comes available is used for new acquisitions. Sometimes land of the landbank is sold, because it is not necessary anymore as exchange land, for example because of the location.

**Temporary use of land in the landbank.** To prevent that the land in the land bank that is owned by the government is unused, every year the is leased for a period of 1 year. In the summer, farmers that are interested in provincial land can apply for land. The provinces decide who may use the land, taking into account the distance to the farmhouse, the type of crop and an equal division of the land between farmers interested in using the land. The idea is that the income out of temporary leasing the land, covers the costs from the province related to the land bank.

**Land exchange agency.** For implementing the strategy of voluntary land exchange, to reach public goals of the province and other governments participating in land exchanges projects and to improve the agrarian structure, the province established a land exchange agency,

*kavelruilbureau*. On a yearly basis, 300.000 euro is reserved to cover the costs of this land exchange agency.

Although the land exchange agency is an agency of the province, the people who work for the agency, the land exchange coordinators, are independent.

A land exchange coordinator coordinates the land exchange and more precisely has the following tasks in a possible land exchange project:

- Explaining the process to the people involved
- Support the people involved in investigating the opportunities and the bottle necks
- Investigating the possibilities for land exchange in the direct environment
- Making an exchange plan and illustrating the proposed land exchange with maps in which land that is handed in (old ownership situation) and maps with the new ownership situation
- Discuss the financial arrangements between parties involved
- Prepare that the exchange is legally taken care including the registration in the cadastral office by the notary

In the province of Zeeland, there are 6 land exchange coordinators; for 6 different regions in Zeeland.:

- Tholen, St. Philipsland and Schouwen-Duiveland
- Bevelanden
- Walcheren
- Oost Zeeuwsvlaanderen
- Kanaalzone
- Westzeeuwsvlaanderen

Because of the structure of the provinces, with a lot of water between the different parts, is not only the land market segmented between the different parts, but has the different parts also inhabitants with different characters and a different culture.

A land exchange coordinator is a parttime job; in practice all land exchange coordinators are also farmers, and sometimes they have – besides the role as a land exchange coordinator – also a job as an agrarian advisor. The reason that for every region a separate land exchange coordinator has been appointed, is the importance of local knowledge for the job.

Local knowledge means knowledge of:

- the land market included knowledge of the quality of the soil
- the local farmers: their ambitions, plans, wishes and limitations
- the public goals in the area for which land is needed, not only these from the province, but also from the municipalities, the waterboard
- the land that is available as exchange land, in the provincial land bank but sometimes also by other governments in the area or larger land owners (municipalities, waterboard, churches)
- expected land mobility

Firstly, a land exchange coordinator uses this knowledge for helping to make a proposal for a land exchange, but the knowledge can also be used to suggest the province to acquire land if a farmer retires or wants to dispose of land that is on the longer-term suitable land for the land bank.

In the yearly reports of the province (Provincie Zeeland, 2020b), also a report is given on the activities of the land exchange agency and the provincial landbank. In 2019, the size of the land bank is 1,174 hectares. For this land, € 59.5 million is invested (the value of the land). In 2019, 91 ha of new land has been acquired (value € 7.1 million), and 56 ha of land has been sold (€ 3.8 million). In 2019, 17 land exchanges projects have been realized with 101 participants; 8 land exchanges with 38 participants legally finalized. The result of the temporary exploitation of the land in the landbank is 244,000 euro

## 7.4 Discussion on access to land: Some results of the approach in 2019

The strategy to combine land ownership using a land bank with land exchange is a strategy that facilitates the development of rural areas taking into account the land mobility in an area. By choosing this strategy it is possible to make land available for public goals, without harming the existing farmers who want to keep on farming. And it is still possible to keep these areas attractive, not only for farmers but also for other people living in Zeeland. The improvement of the infrastructure, investments in the quality of the landscape is also of importance for these people.

For the existing farmers, the possibility to improve the viability of agricultural businesses by reducing distances between the farmhouse and land, is important to keep on going. This is not only of importance for the present farmers, but also for possible successors. Farmers that want to improve the agrarian structure

Within the system, the land within land bank is every year leased on a temporary basis. Land within the land bank that is not suitable as exchange land, is disposed of. In this process, there is not yet a specific goal to help new generations to improve access to land.

At present, the land policy report of the province is in revision; it is expected that a new land policy is going to be decided upon in 2022. The idea is that the policy aims are formulated in

the new environmental and planning vision and that the land policy report provides one of the means to implement this. In the draft vision an ambition is formulated to have a sustainable ('*volhoudbaar*') (Provincie Zeeland, 2020a, 28) system of agriculture. This includes attractiveness of farming for new generations. Next to this, the attractiveness of the province for young people is also part of the vision in general (Provincie Zeeland, 2020a, 84). So, a debate is going on about the difficulties for young people that want to stay in the rural areas of the province, to be able to get land for housing and to compete with for example people from abroad that buy houses for recreational purposes.

## 7.5 Conclusion

Due to decentralisation of government powers, provinces have got a central role in the planning of rural areas in the Netherlands. As part of this process, the national land bank, BBL, has been dissolved and provinces got each a share of this portfolio, that is, the land that was located in their province. The province of Zeeland is using this land to pursue public policies as are formulated in the provincial vision for environment and planning. The province is not only using the bank, but also feeds it by purchasing land.

In this policy, the province does not use this land directly, but is aiming to multiply the effects of this portfolio by contribution to voluntary land exchanges between landowners, such as farmers and owners of biodiversity reserves. In this process regional actors outside the provincial bureaucracy are hired to function as reticulist to bring landowners together to allow for exchanges to the benefit of rural development. Currently providing access to land to new generations of farmers, outside the ambition to improve the farm structure of farm successors is not explicitly on the policy aims of the provincial land policy.

Currently a new vision is in preparation, which vision will be followed by a new land policy report, which serves as tool to implement the vision. In this vision sustainable agriculture and the attractiveness of the province for young people and families are on the agenda, which may result in that the current instrumental set-up of a land bank, plus voluntary exchanges, including a reticulist role of bringing landowners and new entrants together, may be used for these aims as well.