

Chapter 1

Land use and spatial planning in Israel

The chapter provides the national context for the case studies of Netanya and Umm al-Fahm. It offers an overview of the institutional frameworks and relationships that govern the spatial planning system in Israel. These include the major pieces of legislation that define the planning system. Recent advances towards a more efficient and flexible spatial planning system are described in the context of relevant OECD experiences.

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Despite being one of the smallest countries among the OECD as regards surface area, Israel has a varied landscape with many land uses. The South of the country is dominated by the Negev desert which covers more than half of the country's total land area. The northern half can be divided into the coastal plain towards the West and a mountain region towards the East. Most of the population of Israel live in the northern half of Israel (about 80%) posing several challenges to the allocation of land as the population is continuously growing (Central Bureau of Statistics (CBS), 2016a). The availability of open space is declining and given its generally small size and narrow east to west width, land used for residential and commercial development competes with the provision of essential infrastructure connecting the North and the South of the country.

Israel's planning system is highly centralised, with the national government having strong oversight over planning decisions at the local level. The key piece of legislation regulating land use in Israel is the Planning and Building Law, 5725-1965, which borrows from the main principles of the legislation introduced by the British in 1936 during their "Mandate for Palestine" (Alterman, 2001). The planning system today is characterised by statutory hierarchical plans that have proven to be very rigid, contributing amongst other to slow and inefficient planning procedures. Growing recognition of these challenges has propelled the need for planning reform—to have a more efficient and adaptive system that can better meet the needs of communities, particularly when it comes to meeting the growing demand for housing. To this end, the government has recently adopted a number of reforms, most notably, the decentralisation of planning power to the local level to streamline and increase efficiency in the planning procedures.

This chapter outlines the main features of the planning system, describing statutory planning processes and actors. How the statutory process translates into planning practice is described after, highlighting recent changes and advances to increase the efficiency of the planning procedures. The chapter concludes with a summary of the main findings and provides an outlook over the following chapters.

The planning system in Israel

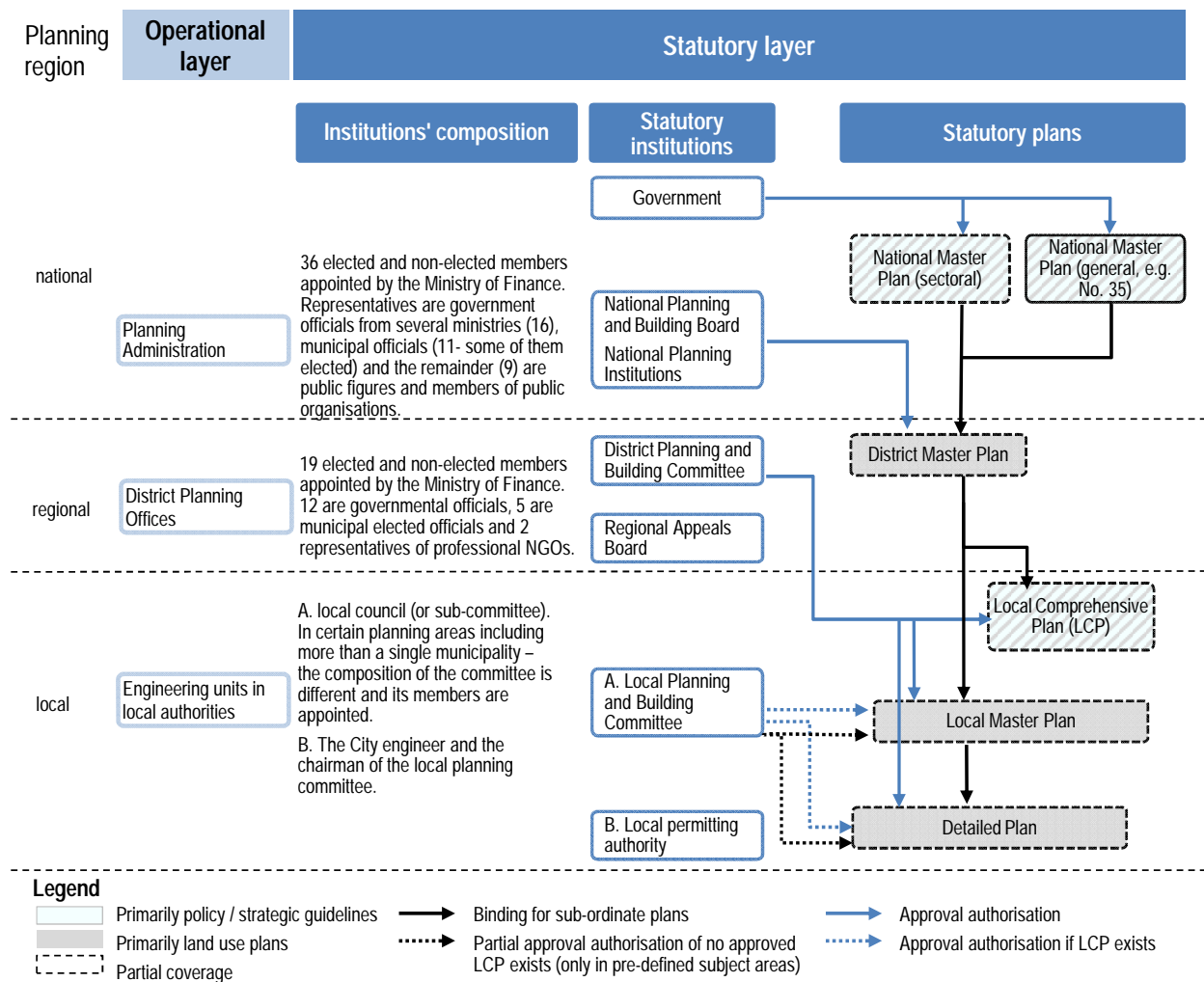
Israel's layers of government

Israel is a unitary state with one subnational level of government. Since the British Mandate, Israel has been divided into 6 administrative districts whose representatives are appointed from the national government and not elected. Therefore the only subnational layer in Israel is formed by local governments.¹ The framework for local authorities is based on the Municipal Order introduced under the British Mandate in 1934 (State of Israel, 2009). There are three types of local authorities which are defined in the law: municipalities (76) which provide the framework for urban centres, usually with populations of at least 20 000, local councils (125) which manage towns with populations between 2 000 and 20 000; and regional councils (54) which are responsible for several villages within a certain radius (CBS, 2015a, 2015b). Local authorities have governmental and administrative powers in their areas of jurisdiction and are responsible for provision of services to their constituencies.

Land use in Israel is regulated through its planning system. The basis for the current statutory planning system in Israel is the Planning and Building Law 1965 that – together with 108 amendments - defines planning institutions and authorities, planning procedures, the types of plans and the hierarchy between them. The law has evolved from the legislation introduced by the British in 1936 during their "Mandate for Palestine". After

the establishment of the State of Israel in 1948, this ordinance - like many other different acts of law - was kept in place to prevent a legal vacuum, and changes were made only gradually (see e.g. Alexander et al., 1983 or Hananel, 2013). The framework for strong control over local planning decisions has been kept in place, and even increased through the introduction of a national planning body and national statutory plans (Alexander et al., 1983). Since its enactment in 1965, the Planning and Building Law features a three-tier structure of planning institutions and statutory plans (Figure 1.1). The statutory planning system is complemented by an operational layer that consists of the Planning Administration at the national, the Regional Planning Offices at the regional level and the Engineering units in local authorities at the local level.

Figure 1.1. Israel’s planning system



Notes: Local comprehensive plans are a fairly new concept, introduced by the 101 amendment in 2014 and currently only approved for a few local planning regions. Until a local comprehensive plan is approved in a given planning region, local master plans and in many cases detailed plans still need approval from the District Planning and Building Commission. For more details, see description in the text.

Source: Based on Planning and Building Law 5725-1965; Planning Administration (2016a), “שנתון התכנון 2015” [Annual Report 2015], <http://dx.doi.org/10.1515/plm-2015-0009>.

Statutory Planning Institutions and their powers

At the top of the hierarchy is the government that has the authority to approve national master plans and therefore its decisions affect all plans prepared at lower levels. In the hierarchy, it is followed by the National Board for Planning and Building which deals with the establishment of planning policy on a nationwide scale, and with the implementation and application of this policy to national master plans. After the proposal to approve of the national master plans by the board, these plans are brought to the cabinet for approval. The national board, together with its committees operating side by side and sub-committees, is further involved with the advancement and approval of district master plans; with granting relaxations from the directives of national and district master plans to subsidiary plans; with hearing and deciding appeals against plans under regional authority or under authority of other committees. The board is composed of 36 members and reflects a balance of representatives of the central government (16), local government (11) and the public (9).² The National Board for Planning and Building has committees operating side by side with it, which act independently in parallel to the board and which are designated to handle a specific subject. In addition, it also appoints sub-committees for handling specific issues. Alongside the national board, the National Board for Planning and Building of National Infrastructure was established in 2002 by amendment 60. It consists of 17 members, of whom 12 are from the central government, one from the local government, and four from the public. The National Infrastructure Committee prepares and promotes plans for designated infrastructure projects of national importance. The Committee for the Protection of Agricultural Land and Open Spaces, the Committee for Maintenance of the Coastal Environment and the committee for Preferred Housing Areas also operate alongside the national board.

In each of the six administrative districts, a District Planning and Building Committee conducts a variety of activities aiming to support regional development. The District Planning Committee is subordinate to the National Board for Planning and Building and their activities include the initiation, advancement, and revision of the district master plans as well as the advancement and approval of certain local plans depending on the existence of approved local comprehensive plans and the professional level of the respective local planning committee. Additionally, the district planning office reviews all plans under the authority of local committees. Further, the district committee compiles recommendations to the National Board regarding topics on a district level; grants permits in areas, where the district acts as local committee; and supervises the operations of the local committee amongst other. The District Committee is composed of representatives of the central government (12), the local government (5) and the public (2). In addition, the District Planning Committee may delegate any of its powers to sub-committees selected from its members.

Below the District Planning Committee are the Local Planning and Building Committees. Each local planning area, which is declared by the Minister of Finance, has a local planning committee. In local planning areas where only one local authority is included, the local council constitutes the local planning committee. The local council designates a sub-committee for spatial planning. In local planning areas that cover more than one jurisdiction, the committee is composed of a designated number of local government members and central government representatives. Amendment 101 of 2014, authorises the grouping of local planning committees in four different categories based on the committee's planning professionalism and effectiveness: i) regular local planning committees; ii) independent planning committees without a local comprehensive plan; iii) special independent planning committees without a local comprehensive plan; and

iv) independent local planning committees with a local comprehensive plan. The different groups of local planning committees are empowered with increasingly more planning power and responsibilities. Of the 127 local planning committees, 21 are independent local planning committees, four are special independent, and two are independent with a local comprehensive plan (Planning Administration, 2016b). The status of independent local planning committees is re-evaluated five years after being classified as such (Planning Administration, 2016c).

All local planning committees can initiate and prepare local master and detailed plans. They decide whether to accept plans initiated by others in pre-specified subject areas and approve land readjustments that do not deviate from approved plans. Local planning committees may also permit non-conforming uses and minor deviations from approved local plans (so called “variances”) pre-defined by the planning law. Local planning committees have the authority to expropriate land for public purposes based on approved plans, and are empowered to levy betterment tax to fund public facilities. They are required by law to impose a betterment levy at a rate of 50% of the value the property has gained as a result of plan approval. The levy is fixed and is not directly linked to the cost of public infrastructure. Israel is one country among few that practice this tax on a wide scale, and there are only a few types of exemptions such as housing projects initiated by the national government or in some instances urban regeneration projects (e.g. the NMP 38, see Box 1.3 below). Independent local planning committees enjoy greater power with respect to approving plans granting additional building rights. Special independent committees further have the authority to decide and approve urban renewal and regeneration areas. Independent local planning committees with an approved local comprehensive plan have full authority to approve detailed and local master plans that are consistent with the local comprehensive plan.

The Hierarchy of plans

Israel operates a strictly hierarchical system of spatial planning which is set out in the law. Plans at all levels contain extensive regulations and lower level plans must correspond to higher level plans unless the higher level plan contains an explicit flexibility clause. At the top of the hierarchy of plans is the *National Master Plan*. It can either cover the whole or parts of the country and may include land-use designations, industrial areas, recreation and afforestation areas, archaeological sites, and population distribution policies. National master plans are proposed by the National Planning and Building Board. The six district planning committees may make recommendations, usually after consultation with their constituent municipalities. National master plans require approval by the cabinet, and then take precedence over all other lower level plans. As of 2016, Israel has approximately 40 principal national master plans that frequently contain land-use regulations. Most of them are sectoral plans that focus on narrowly defined issues or territories. Only National Master Plan 35, which was approved in 2005, is a more general plan that regulates land-use development textures for the whole country (see Box 1.1). According to the Planning and Building Law, it has the same legal status as the other national master plans, but in practice it is considered to be the leading document providing general guidelines and strategic elements in order to balance the need for development with the need of protecting open space (Planning Administration, 2016d, 2016e). Alongside principal national master plans, the law defines National Infrastructure Plans. Since 2002, public agencies that want to submit designated national or district infrastructure projects can choose whether to approach the National Board for Planning and Building of National Infrastructure or use other planning procedure available under

the law. National infrastructure plans are outline plans containing the provisions of detailed plans that designate areas and provide directives, amongst other, for the establishment of energy facilities, roads, railroads, and reservoirs. Submitting the plan to the National Infrastructure Committee can serve as a fast track since the detailed regulation supplied by a national infrastructure plan can serve as the basis for the issuance of a building permit directly through the National Infrastructure Committee.

Box 1.1. **Balancing urban growth and protection of open space: Israel's National Master Plan 35**

The need for a strict hierarchical system in Israel is motivated by increasing tensions between competing uses for land as a result of continuous population growth. After following a planning strategy of dispersed population for decades after the establishment of the State of Israel, the focus over the last decade turned towards urban renewal, and intensification of land uses (Assif, 2009). The NMP 35 was introduced in 2005 to regulate land-use development textures and to provide general guidelines and strategic elements in order to balance the need for development with the protection of open space.

The National Master Plan 35 is a general spatial plan which adopts the methodology of sustainable development by balancing between development and preservation. It is primarily a map based zoning plan at a scale of 1:100 000 regulating land-use development textures and containing general guidelines and strategic elements. The plan determines that future construction in Israel must be carried out, as much as possible, in built up areas and prescribes a minimum density for residential areas. At the same time, it promotes public transportation, facilitates the reduction of social disparities, calls for the integration of infrastructure corridors and emphasises environmental sustainability. The NMP 35 is subject to routine monitoring with a thorough review process aimed at five years intervals incorporating updates if needed. In August 2016, the government approved the first amendment to NMP 35 (NMP/35/1) which included amongst other minor changes to the definition of the urban pattern and to densities.

New planning language of development textures

The National Master Plan 35 developed a new planning language - the language of “development textures” – that is assumed to be better suited to a long-term national plan than the conventional language of land designations. It enables a clear definition of restrictions while providing flexibility. The development textures are demarcated planning areas, like zones, in which a variety of land uses are permissible and others are restricted.

The map and instructions of NMP 35 divide the country into five types of development texture: urban texture, rural texture, national preserved texture, mixed preserved texture, and coastal texture. Each texture has a series of statutory instructions which regulate the following subjects: maximal size of the locality (with the exception of urban texture), expansion extent of rural localities, average minimum density for residential development, industrial and commercial development and tourism objectives, as well as uses and objectives of interurban areas. These instructions produce the clear differentiation between texture zones.

Each of the five defined textures establishes designated areas for which there are clear rules. Each development texture includes built areas for residence and employment, open space and infrastructure systems. The textures differ from one another in the quantitative and spatial relations between land uses and their designations, in their development and preservation levels and in the rules governing and directing these relations:

- In the **urban texture**, compact urban development, high density and urban quality of life are envisaged.

**Box 1.1. Balancing urban growth and protection of open space:
Israel's National Master Plan 35 (cont.)**

- The **rural texture** refers to rural settlements, employment and tourism, conservation and cultivation of agriculture and contiguity of open space.
- **National preserved texture** refers to large contiguous spaces with natural value, agricultural and scenic landscapes, such as the desert area in the South. Leisure activities and tourism, as well as the expansion of existing rural settlements are allowed in those areas as long as there is no damage to their landscape and natural values.
- A contiguous green corridor encompassing values of nature, agriculture and heritage and running the length of the country, bounded by urban settlements, forms the **mixed preserved texture**.
- The **coastal texture** refers to the conservation of the coast and assurance of free public access to the sea and the beaches.

Source: Assif, S. (2009), Principles of Israel's Comprehensive National Outline Plan for Construction, Development and Conservation (NOP 35), www.moin.gov.il/SubjectDocuments/Tma35_PrinciplesDocument.pdf; Planning Administration (2016a), "שנתון התכנון 2015" [Annual Report 2015], http://iplan.gov.il/SiteAssets/Pages/AboutTheMinistry/shnaton/shnaton_2015.pdf.

District Master Plans are subordinate to national master plans and contain more precise and detailed versions of national land-use regulations. Due to the strictly hierarchical nature of planning, they tend to follow national plans closely except in the few areas where national plans contain flexibility clauses. Besides translating the national master plans to the district level, these plans are intended to balance between developed areas such as urban, sub-urban and land designated for agriculture, nature reserves, national parks and forest. The Planning and Building Law explicitly states the goal of creating the appropriate conditions for the district with respect to security and employment and allows the district plan to include other subjects which may constitute an objective for a local master plan (State of Israel, 1965: Art 55). For example, district master plans may include industrial areas or coastal zone preservation, as well as conditions for granting deviations from the plan. District master plans are prepared by the district committees at varying scales, usually at 1:50 000, and require approval from the National Building and Planning Board. While sections of the plan might be amended according to need, major updates of the plan occur every 20-30 years.

Three different types of plans exist at the local level: *Local Comprehensive Plans*, *Local Master Plans* and *Detailed Plans*. All these plans contain two compulsory elements: a map and related written directives.

Local comprehensive plans cover all or most of the respective local authority. They contain general elements for land-use planning, such as policy guidelines, strategic planning and zoning regulation. In addition, documents recommending certain non-statutory issues such as municipal finance, social or economic programmes can be added in appendices. The map is prepared at a varying scale, but usually at 1:10 000 or 1:5 000. The plan includes a generalised, flexible version of the typical elements of a land-use plan such as densities, building types, public space, infrastructure and environmental aspects.

Given its recent introduction in 2014, only a few approved local comprehensive plans are in place, but coverage for all local authorities in Israel is underway. Local comprehensive plans are either prepared by the Planning Administration with an active participation of the relevant local planning committees or by the local planning committees themselves. After recommendation for deposit³ by the local planning committee, the local comprehensive plan needs approval from the district planning committee. Local authorities that have adopted a local comprehensive plan are empowered to approve conforming local master plans and detailed plans. The law does not define a specific planning period, but the targeted time horizon for local comprehensive plans is usually 20 years.

Local master plans typically cover all or a major part of the local planning area and cover general goals for land-use planning, such as controlling land development and providing suitable conditions from the point of view of health, sanitation, cleanliness, safety, security, transportation and comfort as well as preventing nuisances and preserving historic, archaeological and cultural sites (State of Israel, 1965: Art 61(1-5)). Local master plans are usually prepared at a scale of 1: 5 000 or 1: 2 500 and are similar to the comprehensive plans in their scope and level of detail. While they are intended to be general, they may contain detailed provisions. If they contain detailed provisions in land-use category, permitted uses, lot lines, building height, setbacks and floor area ratio, they can be used to issue building permits and are - despite their name - functioning as detailed plans. Local master plans are typically approved by the district planning committee. However, in certain cases, pre-defined by law, local planning committees may have the authority to approve the plan regardless of its designation as “master” or “detailed”. There are no specified planning periods for local master plans, but after 20 years local master plans are usually thoroughly updated or replaced.

Below the level of the local master plan is the *Detailed Plan* that generally covers only parts of the municipality or a small number of plots of land. It is usually prepared closer to the time of anticipated development when specifics about the site and project design are known. The detailed plan may specify land uses and land readjustments, designate roads and public areas, and indicate the location of buildings, their clearance and reconstruction or preservation, height, shape and appearance, and go down to details such as certain aspects of design. Anyone with an interest in 75% of a given plot of land can prepare a detailed or a local master plan, which is subject to approval by the local or district planning committee depending on the subject area [State of Israel, 1965: Art 61a(B1(1))].⁴ In instances where there is no local comprehensive plan, or the proposed plan does not comply with it, most plans (either master or detailed) need to be both reviewed by the local planning committee and be approved by the district planning committee.

Building permits and implementation tools of plans

Development is guided by the issuing of building permits, which must comply with the strictly hierarchical system of spatial plans. Without building permits, no development, changes to an existing construction or demolition may take place (Alterman, 2001).⁵ In order for a permit to be approved, the development proposal must be in line with the area’s detailed plan, which is expected to conform to higher ranking master plans. In case of minor deviations, local planning committees are empowered to grant exceptions within legally set limits, e.g. with respect to height, volume, or setback requirements. In cases where the building proposal deviates from approved detailed plans to a greater extent, changes to the detailed or even the local master plan must be approved

as an amendment to the respective plans.⁶ Local authorities that have adopted a local comprehensive plan can approve amendments to detailed and local master plans if the amended plans comply with the local comprehensive plan. In case that no local comprehensive plan is in place, or where the amended plans would not comply with the local comprehensive plan, amendments to the detailed and local master plans require approval from the district committee. Once approved, an amended statutory plan becomes an implementation tool itself in that it becomes a legally binding document and can serve to guide the issuing of building permits.

In instances where buildings have been constructed without a building permit, local and district committees have extensive legal tools for enforcement. They can administratively stop construction until a legal order is obtained. They can also demand that the structure be torn down or that the offender is fined double the value of the illegal structure [State of Israel, 1965: Art 219(1)].

Expropriation of land is another important implementation tool in Israel, which is possible for a list of purposes defined in the Planning and Building Law 1965 and the Real Estate Law. These possibilities include for example the construction of infrastructure, the provision of specific public amenities or urban development. The most significant law in this respect is the Real Estate Law, which allows direct expropriation without an approved plan by the Minister of Finance for any purpose of public interest. However, it is only infrequently used as there are various limitations on this kind of expropriation and in most instances, full compensation must be paid. Further, the Planning and Building Law 1965 defines two sub-types of expropriation: i) expropriation with full compensation and ii) compulsory land dedication of up to 40% of a land plot. The first possibility is similar to expropriation powers across OECD countries (Box 1.2), but due to a shortage of finance, local authorities in Israel only use this option when all other possibilities are exhausted. As in some other OECD countries such as e.g. Finland, landowners are regularly required to cede some of their lands for public purposes. In Israel, local authorities are enabled to expropriate up to 40% of privately-owned land in the course of implementing approved detailed plans or local master plans, without being liable for any compensation⁷ provided the purposes are one or more of the following: the construction or widening of a road, the construction of recreation grounds or the provision of specific public amenities such as education, cultural, religious, health or sport facilities (Holzman-Gazit, 2016). In addition, compulsory land readjustment (“reparcellation”) can be used to open up space where development is obstructed by fragmented ownership or ownership that does not fit the land use. While regulations are straightforward, expropriation procedures can be lengthy and often involve court settlements regarding the compensation that has to be paid for expropriated land.

Box 1.2. Expropriation powers across OECD countries

In the **Czech Republic**, expropriation is possible for developments in the public interest if all other attempts to acquire the required land have failed. Reasons for expropriation are infrastructure construction, public utility developments, urban renewal projects, flood protection, national defence and nature reserves. For private purposes, land may only be expropriated in order to provide access to a plot. In practice, land is rarely expropriated, because the threat of expropriation suffices to make land owners sell their land voluntarily. Compensation for expropriation is paid either i) at the amount of the usual price of the land or the building including its accessories if the property rights of the original owner were withdrawn, or ii) at the amount of the price of the rights based on the factual proof if property rights have been restricted.

Box 1.2. Expropriation powers across OECD countries (*cont.*)

In **Finland**, land can be expropriated for a variety of reasons, such as the provision of public infrastructure and housing, the establishment of nature protection areas and for mining activities. When local plans zone areas in a way that make it impossible for a private land owner to generate a reasonable return from it, the state can be obliged to expropriate the area and pay compensation for it. However, the requirement to compensate land owners does not cover areas used for the construction of roads. Expropriation of private land for other uses is not possible, but the state can expropriate land and sell it to another private developer. While legally possible, such a procedure would face increased political challenges and legal scrutiny.

In **France**, land can be expropriated by all levels of government as well as by public utilities. Expropriations for private uses of land are not possible. Reasons for expropriations are the construction of infrastructure, public buildings, and housing developments as well as the establishment of nature reserves. In urban areas, land can furthermore be expropriated in designated urban renewal zones in order to facilitate urban renewal projects. A regional delegate of State decides on the amount of compensation.

In **Germany**, municipalities have the possibility to expropriate land if it is in the public interest. It is a measure of last resort and is only allowed if all possibilities for an amicable arrangement have been exhausted. The main reasons for expropriation are making land available for use according to the regulations of the binding land-use plan, developing empty or lightly developed plots in urban areas and urban renewal projects. As long as a project is in the public interest, no distinction between private and public use is made by the law. All expropriation measures must explicitly grant compensation, which is calculated by independent experts. Compensation may take the form of money, alternative real estate, or the transfer of other rights.

In general cases, land in the **Netherlands** can be expropriated if a proposed development is in the public interest, but the existing land owner is not able or not willing to carry it out. In addition, the proposed development must be urgent and the public body must have first tried to acquire the land amicably. This is irrespective of whether the proposed development will be carried out by a public or private investor. Furthermore, specific cases for expropriation exist, such as water safety, national defence and the readjustment of fragmented plots of land. Once the legal criteria are met, expropriation procedures are straightforward and experts determine the compensation that has to be paid.

Land ownership and development rights are considered separate issues in the **United Kingdom**. In general, ownership does not give the automatic right to develop land and all developments require planning permission. Expropriation is possible for both public and private developments, including infrastructure projects, public facilities, and also commercial projects such as retail and residential developments. Property owners are compensated for the loss of their land or premises at current market rates. Expropriations were frequent in the in the decades after 1945, but are used sparingly since the 1980s even though they pose few legal difficulties.

Source: OECD (2017b), The Governance of land use in France: Case studies of Clermont-Ferrand and Nantes-Saint Nazaire, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268791-en>; Czech Republic (2006), Zákon č. 184/2006 Sb Zákon o odnětí nebo omezení vlastnického práva k pozemku nebo ke stavbě (zákon o vyvlastnění) [Coll., on the Withdrawal or Restriction of Ownership Rights to the Land or Buildings (Expropriation Act)], www.zakonyprolidi.cz/cs/2006-184; Finland (1999), Maankäyttö- ja rakennuslaki [Land Use and Building Act 132/1999], www.finlex.fi/en/laki/kaannokset/1999/en19990132.pdf; France (2016), Code de l'expropriation pour cause d'utilité publique, www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006074224&dateTexte=20160807; Germany (1960), Baugesetzbuch (BauGB) [Federal Building Code], www.gesetze-im-internet.de/bundesrecht/bbaug/gesamt.pdf; Netherlands (2015), Onteigeningswet [Expropriation Act], <http://wetten.overheid.nl/BWBR0001842/2015-07-01>; United Kingdom (2004), Planning and Compulsory Purchase Act 2004, www.legislation.gov.uk/ukpga/2004/5/contents.

Stakeholder involvement and appeals

The planning system provides stakeholders with the possibility to appeal a statutory plan at the stage of deposit for final statutory approval. After its preparation, any statutory plan except national master plans has to be deposited for 60-90 days for review. During this period, everyone who has objections to the plan that ranks below national master plans can submit these by written procedure which is followed by an invitation to voice the opinion. A specifically designated sub-committee of the planning committee or a designated investigator will hear, collect and evaluate all the raised objections and based on the sub-committee findings or the investigator's report, the sub-committee considers possible actions. In instances where the plan is not changed, the decision can be appealed against. The Planning and Building Law does not specify public hearing for national master plans. However, since the 1970ies the National Planning Board does invite institutions and NGOs to take part in an unofficial hearing.

The Planning and Building Law defines boards of appeals at the national and the district level. Two different boards deal with appeals to the decisions of local planning committees at the district level. The first one is the General Board of Appeals, which is responsible for decisions regarding plans adopted by local planning committees, building permits, deviations and special exceptions from local plans, urban design directives and other, non-fiscal, decisions of local planning committees. The second one is the Board of Appeals for Levies and Compensations which is responsible for appeals to local planning committee's decisions with respect to land valuation, betterment levies and plan related compensation. The possibility to appeal to either of the two district boards of appeals is open to i) a person who objected to plan changes, ii) the plan initiator, iii) the district planner, or iv) jointly two members of the local planning committee, v) two advisory members of the local planning committee appointed by the Minister of Finance, or vi) two members of the district planning committee. Appeals to the district board of appeals have to be submitted within 15 days after the announcement of the decision. The ruling of the board should not take longer than 60 days from the day of submittal.

At the national level, sub-committees for appeals are appointed by the National Planning and Building Board. The responsibility of the sub-committees is to deal with appeals to decisions from the district planning committees, district planning committees sitting as local committees in areas that do not belong to a municipal jurisdiction, as well as the decisions provided by the National Committee for Coastal Environment, the National Committee for Agricultural Land and Open Space, or the National Committee for Military Facilities.. The majority of appeals at the national level are with respect to decisions made by district planning committees (Planning Administration, 2016a: 46). Municipalities, local planning committees or jointly three members of a district planning committee have the legal right to submit an appeal to the National Sub-committee for Appeals. Further, the chairman of the district planning committee can grant the permission to submit appeals for plan initiators, persons whose objections were rejected and persons who objected to plan changes as a result of previous objections. Parties that wish to appeal, have to submit their request to appeal to the chairman of the district planning committee within 15 days after the announcement of the district planning committee's decision. The chairman then approves or denies the request. After the chairman's approval, appeals have to be submitted to the national sub-committee within 30 days. Ruling on the appeal by the national sub-committee is scheduled for 90 days after the last response of the appellants was submitted (State of Israel, 1965: Art. 110, 112).

The practical application of the planning system

Plan approval in the past has been slow and inefficient

The Planning and Building law sets out relatively detailed rules for the planning process which partly contribute to slow and in some cases inefficient procedures in practice. The preparation of statutory plans is lengthy and by the time plans get approved they can be outdated. This is best highlighted by the development of the plans that were stated to be explicitly mandatory in the Planning and Building Law of 1965, namely the district master plans. Thus, the law states that every district committee shall prepare and submit a district master plan for the approval of the National Board within five years from the date of the coming into force of this Law (State of Israel, 1965: Art. 56). These plans were then meant to replace the regional outline plans prepared during the British Mandate. As shown in Table 1.1, none of the six districts had an approved master plan by 1970. The district of Jerusalem was the first where the district master plan was approved in 1977, 12 years after passing of the Planning and Building Law. The district of Haifa only recently had its first statutory district master approved in 2012, almost 50 years after the Planning and Building Law was introduced.

Table 1.1. **The evolution of statutory district master plans in Israel**

District	First generation				Second generation			
	Plan Number	Work commenced	Deposited for objection	Approved	Plan number	Work commenced	Deposited for objection	Approved
Jerusalem	DOP 1	1970	1973	1977	DOP 1/30	1999	2008	2011
Central	DOP 3	1968	1977	1982	DOP 3/21	1991	1998	2003
Southern	DOP 4	1968	1977	1982	DOP 4/14	1991	1994	2000
Northern	DOP 2	1968	1975	1984	DOP 2/9	1990	2001	2007
Tel-Aviv	DOP 5	1972	1982	Not approved	DOP 5	1996	2004	2010
Haifa	DOP 6	1968	Not deposited		DOP 6	1997	2004	2012

Source: Adapted from Razin (2015), “District Plans in Israel: Post-Mortem?”, *Environment and Planning C: Government Policy* Vol. 33/5, pp. 1246-1264, <http://dx.doi.org/10.1177/0263774X15610060>.

Most local authorities are covered by local master plans, but parts of those plans are outdated obstructing the creation of a strategic long-term vision. As of 2015, not every local planning area was covered by an up-to-date local master plan or local comprehensive plan and amendments to the plans are often made on a project basis reflecting short term adjustments. These adjustments take into account the current needs of the population, but not necessarily the future needs and therefore hamper the development of a long-term strategy. There have been however recent advances in updating comprehensive or large-scale master plans allowing the preparation of long term strategic vision for municipalities. Since 2005, 76 local master plans have been approved where more than half (48) are plans for local authorities and the rest cover individual settlements within regional councils. Although some of these plans are not labelled “comprehensive”, they meet the requirements of a local comprehensive plan. In addition,

118 plans were in various stages of preparation to update previous local plans (Planning Administration, 2016a).

**Box 1.3. Planning for densification and urban renewal:
Israel's National Master Plan 38**

A main policy and statutory tool used as an urban development and regeneration tool is the National Master Plan 38, which was approved in 2005. Nominally, it contains earthquake protection regulations and incentives for property owners to improve the earthquake resistance of buildings built before 1980. While originally only intended as a tool to improve earthquake protection, it is now much more widely used in many cities to provide incentives for urban regeneration and densification to property owners. To make it financially feasible, the contractor has several options: to add 2.5 additional floors to the building, to demolish and rebuild or to transfer the building rights to a vacant property in which a new construction is expected. All new units in the building or its replacement may then be sold in exchange for covering the costs of renovations, building permits and necessary taxes (Planning Administration, 2016a). The incentives in this plan include a full exemption on the betterment levy (payable to the local authority), full or partial exemption on betterment tax (payable to the tax authority) and exemptions from VAT on construction inputs. Further, within NMP 38, the addition of extra floors is permitted directly from the national level (unless the local authority proposes a different plan) and the process of getting a permit is significantly faster than under the normal procedure which would have required a local plan amendment. If it is not possible to reinforce a building from a structural and/or economic perspective, the building is demolished and reconstructed. In this case, construction is allowed on the basis of building rights specified in the local master plan, which might result in an even higher increase in residential units than 2.5 additional floors. However, the consent of the majority of owners is necessary, and therefore this can be a slow, ad hoc and non-contiguous process.

After a decade in force, NMP 38 has upgraded only a small per cent of hundreds of thousands of housing units in need of such upgrading (BoI, 2016). However, over the last two years the pace of implementation of NMP 38 is picking up. As such, the number of applications submitted in 2015 is about a quarter of all applications submitted from 2005 until January 2016 (Planning Administration, 2016f). Up to September 2016, 26 700 dwelling units have been processed of which 12 700 have been reinforced and upgraded and 14 700 new units have been produced. Since 2010, when NMP 38 was amended to allow for demolition and reconstruction, about 40% of applicants consistently choose the demolition option. The NMP 38 provides a tool to upgrade and add housing units, especially in densely inhabited areas and most applications have been within high-demand areas of the country, such as Tel-Aviv, the Central and Haifa districts.

Source: BoI (2016:244-245), “Preliminary version-Annual report 2015”, Jerusalem, www.boi.org.il/en/NewsAndPublications/RegularPublications/Pages/DochBankIsrael2015.aspx; Planning Administration (2016a), “שנתון התכנון 2015” [Annual Report 2015], http://iplan.gov.il/SiteAssets/Pages/AboutTheMinistry/shnaton/shnaton_2015.pdf, Planning Administration (2016f) [Implementation Report for NMP 38 for 2015, IPA, the Ministry of Finance, Sept. 2016] דו"ח יישום 2016 תמ"א 38 לשנת 2015, מנהל התכנון, משרד האוצר, ספטמבר 2016 <http://iplan.gov.il/Documents/tma38report.pdf>.

Detailed plans are required for the issuing of a building permit and must be fully consistent with the local master plans. In instances where approved local master plans are outdated or where zoning regulations at the local level are too detailed, building applications are often accompanied by amendments to existing plans (Alterman, 2001). This can add to delays because the District Planning Committees, who – in the absence of local comprehensive plans are responsible for approval of most local plans - are occupied

with evaluating numerous small-scale plans. A very active real estate market further contributes to numerous plan submittals of developers and land-owners who disregard existing detailed plans in favour of maximising profits given new local real estate interests and market pressures. For example, in 2013-14, about 76% of plans that needed approval from the district committee involved plans with only up to 20 housing units – about 2% of total housing units approved (Information provided to the OECD based on IPA database). Also, if the amendment accompanying a building permit requires adjustments to the statutory district master plan, approval from the National Planning and Building Board or its sub-committees is needed. This adds to the already long process of the housing production chain (see Chapter 2 for details). For example, the Bank of Israel (BoI) (2012) estimated that the average time of producing a housing unit takes 12-13 years, of which the approval of the plan in the district committee in 2011 took on average five years.⁸ Data of the Planning Administration shows that the average time of approval of all plans at the district level has been significantly reduced since then to 2.9 years for all and to 3.6 years for larger scale plans in 2016 (Planning Administration, 2017).⁹ A planning system with long approval times not only is inflexible with respect to changes in demand but also increases financial uncertainty for investors and developers. In addition, long approval times have a direct impact on urban design as buildings are based on a decade old plans that might not apply the newest standard or fit in with recent urban design standards.

Specific policies have been introduced to circumvent bottlenecks in the planning process. The most important one is the assignment of the status of a national plan to a type of development which previously was regarded as a regular local-level plan. In the 1990s, Israel experienced a large inflow of immigrants from the former Soviet Union. Between 1990 and 1993, in total more than 500 000 immigrants arrived in Israel, and by 2000 the number accumulated to about 1 million (CBS, 2016b). Housing supply needed to be increased, and in order to avoid long approval times, a fast track system was enacted with National Master Plan 33, a plan for immediate establishment of sites and temporary housing for 5 years. Over the years, other fast track solutions have been introduced, sometimes legislated only for a limited time. For example, in the past there was an initiative for employment-oriented land uses. More recently, two such mechanisms have been legislated for housing initiatives: the National Master Plan 38 which addresses a medium number of units (see Box 1.3) and the Vatmal, which addresses large numbers of units, through national initiative only (see Chapter 2).

Recent advances aim for streamlining planning procedures through devolution of spatial planning power

The need to streamline planning procedures was addressed in several amendments over the last years. The hierarchy of the planning system required the district planning committee to decide on approval of local and detailed plans. To increase efficiency, more planning authority was gradually given to the local planning committees. In 1995, Amendment 43 granted interested parties the right to initiate a detailed plan for land under their ownership and local planning committees were provided with the authorisation of approving plans regarding several subjects that do not alter basic land use and only make certain minor changes to a pre-existing plan. That same amendment, however, also introduced a mode of greater centralisation in allowing developers who are dissatisfied with the local committee to go directly to the district level (Alterman, 2001). In 2006, Amendment 76 extended the powers of the local committees by allowing them to authorise detailed plans conforming to master plans, enlarging housing units and

adding uses to approved plans (see e.g. Hananel, 2013).¹⁰ Still, with district planning committees being responsible for the preparation and implementation of the district master plans, as well as approving the more significant local master and detailed plans, there was a great extent of two-level regulation. Further, local master plans often proved to be too detailed such that new construction often required an amendment to local plans and resulted in district committees being involved in approval decisions for many relatively small-scaled plans that required a lot of their resources. A greater decentralisation of spatial planning power was envisioned to increase efficiency by allowing local planning committees to decide on small-scale projects that involved a limited number of housing units.

One of the most significant reforms to date was Amendment 101 to the Planning and Building Law in 2014. The decentralisation of planning power from the six district planning committees to the 127 local planning committees is expected to increase efficiency in the planning process. Already, data by the Planning Administration show that the average time of plan approval in the district committee has decreased from 3.6 years in 2012 to 2.9 years in 2016 (Planning Administration, 2017). Not only are resources at the district level freed up allowing them to focus on large scale and strategic projects of regional importance, but also is the planning matched to the relevant scale required for detailed planning. Further, the local planning committees are increasingly provided with resources and tools that allow them to address the needs of local end-users as expressed in local master plans.¹¹ The approval of local plans (subject to local or district authority) in turn is subject to tightened schedules (Box 1.4). While there are no penalties if a specific process exceeds the time limit, it provides incentives for local planning committees to comply with the outlined schedules. Being able to do so positively reflects on their competencies and can affect the degree of planning power delegated to them (i.e. through the categorisation of being a regular, independent, special independent or independent with a local comprehensive plan, which takes into account the competency of the local planning level). Also, the initiator of the plan can choose to move the plan to a higher level planning agency once the overall time allocated for approval has run out.

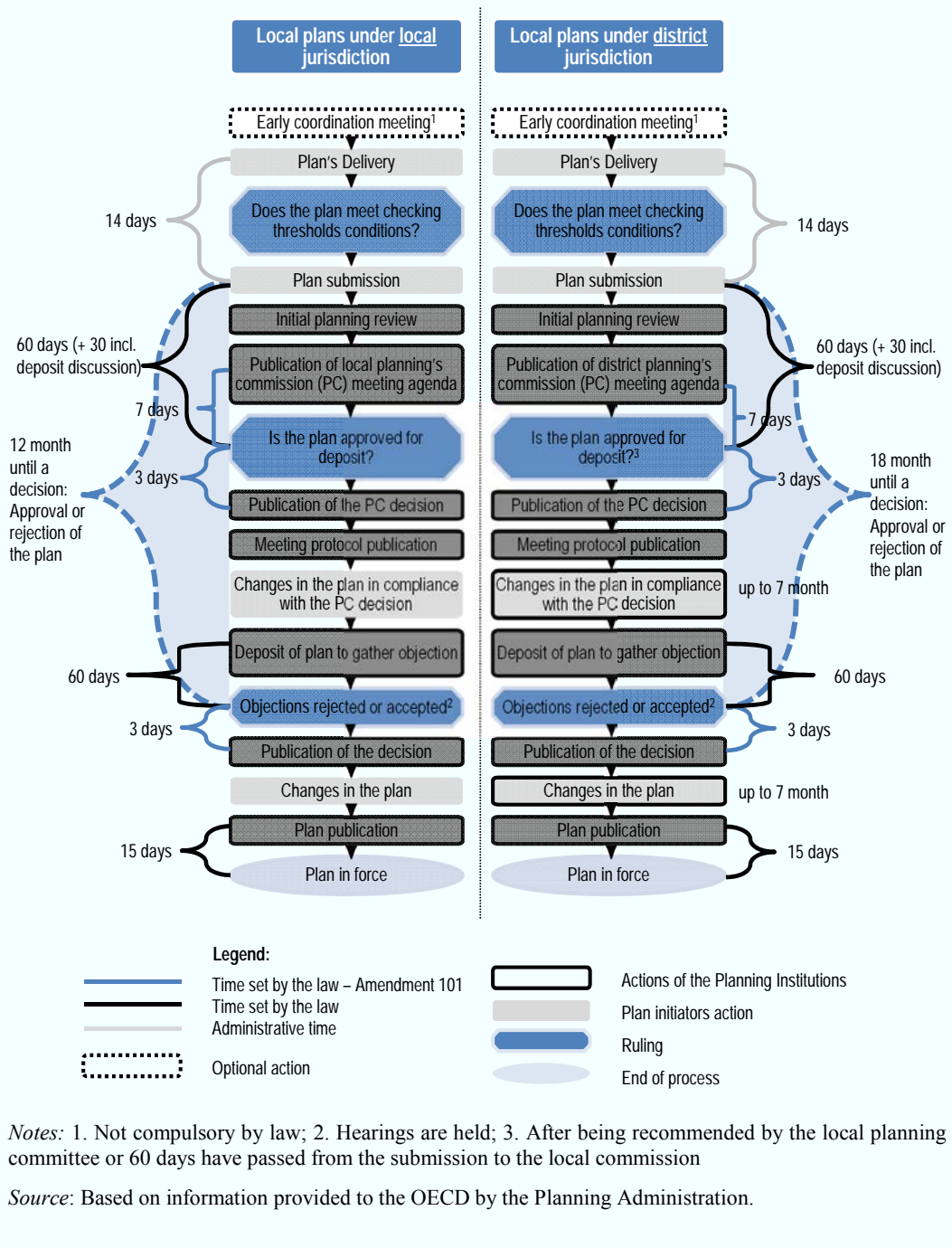
Amendment 101 entailed further changes to the Planning and Building Law to facilitate the application and approval of building permits. For example, private professional construction control centres based on the “one-stop shop principle” are being established. This allows permit applicants to receive all approvals from all involved governmental agencies at one place and thus shorten the overall period of approval. Moreover, three different permit issuance tracks were defined: i) exemption from permit (mainly light weight construction); ii) abbreviated (up to 45 days); and full route permit (up to 90 days) including setting up the schedule for each track.

Box 1.4. Israel’s approval process for local plans

Under Amendment 101 to the Planning and Building Law, additional time limits between different steps towards plan approval have been introduced. Most importantly a maximum time between plan submission and decision on plan approval or rejections has been set. For plans under local jurisdiction, the decision period amounts to 12 months and for local plans under district jurisdiction it is slightly higher at 18 months. Although there are no penalties if a specific step in the process exceeds the defined time limits, the plan initiator may choose to move the plan to a higher level planning agency if the overall decision period (12 or 18 months) is behind schedule. About 65% of all local plans under district jurisdiction that passed the final decision (approval or rejection) in 2016 met the 18 months' time limit.

Box 1.4. Israel’s approval process for local plans (cont.)

Amendment 101 is a recent reform introduced in 2014. Thus, the adherence to the set timelines and its effect on speeding up plan approval cannot yet be accurately evaluated. However, first numbers show a decline in the average plan approval period for local plans under district authority from 3.6 years in 2012 to 2.9 years in 2016 (Planning Administration, 2017).



Further, efficiency was increased by introducing the mandatory online submission of permit applications. To increase the supply of planned housing units, the government also introduced annual steadily rising numerical targets for approved housing units (see Chapter 2) and which the Planning Administration (the district and Vatmal committees) have successfully met since 2012.

Towards a more flexible planning system and how recent efforts compare to OECD countries

Providing a framework for integrated planning

The allocation of land is a complex issue shaped by the decisions of different sectors, stakeholders and policy fields that can be highly complementary to each other. For example, without good transport links, even the best-planned new development will not flourish. Conversely, a transport network that is not adequately adapted to the urban form of a city will not serve citizens well. In Israel, both the National Planning Board and the District Planning Commissions are composed of representatives of the relevant government ministries – that is, across different policy fields. Thus the capacity for horizontal co-ordination is embedded in each decision of these bodies. However, since the agenda of these bodies is driven by ongoing planning decisions that must be approved (see above), rather than focussing on a joint strategy, horizontal co-ordination is often a reflection of the balance of power between the different ministries (State Comptroller, 2015).

The need for streamlining planning procedures requires a coherent land-use policy across different sectors. One of the recent efforts of the Israeli Planning Administration to advance integrated planning resulted in combining the existing sectoral national master plans into one single plan – the National Master Plan 1. Once NMP 1 is approved, it will complement NMP 35 and serve as an implementation policy tool for the general planning framework. The NMP 1 addresses prior difficulties in establishing a coherent land-use policy which emerged from scattered topics over varying national master plans, unclear language that was open to interpretation and legal entanglements resulting in contradictions and discrepancies in plan instructions and blueprints. The new plan will therefore provide policy makers with readable, simple and coherent national statutory information relevant to each and every piece of land as well as major planning challenges.

Integrated planning does not end with a unified plan, but requires continuous co-ordination and co-operation across policy sectors. The approval of the NMP 1 will be an important step towards more integrated planning that can provide a common basis for policy co-ordination. Creating a unified vision for the whole country for the coming years across policy sectors can further support integrated planning. For example, in France objectives are aligned across policy sectors and levels of government. Recent revisions to regional plans set an integrated planning framework for sustainable development (see Box 1.5).

Box 1.5. Comprehensive integrated spatial planning in France

Every country's spatial policies are driven by an underlying logic. France's planning system has long been characterised as following the "regional economic" form, wherein spatial planning pursues a wide range of social and economic planning objectives, with a particular emphasis on correcting regional disparities in wealth, employment and social conditions. But the system is shifting towards a "comprehensive integrated" form, which focusses more on spatial co-ordination through a hierarchy of plans, rather than mainly focusing on economic development per se.

Box 1.5. Comprehensive integrated spatial planning in France (*cont.*)

The objectives of land-use planning now include environmental protection and efforts to minimise sprawl in order to reduce climate change effects. In addition, there are also aspects of the planning process that aim to foster greater social cohesion. This has made the objectives for planning more complex because trade-offs among these objectives may be required, and because the different levels of subnational government can place different weights on the various objectives for land-use plans. The planning system is evolving to encourage more comprehensive and integrated planning approaches: comprehensive in the sense that a larger, functional area is considered under the same plan, and integrated in the sense of considering multiple sectoral issues simultaneously.

In light of this, recent reforms at the regional level increase the role of regions in spatial planning and attempt to “detangle” any overlapping responsibilities of different subnational governments. The new Planning, Sustainable Development and Territorial Equality Regional Plan (*Schéma Régional d’Aménagement, de Développement Durable et d’Égalité du Territoire*, SRADDET) has a much greater influence on planning policies than its predecessor did—it places regions as lead actors in the field of planning and sustainable development. Unlike the previous planning process which was not compulsory, the new law requires regions to develop an integrated spatial plan by the end of 2018. The new law replaces the essential elements of the three former sectoral plans (i.e. transport, water and climate, air and energy) and adds a requirement for the region to develop a specific plan on the prevention and management of waste by 2017.

The SRADDET addresses the long-held critique that the French planning system duplicates functions between levels of government by removing the general competence of regions and *départements*, such that they can no longer intervene in areas that are beyond their scope of jurisdiction. It further clarifies the areas of responsibility among the various levels of government by explicitly transferring responsibilities. For instance, regions under the new legislation gain responsibility over interurban transport. The SRADDET also establishes requirements for a regional strategy for economic development, innovation and internationalisation which sets regional guidelines for a period of five years (to be adopted prior to January 4, 2017). Once the new plans are in place, communes and *intercommunalités* must be compatible with its guidelines.

Source: OECD (2017b), *The Governance of Land Use in France: Case studies of Clermont-Ferrand and Nantes-Saint Nazaire*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268791-en>.

Shifting towards a planning system that provides certainty and allows for flexibility

Israel’s planning system has been inherited from the British Mandate with its strong focus on oversight and control of local development. Back then, district planning committees were created under the British Mandate as control institutions. This system of double control where building applications and plan amendments are evaluated by local and district planning committees, has shown to be highly inefficient. Throughout the years, district planning committees have been preoccupied with small-scale plans not allowing them to focus on projects of regional importance with a long term strategy. For example, in the past the development of district master plans took a long time and by the time of approval they were often not up to date. Just before the district master plan for the central district (DMP3) was authorised in 1980, about 15% of overall developed areas did not conform to the original DMP 3 land-use map. Even soon after approval, intended land

use was changed frequently through “spot zoning”. In the case study city Netanya (Chapter 3), about 42% of development between 1980 and 1990 did not conform to the original district master plan approved in 1982 (Alfasi et al., 2012). With detailed national master plans, and long preparation and authorisation time for district master plans, the recent shift of planning authority to the local level gives the opportunity to rethink the role of district planning committees. Instead of preparing statutory district plans, a non-statutory long term strategy that focuses on regional issues could be an alternative that not only frees up some capacity at the district level but also creates greater flexibility at the local level.

A planning system that incorporates a strategic long-term vision and focuses on plan implementation could support greater flexibility. In the Netherlands, each level of government prepares a spatial vision. These are policy papers that have replaced the key planning decisions at the national level, the regional plans at the provincial level and the structure plans at the municipal level. Within these documents, the expected spatial developments provide details on how these developments will be guided and implemented (Ministry of Infrastructure and the Environment Netherlands, 2011). In Israel, spatial planning is centred on the preparation of plans at the respective planning level. A coherent long-term vision for the respective planning region with clear policy objectives and implementation guidelines is often lacking. Moreover, under the present system, approved statutory plans do not yet provide for flexible adaptation to unforeseen changes in population and economic growth. Moving from blueprint planning at the higher planning levels towards rule-based planning could create greater flexibility in the overall planning system that would reduce the numerous small-scale amendments at the local level.

The devolution of spatial planning power should be accompanied by flexible tools that local authorities can adapt to their individual needs. Municipalities across Israel are very heterogeneous with respect to their local planning capabilities, their financial resources, their relationship with the government and land specific characteristics (Jabareen, 2014). As will be described in detail in the case studies for Netanya in Chapter 3 and Umm al-Fahm in Chapter 4, the development of the two cities was very distinct from each other leading to specific challenges that have yet to be addressed. For example, as will be described for the case of Umm al-Fahm, many cities with a predominantly Arab population transitioned from rural villages to urban areas in the absence of an overall strategy and the appropriate planning tools (Baana and Swede, 2012). The local master plan of Umm al-Fahm was approved in 1965 and already by 1980 it was not suited anymore to address the local needs of the growing city. Not only did the lack of an appropriate local plan contribute to lengthy planning procedures but also hampered the possibility of following a suitable long-term strategy for the city. Combined with a high share of privately-owned land, buildings in Umm al-Fahm developed gradually adjusting to people’s own and their families’ needs. Even though a local comprehensive plan is currently being developed, the city faces constraints to provide sufficient public amenities and infrastructure as public land for development is scarce. Land from private owners needs to be opened up which proves to be difficult due to a host of various factors including difficulties inherent in land readjustment procedures. Those difficulties are compounded by an environment of general mistrust of local residents towards government. The planning system needs to provide tools that are flexible enough such that local authorities can address existing challenges that may be specific to their city.

Box 1.6. Embracing experimentation through temporary land uses

It can be difficult to encourage investment in brownfield sites. But, it is critical to do so. Overgrown and unsightly vacant properties detract from a city's liveability and negatively affect real estate prices. This can create dead zones in a community and reinforce the feeling of neighbourhood neglect and decline. In response to this problem, urban activists have been transforming such spaces for decades, often without the permission of local authorities. These types of unsanctioned activities are sometimes referred to as "guerrilla urbanism"—for example, the Green Guerrilla movement in New York City which pioneered the practice of reclaiming vacant urban land for neighbourhood gardening in the 1970s (Schmelzkopf, 1995).

In many cases, these activist-driven movements have led to institutionalised practices. Community garden programmes supported by local government are now commonplace on vacant lots. Or, take for example, Park(ing) Day in San Francisco—an initiative started by a local activist group in 2005 which temporarily reclaimed parking spaces for pedestrian activities. Embracing the concept, the city has created a "Pavement to Parks" programme led by private initiative which has created dozens such temporary public spaces. "Do-It-Yourself" skateboard parks offer another example. The former director of design for the city of London describes the growth of temporary land-use initiatives as a "a confluence of tough economic times, the emergence of a new kind of creative culture, and a preponderance of stalled development and vacant properties" (Greco, 2012).

Local governments are increasingly embracing the temporary land-uses movement and working with communities and businesses to make better use of vacant spaces—whether this be for a pop-up event or festival or longer term uses that entail the refurbishment of built structures on vacant land. The approach has been referred to as the "temporary city", "tactical urbanism" or even the "pop up city"—it is grounded in the idea that planning of public spaces doesn't need to always involve capital intensive projects. The term "temporary" can entail anything from a couple of days to several years. Such uses create a sense of dynamism about a place and can be an important first step to encourage more permanent forms of investment.

A city's regulatory environment plays a major role in shaping the prospects for temporary land uses. For instance, Portland's open rules towards food vending have allowed local food truck entrepreneurs to occupy vacant spaces and create vibrant uses out of them—it has been a boon for local businesses and has encouraged tourism to the area (Southworth, 2014). Temporary land uses encourage experimentation. Across the United States, local skateboarders have taken over vacant lands—often unused public land underneath bridges—to build illegal skateparks (e.g., Burnside Park, Portland; Washington Street Park, San Diego). In many cases, these illegal structures have since gained community buy-in and have been turned into official skateparks sanctioned by municipalities, thus changing their temporary land uses into permanent features of the urban landscape. Though initially an unsanctioned experiment, their uses were proven to be beneficial and were eventually accepted.

As Németh and Langhorst (2014) note, there are liability issues to consider and not all temporary land uses will be desirable or feasible. Much depends on the compatibility of the uses with that of the surrounding neighbourhood, the type of ownership of the land, the built structures on it, and the liabilities associated with the activities that are planned. Nevertheless, by encouraging temporary land uses on vacant land—and creating guidelines and criteria for such uses—cities can work with communities and individuals to gauge what works, how land uses may evolve and create dynamic spaces that may either go on to last in the longer term, or shift to new uses over time.

Source: Greco, J. (2012), "From Pop-Up to Permanent", *Planning*, Vol. 78/9, pp.15-18; Németh and Langhorst (2014), "Rethinking urban transformation: Temporary uses for vacant land", *Cities*, Vol. 40, pp.143-150; Schmelzkopf, K. (1995), "Urban community gardens as contested space", *Geographical Review*, Vol. 1, pp. 364-381; Southworth, M. (2014), "Public Life, Public Space, and the Changing Art of City Design", *Journal of Urban Design*, Vol. 19/1, pp. 37.

While the scarcity of land in Israel and its highly contested uses create a unique situation, difficulties of developing certain types of land that are crucial for urban development, such as e.g. brownfield sites, are a common phenomenon across OECD countries. Israel could borrow from the core basics that are increasingly deployed in these cases – the definition of temporary land uses (see Box 1.6). Thus, advancing neighbourhoods in Israel where illegal construction that emerged from the past is concentrated could be achieved by defining them as experimental zones that provide rules for self-planning based on traditional urban codes adapted to the needs of a modern society (see e.g. Alfasi and Portugali, 2007, 2004; Alfasi, 2014).

Monitoring plan implementation to allow for timely adjustments

Population trends will require increasing densification in the urban development texture. About 10% of the land is classified as urban development texture with in the National Master Plan 35 (Box 1.1). Already, about 81% of the national population live within this type of texture, and projected population developments will require increasing densification in urban areas. A main objective declared in the NMP 35 was the limiting of suburbanisation in the centre and the densification in the north and south of Israel (Gruber, 2014). The plan itself is subject to evaluation in five-year intervals allowing for possible updates, if needed. Recent evaluations have shown that targeted population numbers significantly vary from population movement and growth. Thus, the population in the high demand area of the Central District is already beyond the plan's intended target number, and is furthermore expected to amount to more than 400 000 additional residents in 2020 than projected. Population targets in the South and North are also not evolving as targeted with a population deficits to the original NMP 35 plan objectives of about 600 000 residents (State Comptroller, 2015). So far, the government was therefore not able to redirect the demand for housing towards the South and the North of Israel. Recent updates of the NMP were approved in 2016, already including some minor changes to areas defined as urban texture and to densities (Planning Administration 2016d, 2016e).

Similarly to Israel, the need for urban densification is a common challenge across OECD countries – especially in metropolitan areas. While the pressure on land is less intense in most OECD countries, which are usually larger and experiencing an overall decline in population, they are faced with increasing urbanisation often accompanied in sprawling metropolitan areas. Common tools to promote dense urban development within the boundary and restrict development of non-urban land outside the boundary are urban growth boundaries or green belts around cities (see Box 1.7). Thus, urban growth boundaries, or green belts around cities are to some degree comparable to the concept of different development textures defined in the NMP 35.

For urban growth boundaries to be successful, the defined size of the area is crucial. If the defined area is too large, it will have no effect for limiting urban growth. In instances where it is too small to sustain development pressure, urban growth boundaries can have adverse effects on the value of rural land outside the boundary, increase the price of land and housing within the boundaries and leapfrog types of development beyond the restricted areas. When an urban growth boundary is implemented, it is therefore important to get a comprehensive understanding of social, economic and environmental impact at a regional scale. In Israel, despite efforts to increase urban densities, the case of Netanya highlights that sub-urbanisation is still a common phenomenon. A frequent evaluation of the objectives of the NMP 35 in the context of regional population growth is recommended to adapt to deviations and to create new tools to ensure plan implementation.

Box 1.7. Urban growth boundaries in OECD countries

Portland, Oregon, United States: The metropolitan planning organisation of Portland, called Portland Metro, operates in its current form since 1979. In 1995, Portland Metro adopted the 2040 Growth Concept, a long-term regional plan that lays out a vision for the region in 2040 including both land use and transport. The 2040 Growth Concept – amongst other – states that the preferred form of regional growth is to contain growth within carefully managed urban growth boundaries (UGB), a land-use planning line delineating the town area and countryside (agricultural and forestry land). Land within the boundary is developable over the coming 20 years. Outside of the boundary, development is generally prohibited. The UGB is aimed at promoting the effective use of built-up areas, the effective provision of public infrastructure and services, and the conservation of good quality agricultural and forestry land. The UGB has been expanded more than 30 times since it was first drawn up, in accordance with forecasts of land supply needs. The expansion of the UGB is only allowed in the designated area called the “urban reserve”. The necessity of expansion is basically considered every five years and must be approved by the state government. Urban reserve contains future developable land (30 years of land supply for development).

Switzerland: The Swiss Land-Use Plan is mandated by the Federal Law on spatial planning and prepared by each canton. The canton designs a structure plan (*Richtplan*) that covers their entire area and envisions future spatial development. The structure plan must be approved by the Federal Council. Land-use plans, designed by municipalities regulate detailed land use and set the boundaries between building zones and non-building zones and are subject to the above level structure plans. The urban growth boundary is evaluated and adjusted to new needs every 10-15 years. Gennaio et al.’s (2009) analysis on four municipalities in the metropolitan area of Zurich revealed that the building zones originally instituted in the 1960s were extremely large due to optimistic population projections and political reasons. Reduction of the building zone is rare in Switzerland because municipalities are required to pay land-owners for lost opportunities caused by the increased regulation of land use.

Ontario, Canada: The Province of Ontario has intensified regional planning efforts to address urban-suburban land-use inconsistencies through the Greenbelt Plan (enacted in 2005 and updated in 2017) and the Growth Plan for the Greater Golden Horseshoe (GGH) (2006, 2017). Following its predecessor of 2006, the updated Growth Plan 2017 aims to direct population growth towards built-up areas including 25 centres within the GGH area, in order to stimulate compact development and increase intensification. The Growth Plan specifies that at least 40% of all residential development should occur within existing built-up areas and the boundaries of the urban cores are delineated, to be refined by municipalities. The minimum threshold is subject to successively increase and by 2031, 60% of all residential development will be in delineated built-up areas. The Greenbelt Plan delineates an area of environmentally sensitive and agricultural land at the heart of the GGH, protecting it from major urban development. In addition, Metrolinx, the provincial agency responsible for transport planning in the region, formulated a Regional Transportation Plan in 2008 that closely followed the vision of the two land-use plans. The Place to Growth Act requires that the official plans and the planning decisions of all municipalities in the GGH be brought into conformity with the Growth Plan.

Source: OECD (2015), *Governing the City*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264226500-en>; OECD (2010), *Regional Development Policies in OECD Countries*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264087255-en>; Gennaio, M-P et al. (2009), “Containing Urban Sprawl-Evaluating Effectiveness of Urban Growth Boundaries Set by the Swiss Land-Use Plan”, *Land-Use Policy*, Vol. 26/2, pp. 224.232; Ontario (2017a), Green Belt Plan 2017, Ontario Ministry of Municipal Affairs and Ministry of Housing, www.mah.gov.on.ca/Page13783.aspx (accessed June 2017); Ontario (2017b), *Places to Grow – Growth Plan for the Greater Golden Horseshoe, 2017*, Ontario Ministry of Municipal Affairs, http://placetogrow.ca/index.php?option=com_content&task=view&id=430&Itemid=14 (accessed June 2017).

Increasing capacity and attracting high-skilled individuals at the local planning level

The empowerment of local planning committees has to be accompanied by increasing resources and capacity at the local level. Not only do local authorities need financial resources to fulfil the additional task, but new powers also require different knowledge and skills that might need to be developed (see e.g., Charbit and Michalun, 2009). Until the enactment of Amendment 101 to the Planning and Building Law, local planning had only a regulatory rather than a forward planning and policymaking role. While local authorities differ in their capabilities, limited career opportunities proved to be an obstacle to increasing capacities especially for weaker local planning authorities because highly trained urban and regional planning professionals often did not see a planning at those local authorities as a sufficiently rewarding career option. Further, the profession of city engineer requires a degree in engineering or architecture, but does not recognise degrees in urban and regional planning as valid qualifications. Although amendment 101 adjusted the qualification profile of city engineers to include a significant experience in city planning jointly with either building permits, public facilities or municipal utilities management in addition to their degree, the profession is not open to graduates who are specialised in urban and regional planning (Box 1.8).

Box 1.8. The planning profession in Israel

Across OECD countries, the disciplinary background of planners differs considerably. For instance, in the United States, United Kingdom and Canada, there are professional bodies that oversee planning accreditation and certification and there are specific planning degrees (e.g., masters in urban planning). In contrast, France has long embraced an interdisciplinary approach to urban planning with more than 150 different types of diplomas on urban and regional planning offered by various higher education institutions. Despite having had a professional planning society since 1911 (*la Société Française des Urbanistes*, SFU), the preparation of local land-use plans is carried out by a range of professions including civil engineers, urbanists, architects, landscape architects, geographers, economists and historians.

In Israel, the planning profession exists as a distinct profession since the late 1960s complemented by a professional urban planning society (*Israel Planners Association*). Over the years, the planning profession has been expanded in the number of professional planners, their status and career options. For example, there is a variety of positions open to planners at all levels including strategic planning, research or environmental and social affairs. However, the profession of city engineer as specified by the Local Authorities Law 1991 requires a degree in engineering or architecture and the planning of urban areas is therefore not in the responsibility of graduates specifically trained in urban planning. However, following amendment 101, the Local Authorities Law was amended to require a significant experience in city planning and in one of the following areas: building permits, public facilities or municipal utilities management including infrastructure.

Source: OECD (2017b), *The Governance of Land Use in France: Case studies of Clermont-Ferrand and Nantes-Saint Nazaire*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264268791-en>; Israel Planners association, www.aepi.org.il (accessed May 2016).

The need to attract high skilled individuals to the local planning level – especially in weak local authorities - has recently been addressed through the initiation of the programme “cadets for strategy and urban planning”. The programme is aimed to train civil servants in the planning system, with emphasis on local authorities in Israel, and offers its participants a full two-year training programme that combines master's degree in

urban and regional planning, together with a unique training in policy and public administration. In addition, the programme includes various classes focusing amongst other on the Israeli society, leadership skills, and meetings with key figures in the planning system and the local. Practical experience in the local planning committees and entities is included. The graduates are placed for four years in one of the local planning committees (mostly in the geographic and/or social periphery). The programme is a result of co-operation between several entities: the Planning Administration, the Ministry of Interior, the social NGO “Atidim”, the Ministry of Finance, the Local Government Centre, Centre for Regional Councils, the Technion University and the National Lottery.

Creating a framework for active and meaningful public participation

The benefits of public participation receive increasing acknowledgment in Israel. Within the planning system, public participation is provided through the possibility to appeal to a statutory plan at the stage of deposit for final statutory approval. It is possible to raise the same objections at different boards; these appeals can significantly lengthen the time of plan procedure. Understanding the benefits of receiving public feedback before the plan is in its final stages has resulted in increasing attempts of local planning committees to engage the public. Thus, during the preparation of the local comprehensive plan for Netanya, a survey to elicit the public vision for the city was conducted and publicly presented (see Chapter 3). However, citizen engagement can incorporate a much wider spectrum than providing information and initial stages of consultation. Active citizen involvement through a dialogue in the planning process can reduce the need for raising objections and appealing to finalised plans, speeding up the planning process. In France, good results have been achieved by the National Commission for Public Debate that was introduced to facilitate public engagement and act as a mediator in large scale infrastructure projects that are common source of land-use conflict (Box 1.9).

Box 1.9. France’s National Commission for Public Debate

The French government has established the National Commission for Public Debate (*La Commission nationale du débat public*, CNDP) as a central body to conduct public engagement for large scale development projects. The Commission has expertise in communications, managing relationships and information across platforms, can co-ordinate between different departments/ministries and levels of government, and create standards and regularity around the engagement process. The Commission was created in 1995 by the Barnier law on strengthening the protection of the environment. With the law on grassroots democracy in 2002, the CNDP became an independent administrative authority.

The law entrusts the Commission with the mission to ensure the participation of the public in the development of major projects of national interest that have strong socio-economic impacts and/or significant impact on the environment or land. More precisely, the Commission

- Ensures compliance with good public information throughout the phases of the project (implementation to completion)
- Advises authorities on public consultation throughout the duration of a project.
- Ensures the collection of all opinions and recommendations are subject to a common methodology

All of the information is compiled and documented transparently on the Commission’s website.

Source: La Commission nationale du débat public (2016), www.debatpublic.fr/son-role (accessed 1 June 2016).

The digital provision of planning information is a first step to greater citizen engagement which is further supported through recent reforms. It is often remarked that citizen engagement remains low for land-use planning issues due to a lack of information (Purian et al., 2012). Therefore many governments are trying to address this issue by providing planning information in more accessible and understandable formats. This includes, for example, the formulation of planning documents into plain language so that they are easier to read and understand by the lay person, using social media and other online tools to engage with citizens and get their feedback on issues that affect them, holding public meetings and town halls for major projects and changes, and sharing planning documents in a more accessible way by digitising land-use plans. In Israel, a standardised uniform format for local plans has been in force since 2006. In addition, the submittal-to-approval process of planning documents has been digitised in 2011 facilitating the access for elected officials, professionals and stakeholders to land-use plans, decisions of appeals and other relevant information (Planning Administration, 2016g). Since September 2016, the permitting process has been digitized as well (Planning Administration, 2016h).

Box 1.20. Different stages of citizen engagement in policy making

Effective citizen engagement can yield a number of benefits, including building trust in government; generating better outcomes at lower cost; securing higher compliance levels with decisions reached; enhancing equity of access to public policy making and services; leveraging knowledge and resources; and developing innovative solutions. Three main stages of citizen engagement can be identified:

- **Citizen information:** Information is conveyed in one direction only, from the government to the public. There is no involvement of the public (e.g. public feedback is not required or specifically solicited) and there are no mechanisms through which citizens are invited to react. Providing information is a critical first stage of more open and transparent government. Communicating information to citizens on decision making, policy development and implementation puts governments in a position to be scrutinised and builds citizen trust. Informing citizens helps educate them about their rights and entitlements and can communicate the rationale, objectives and achievement of government. This is important for ensuring buy-in to changes and reforms and for providing a platform from which citizens can engage with government. Examples of techniques used for citizen information include setting up websites and granting access to public records and data.
- **Citizen consultation:** Information is conveyed from the public to the government, following a process the government initiates: it provides information and invites citizens to contribute their views and opinions. The main purpose of citizen consultation is to improve decision making, by ensuring that the views and experience of those affected are considered, that innovative and creative options are taken into account, and that new arrangements are workable. Examples include public opinion surveys, focus groups, workshops/seminars, public hearings and public comment on draft legislation. For example, in Israel the Planning Administration is using computerised interfaces and other mechanisms for citizen consultations: First, “IPA consultation arenas” in selected topics or issues where the Planning Administration is presenting an issue and invites the wide public to share their insights, recommendations and thoughts on a certain issue. These are presented online and are examined and serve as inputs in the process of elaboration and decision making Second, the “Wake up city project”, initiated by the Planning Administration was a competition that took place in 2016. The aim was to identify innovative tools and ideas to address the main urban challenges in Israel, and thus it was open to professionals and the general public.

Box 1.30. Different stages of citizen engagement in policy making (cont.)

- Citizen participation and empowerment: Information is exchanged “two ways”, between the public and the government, through a dialogue into which the opinions of both parties feed. Citizen participation and empowerment require a relationship founded on the principle of partnership. It recognises the autonomous capacity of citizens to discuss and generate policy options; it requires governments to share the agenda-setting power and to commit to taking into account policy proposals generated jointly in reaching a final decision. Finally, it requires citizens to accept the higher responsibility for their role in policy making that accompanies greater rights of participation. Examples of participatory decision making and participatory budgeting include citizen juries and citizen forums.

Source: OCDE (2015), *Governing the City*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264226500-en>; “Planning Administration: Yousay programme”, <http://yoursay.iplan.gov.il/planning/home>; “Planning Administration: Wake-up city project”, www.wakeupcity.co.il.

Public participation can also support building trust in government. Cities in Israel are characterised by different types of relationship with the government. Especially in cities with a majority of Arab population, such as Umm al-Fahm, trust in government both towards the local and the national level is often lacking (see Chapter 4). Informing and involving the residents in planning decisions of their city can create greater transparency and support building trust in government (Jabareen, 2014). Residents must be meaningfully involved in the policy decisions and plans that will shape the future of their communities (see Box 1.10). In Umm al-Fahm, this is particularly critical because of the nature of land ownership; community revitalisation and the provision of services and amenities for residents will likely require the co-operation of exiting home owners to help reorient and reshape the urban form wherever possible, ensuring that necessary infrastructure is being built. Critical steps in this direction have been undertaken by the Planning Administration that especially in minority settlements designs comprehensive plans through a public participation process. Still, there are some unique challenges in the public participation processes which require adaptable solutions. The city, together with other community actors and levels of government, should work to develop a strong culture of civic engagement and champion community successes in urban development. In turn, local governments need to be properly resourced to build their public engagement capacities and share best practices.

Summary and outlook

The planning system in Israel is anchored in the Planning and Building Law of 1965 that defines planning institutions and authorities, the types of plans and the hierarchy between them. It is centralised and provides strong oversight of local planning decisions. The national government plays a key role in land-use planning; it provides the majority of representatives for the planning institutions at the national level (the National Planning and Building Committee) and the regional level (District Planning Committees). It therefore not only has the power to guide development through the creation of binding national and district master plans, but is also responsible for the approval of many plans at the local level.

Development in Israel is guided by the issuing of building permits, which must comply with the strictly hierarchical system of spatial planning documents. Within this system, overly detailed or outdated plans – especially at the local level – contributed to long building permit approval times as building applications often had to be accompanied by amendments to existing plans. Thus, district planning committees, who are responsible for approval of local plans, were occupied with evaluating numerous small scale plans as opposed to projects of regional importance. These inefficiencies in the planning system have contributed to delays in the already long housing production process. As will be described in Chapter 2, the supply of housing did not keep pace with the population growth in Israel, resulting in a significant housing shortage.

Recent reforms have sought to address the rigidity and inefficiencies of the planning system by streamlining planning procedures and increasing the flexibility of plans. For example, in 2014, Amendment 101 to the Planning and Building Law resulted in an additional shift of planning authority from the regional to the local level. A greater decentralisation is expected to free up planning resources at the district level, shortening the approval processes for projects of regional importance. The process of decentralisation should allow local authorities to create a strategic vision for their municipality and to directly react to their citizen's needs. The case studies for Netanya and Umm al-Fahm following in Chapter 3 and Chapter 4 will highlight land-use objectives of the two cities and their main obstacles to plan implementation. National frameworks and policies affect local land-use planning and urban development in various ways, which will be described for both cities as land is a critical issue in achieving inclusive and sustainable growth objectives.

Notes

1. Subnational governments are local (regional and local) governments and state governments (in countries with a federal or quasi-federal government system).
2. The Minister of Finance (or his representative) who will be chairman; 13 members of the government; the director or its representatives from the Planning Administration (will be deputy chairman); the director of the National Parks and Nature Reserves Council or his representative; the mayors of Jerusalem, Tel Aviv, Haifa and Beer Sheba; the mayors of 2 other municipality, the chairman of 3 local council, other than a regional council, and the chairman of 2 regional council; a person with professional training in housing and building; one member registered in the Engineers and Architects under the Engineers and Architects Law, 1958; one representative of a women's organization; a representative of the Technion, Israel Institute of Technology; a representative of the settlement institutions; a professional trained in sociology; a representative from a public organisations concerned with environmental protection; a representative of an organisation engaged in social and welfare; a representative of the younger generation (for details, see State of Israel, 1965: Art. 2).
3. The deposit phase refers to the release of the plan for public view, which is specifically intended for people are adversely affected by the plan and who wish to object to its approval. Those are the individuals or bodies who have legal standing in the objection procedure that follows the deposit phase.
4. The 75% rule is only allowed if no economic damage is expected with respect to the remaining owners that are involved.
5. Some minor changes in building appearance and internal layout of residential buildings are allowed without a building permit.
6. The difference between master and detailed plans may prove very vague. Since both plans can include detailed directives, it is not uncommon to amend a detailed plan which is at odds with the relevant master plan by giving the amendment an official master plan label. Thus, the plan hierarchy remains intact.
7. Unless there are accessories (for example: a terrace, a retaining wall or even, a tree) attached to the expropriated property, in which case the owner must be compensated for those.
8. The information provided by the Bank of Israel refers to several phases that constitute the housing production process and some of them are associated more with plans initiated by the public sector. Thus, phases such as feasibility examination, development plan preparation, marketing, issuing tenders for development contractors are mostly not relevant for a plan initiated by a private developer.
9. The average number for large residential plans refers to plans with at least 200 housing units and that are approved by the district committees and the Vatmal.

10. Under amendment 76, the power of local authorities was only extended if the master plans were broad enough to qualify and if the plans were less than 10 years old.
11. For the period 2014-19, the Planning Administration allocated about ILS 311 million towards manpower, equipment and other capacity building measures. This sum comes on top of a large scale professional teaching system designated for local planning committees and their staff and a budget of about ILS 70 million for the preparation local comprehensive plans.

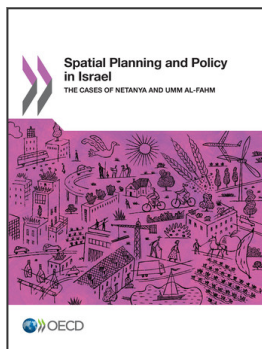
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