

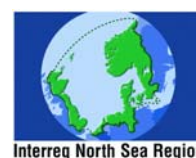
**The Wadden Sea Region: A Living Historic Landscape**  
**Conservation and Management of the Landscape and Cultural Heritage**  
**in the Wadden Sea Region**  
**Legal and Planning Instruments**

**Elaborated by Wadcult**  
**LancewadPlan**

**(Integrated Landscape and Cultural Heritage Management and**  
**Development Plan for the Wadden Sea Region)**

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## 1. Introduction

An outline of the administrative structures and the legal-administrative and planning instruments including economical instruments of the three countries pertaining to the landscape and cultural heritage of the Wadden Sea Region including relevant sector developments is given in this chapter. The aim is to provide an overview of the main structures and instruments in the countries also with reference to the Wadden Sea Region to enable defining the main issues of conservation and management in conjunction with the evaluation of the conservation and management status of the heritage, and as a next step develop recommendations for common criteria and guidelines. Because of the complexity of the item, the outline is confined to describing the main issues and developments.

## 2. Institutional Setting

In The Netherlands, the overall responsibility for the conservation and management of the landscape and cultural heritage is located at the state level. The Ministry of Agriculture, Nature Management and Foodquality is responsible for nature conservation and landscape management including cultural landscapes and the preservation of historical gardens, forests and agricultural land of estates through the Nature Conservation Act 1998 respectively the Natural Beauty Act and a number of national policy plans (such as the new national policy plan on physical planning, 2006 into force) and management regulations.

The Ministry of Education, Culture and Science is responsible for the state policy on archaeology, historical buildings, monumental sites and towns and villages. The most important instruments are the Monument Act and the Cultural Plan. The Monument Act defines tasks and responsibilities of the different authorities. The general principle of the Act is to give the government level, which is most suited for executing the stipulations of the Act, the responsibility.

The Ministry of Housing, Physical Planning and Environment is responsible for the national physical planning and the protection of the soil according to the Physical Planning Act and the Environmental Management Act. Several national policy plans have been issued including the key planning policy plan for the protection of the Dutch Wadden Sea which are relevant also for the overall management of the landscape heritage.

The provinces and the municipalities have a substantial degree of planning authority within their territory. Whereas the overall national planning is entailed in national policy plans; each province elaborates regional policy plans e.g. a regional physical planning document. The regional physical plans focus, to a larger extent, nowadays on the landscape and cultural values of the region, and the provinces are therefore important actors regarding the management of the landscape and cultural heritage. The municipalities are responsible for the municipal planning taking into account the national and regional policy plans. Contrary to regional plans, the local plans are legally binding for the citizens. Local plans can address also heritage conservation and management.

In Germany, the management of the landscape heritage to the extent defined as natural areas is regulated according the Federal Nature Conservation Act, which is a federal framework law implemented by state legislation. Further landscape management, physical planning and conservation and management of the cultural heritage is basically a competency of the federal states ("Länder") which the federal government has no authority for.

In Lower Saxony, the State Ministry of Culture and Science is responsible for the protection of archaeological sites and build monuments according to the Lower Saxon Monument Protection Act as the supreme authority. The Lower Saxon State Monument Service, which is the intermediate authority in this field identifies and registers the monuments. Its expertise is the legal condition for applying the Monument Protection Act by the monuments protection

authorities, which are the county councils being the subordinate authorities and the Ministry for Culture and Science the supreme one.

The State Ministry for the Environment is responsible for the State Nature Protection Act, which also provides the possibility to protect cultural landscapes. The counties are the subordinate authorities applying the law and issuing the physical planning of the state territory and regional plans for the counties. The State Service for Nature Protection ("Niedersächsischer Landesbetrieb für Wasserwirtschaft, Küsten- und Naturschutz") issues the nature protection area orders and planning as the intermediate authority. The municipalities are responsible for the local plans and construction plans implementing the local plan into actual use. The local plans are crucial for the management of the heritage and the municipal authorities are therefore essential for the conservation and management of the landscape and cultural heritage.

The administrative and management structures of Schleswig-Holstein are comparable to those of Lower Saxony. An essential difference is that in Schleswig-Holstein there is no district government level. The State Ministry of Agriculture, Environment and Rural Areas is the supreme state nature conservation authority in the framework of the State Nature Conservation Act. The State Agency for Nature and Environment is the intermediate nature conservation authority, for the territory of the Wadden Sea national park, the National Park Agency is the intermediate authority, and the county councils are the lower conservation authorities. The State Nature Conservation Act is applicable to the protection of nature areas and historical cultural landscapes. The ministry also issues a state program for landscape management and regional landscape policy plans.

The Secretariat of the State (Die Staatskanzlei des Ministerpräsidenten) is now responsible for the protection of the cultural heritage in the framework of the State Monument Protection Act, which was carried out before by the dissolved Ministry of Culture and Science. The State Agency of Archaeology and the State Agency for Monument Protection are the intermediate authorities, and the county councils are the lower authorities in this field. The intermediate authority of the State Monument Agency is responsible for cataloguing, research, assessment, registration and protection of monuments. The task of the subordinate authority is the realization of the Monument Protection Act and the approval of actions where the Monument Act is applicable. In the latter case, the intermediate authority must be consulted. Further fields of engagement for the lower authorities are information and consulting with regard to municipal planning.

The Ministry of the Interior is responsible for the overall physical planning for the state of Schleswig-Holstein. An overall state physical planning program has been elaborated in conjunction with five regional programs. The municipalities are responsible for the local plans as in Lower Saxony and in relevant cases, the state agencies for archaeology and monuments will be consulted to safeguard those interests.

The county councils as subordinate authorities for nature and monument protection have a high degree of planning authority within the framework of the state physical planning programs and regional developing plans. They are however not legally binding for municipal development plans. Aspects in the latter not in line with the supreme plans are not supposed to handicap the aims of nature and monument protection or should be integrated in case it is of major interest for planning.

The intermediate authorities of the Ministry of Rural Areas are the Agencies of Rural Areas. The one responsible for the Wadden Sea area and the coastal areas is the agency in Husum. The lower authorities are the county councils. The responsibility of the Ministry of Rural Areas is the promotion of a modern agriculture and fishery, aiding the rural areas in their economic, social and cultural development and coastal protection. The agency in Husum is responsible for the realization and support of the physical planning, e.g. for

agriculture, village development, rural road construction, rearrangement of the rural structure, tourism and coastal protection. Besides the regional plans the county development plans realize the physical planning on the communal level.

In Denmark, the situation with regard to spatial planning and management changed significantly as of 2007. In the framework of the governmental reform the number of municipalities was reduced from 275 to 98 municipalities. The 16 counties, which until 2006 were responsible for planning in the rural area were dissolved and most of their responsibilities and staff were transferred to the municipalities. The overall responsibility for conservation and management of the landscape and physical cultural heritage is vested at national authorities. The Forest and Nature Agency of the Ministry of Environment has the overall national planning authority and can issue guidelines for planning to the local authorities. The Agency has the overall responsibility for the preservation and conservation of the valuable landscapes. Since the Agency is also the competent authority for, a. o., nature protection and restoration, it has an overall responsibility for aspects, which have an impact on the conservation and management of the cultural landscape.

The Danish Cultural Heritage Agency of the Ministry for Cultural Affairs is responsible for the cultural environments, historical monuments including archaeological sites in situ and the conservation of built monuments and of urban preservation. The agency is also responsible for the protection and rescue of archaeological sites, excavation, and preservation of antiquities and the sole authority for the preservation of built monuments. The Ministry of Ecclesiastical Affairs is responsible for managing churches and churchyards.

The municipalities are responsible for the physical planning. They issue municipal plans which have a timeframe of 12 years and are revised every 4 years. The municipalities have moreover obtained competencies in accordance with the Nature Conservation Act, e.g. registration and protection of specific nature types and protection lines around historical monuments. Even though the municipalities do not have a specific competence in terms of preservation of archaeological sites and built monuments, they play an important role in the management of cultural landscapes. The municipal plans can entail stipulations for the preservation of urban areas. The local plans elaborated for specific areas entail binding rules for, a.o., preservation of cultural environments.

### **3. Legal, Administrative and Planning Instruments**

#### *3.1 Legal and Administrative Instruments*

International conventions and treaties of relevance for the protection and management of the heritage are the Malta Convention (1992), the Granada Convention (1985), the European Landscape Convention (2000), all established within the Council of Europe and the World Heritage Convention (1972), which is a global convention.

The Malta Convention entered into force in 1995 and updates the provisions of a previous Convention adopted by the European Council in 1969. The Convention makes the conservation and enhancement of the archaeological heritage one of the goals of urban and regional planning policies. It is concerned, in particular, with arrangements to be made for the cooperation amongst archeologists and towns and regional planners in order to ensure an optimum conservation of archaeological heritage. The Convention hence basically stipulates that member states embed the archeological values in physical plans and carries out an investigation in case of major development projects, e.g., according to an environmental impact assessment. The aim is to conserve the archeological heritage in situ, and if this is not possible to conserve it ex situ whilst the costs for the excavation is to be born by the originator of the plan. The Convention has been ratified by Germany in 2002. It is expected that the ratification in the country law will follow soon, for instance with the upcoming amendment of the Monument Protection Act in Schleswig-Holstein.

The main purpose of the Granada Convention, which entered into force in 1987, is to reinforce and promote policies for the conservation and enhancement of Europe's heritage. It also affirms the need for European solidarity with regard to heritage conservation and is designed to foster practical cooperation amongst the Parties.

The European Landscape Convention aims at encouraging public authorities to adopt policies and measures at local, regional, national and international levels for protecting, managing and planning landscapes throughout Europe. It covers all landscapes, both outstanding and ordinary that determine the quality of people's living environment. The text provides for a flexible approach to landscapes whose specific features call for various types of action ranging from strict conservation through protection, management and improvement to actual creation. It also provides for a Council of Europe Landscape Award, to be given to local or regional authorities or a non-governmental organization, which introduce exemplary and long-lasting policies or measures to protect, manage and plan landscapes. The Convention has entered into force. Denmark signed the Convention in 2000 and ratified it in 2003.

The primary mission of the World Heritage Convention is to identify the world's natural and cultural heritage considered to be of outstanding universal value. More than 160 states have signed the Convention. It draws up a list of properties called the World Heritage List. States nominate the properties for inclusion in the List and ensure their preservation. Both natural, cultural and mixed properties can be included in the list. To be included in the List a property must meet the criteria as prescribed by the Convention for outstanding universal value. A cultural property must also fulfill a test of authenticity, and a natural property must meet the conditions of integrity. This means that it must be demonstrated that a property is something exceptional not found elsewhere in the world and that it will be preserved for future generations.

Of importance is also the European legislation relevant for nature and environment protection in the Wadden Sea Area, in particular, the Bird and Habitat Directives. Any projects or plans in the designated birds and habitat areas, constituting the Natura 2000 network, must be made subject to a proper assessment of the impacts and, in case of significant impacts, the plans and projects must not be granted. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. This will also serve to protect the landscape and cultural-historic values of the Wadden Sea as practically the whole Wadden Sea has been or will be designated as birds and habitat areas, the so-called NATURA 2000 area.

The primary relevant instruments in The Netherlands are the Monument Act, the Nature Conservation Act 1998 and the Environment Management Act. The Monument Act enables the designation of historical buildings and archaeological sites as protected monument and village, and cities as protected contours of villages and cities. Currently there are about 46,000 protected monuments and 315 protected contours of villages and cities. 1,600 sites have been protected as archaeological monuments, however there can be more than one object per site. Recently, a large archeological site containing many objects has been legally protected as an archeological reserve as the first of its kind in The Netherlands. The Monument Act allows for granting subsidies for restoration and maintenance of historical buildings only.

The Nature Conservation Acts is also the implementation of the EU Bird and Habitat Directive (Natura 2000) in the legal system. It allows for the protection of natural monuments and natural beauty. Even though the primary objective is the protection of areas and objects

of natural importance, habitats and species, the designated areas of which there are more than 200 also encompass areas of cultural-historical value as e.g. grasslands, marshes and duck decoys. Conservation aims and management plans have to be established for the designated Natura 2000 areas, in collaboration with the manager and the owners. It is also possible to support the management of such areas financially. Since recently the revised Nature Conservation Act and offers the provinces the opportunity to designate so-called protected landscape contours. The policy plan on Physical planning asks the provinces to delimit the (new designated) national landscapes.

The large majority of the Dutch Wadden Sea Conservation Area has been declared a Natura 2000 area. This designation will, in conjunction with the application of numerous other instruments, in particular the third key planning decision on the Waddensea (hopefully into force in 2006), safeguard the landscape and cultural-historic values of the area including archaeological values such as ship wrecks in the western Dutch Wadden Sea. This third key planning decision on the Waddensea gives special attention to conservation of the landscape, cultural historic and archeological values.

On the provincial and municipal level several policy plans are made and instruments are renewed. All three provinces have a new policy plan on physical planning, which gives landscape, archeology and cultural history a distinctive place in the physical planning as values to be taken seriously into account. Municipalities for instance have to make assessment (and policy plan) of the quality of the visual landscape in their process of physical planning..

The Environment Management Act enables the designation of soil protection areas. Archaeological and historic landscape elements can, as has been demonstrated in various cases, play a role when a decision is taken on the designation of such an area.

In Lower Saxony, the relevant acts are the Lower Saxon Monument Protection Act and the Nature Protection Act. The Monument Act defines buildings and archaeological monuments or sites including all executive measures requiring their protection. The protection of landscape is confined to an area of the immediate environment of monuments which directly influences the optical relations of the monument and its settings. The classification of a historical landscape as a monument is a mere theoretical possibility. A monument is defined by its monument character itself and is immediately protected by law, which means that an official announcement is not necessary.

The Lower Saxon Nature Protection Act also allows for the protection of historic-cultural landscapes, however, this is used only to a limited extent. The Lower Saxon Wadden Sea Conservation Area is designated national park by state law. The designation will also provide for the protection of the cultural and landscape heritage.

As in Lower Saxony, the relevant laws in Schleswig-Holstein are the State Monument Protection Act and the State Nature Protection Act. The Monument Protection Act enables the protection of the cultural heritage whereas the State Nature Protection Act can be applied for the protection of historic-cultural landscapes. The Schleswig-Holstein Wadden Sea Conservation Area is designated national park by state law. The act was amended in 1999 and entailed, a.o., an extension of the territory of the national park. The National Park law provides in conjunction with the Excavation Protection Order issued for the North Frisian Wadden Sea a protection of the cultural and landscape heritage of the national park including the archaeological values of the area. The stipulations of the law restrict and forbid activities, which potentially destroy the archeological remains, respectively require a permit according to the Excavation Order. An amendment of the State Nature Protection Act has been admitted by the state parliament on the 7<sup>th</sup> of March 2006. The main changes are the abatement of landscape development plans and plantation structure plans. The Monument Protection Act is subject to amendment by the end of 2006 or beginning of 2007 according to the Malta Convention.

Archaeological monuments according to the Monument Protection Act are all archaeological objects and structures that are beneath or on top of the soil, bogs or in water. Only the registration in the monument list gives a known object a legal protection. Unmapped objects are subject to announcement to the competent authorities. Within the 4 weeks as of the announcement, they are then under temporary protection. This usually applies to construction sites where archaeological remains are affected. The State Monument Agency is allowed to stop all building actions and to survey and excavate the site. A financial contribution of the originator of the construction is not foreseen but will most probably be in an amended State Monument Act. Whereas the duration of the survey should not delay the continuation of work for too long due to financial interests.

Historical Gardens and Parks are generally protected. The registration in the monument list allows for an area of protection around the object or structure. The procedure of registration into the list of monuments is conducted by the intermediate authorities. Still there is a possibility of the supreme authority, i.e. the ministries, to intervene taking account of and weighing various interests. The State Development Guidelines Act provides a basic framework for the state physical plan and regional physical plans.

Basis for the integration of cultural assets into spatial planning are the federal Spatial Planning Act and the State Development Principles Act, which endorse the preservation of historical landscape characteristics, monuments and contexts as basic principle for spatial plans and planning measures.

In Denmark, the primary relevant acts are the Planning Act, Nature Protection Act and the Listed Buildings and Preservation of Buildings and Urban Environments Act.

The Planning Act directs the municipalities to establish municipal plans in which areas for various purposes and issues are designated. Among these are areas for landscape, areas for cultural heritage/cultural environments and buildings for preservation. The plans shall describe the values and include instructions for how to protect them.

The Nature Protection Act aims at protecting nature including its landscape and cultural-historic values and at improving, restoring and creating areas of significance for landscape and historical interests. The Minister of the Environment, municipal councils and the Danish Nature Conservation Council may propose areas to be protected to fulfill the aims of the law including cultural-historic aims. The protection is implemented by the local protection councils and results, for privately owned land, in financial compensation or purchase by the authorities. The protection of landscape and cultural heritage by order according to the act is rarely used where the cultural heritage is the main interest. The acts furthermore entail stipulations on general protection zones. There is a general protection zone of 300 meters around churches and 100 meters around visible ancient monuments. The aim is to protect the landscape environment of the objects and the archaeological values in relations to the objects

The Museum Act aims to secure the cultural and natural heritage in connection with the physical planning and preparation of excavation work, etc., including archaeological and natural-historical excavation tasks in relation hereto. Through cooperation with the planning and conservation authorities, the Minister for Culture and the state-owned and state funded museums shall work to preserve significant assets worthy of preservation for posterity. The planning authorities shall involve the relevant state-owned or state funded cultural heritage museum when preparing a regional, municipal or local plan affecting assets worthy of preservation.

The museums shall perform document control in the consultation phase regarding published planning material and may perform investigation and documentation tasks within their areas of responsibility with a view to ensuring that the planning material takes into account the

presence of significant assets worthy of preservation. The Minister for Culture shall inform the planning authorities of the presence of significant assets worthy of preservation which are of importance to planning.

The municipalities shall inform the relevant cultural heritage museum not later than at the time of granting building permission, permission to extract raw materials or an exemption from the rules on preservation of ancient relics or monuments under the Nature Protection Act. When granting building permission the municipality shall inform the applicant of the contents of the Museum Act. The municipality shall inform the relevant cultural heritage museum of applications received for demolition or other building projects which will entail significant changes in the use or function of buildings, settlements or other cultural heritage.

It is prohibited according to the Museum Act to alter the state of ancient monuments. Parceling out, land registration and transfer of ownership of land, whereby new boundaries are established though ancient monuments, is also prohibited. It is prohibited to treat the soil within a distance of 2 meter of those objects. Monuments must, as a rule, be more than 100 years old to be defined as an ancient monument. Most visible monuments have a protection zone of 100 meter.

The Museum Act entails a general protection for stone and earth walls. It is not allowed to change the state of those without an exemption from the municipalities. The inclusion of earth and stonewalls contribute to maintaining historical structures in the landscape. If those objects are more than 100 years old, they can also be registered as ancient monuments encompassing a more strict regulation. Also, the construction of public facilities in the rural area must take account of the landscape and cultural historic values.

The Act also protects archaeological remains on the seabed as, e.g. settlement sites, fortifications and wrecks. The monuments are protected against direct damage as well as against damage caused by alterations of the seabed. The Museum Act also stipulates that if tombs, settlements etc. are found during excavation work, the work shall be stopped and be reported to the Cultural Heritage Agency of the Ministry of Culture which decides whether a research excavation will be done. If it is decided that the monument must be preserved on the spot, it will become subject to the stipulations of the Nature Protection Act.

The Listed Buildings and Preservation of Buildings and Urban Environments Act aims at protecting buildings of a special architectural and cultural-historic value which are more than 50 years old. Buildings may however be listed irrespective of their age when this is due to their outstanding value or special circumstances. The preservation order may include the immediate surroundings of buildings to the extent that they form part of a whole which is to be protected. The Cultural Heritage Agency initiates preservation on the basis of a systematic inventory of buildings. Currently about 9,000 buildings are subject to a preservation order.

### *3.2 Planning Instruments and Policy Plans*

In the Netherlands, the state government lays down the overall guidelines for physical planning in national policy plans as the 5<sup>th</sup> National Policy Plan on Physical Planning of which a draft was issued in January 2001 and entered into force in February 2006. The plan is subject to a hearing procedure and subsequent approval by parliament. The plan designates major parts of the dwelling mound region in the provinces of Groningen and Friesland as protected areas (national landscape).

The overall protection and management of the Wadden Sea is also laid down in a national planning document, the Wadden Sea Key Planning Decision. This document is subject to revision in 2001 and it is expected that the new third physical planning decision Wadden Sea will enter into force in 2006 and entail also the protection of the landscape, cultural-



historic values, archeology (shipwrecks) as one of the central aims. The central aims of this policy document will be, in combination with the policy lines of the provinces and municipalities of the Wadden Sea region, elaborated in a Management & Development plan Wadden Sea region. Other relevant policy plans are the Nature, Forest and Landscape Policy Plan, the Culture Note and the Architecture Note, all issued in 2000.

Of particular interest is the Policy Plan on Cultural Heritage and Physical Planning – the “Belvedere” Policy Plan (1999) – which entails the overall policy planning intention for the cultural heritage. The plan launches a new overall planning vision in conjunction with projects and financial support for those initiatives. Furthermore, the Act on the Restructuring of Rural Areas can be used to restructure an area taking account of the cultural-historic values.

Landscape and cultural-historic values are formally comprised by environmental impact assessment studies (EIS) in The Netherlands. However, in practice these values are not always included in EIS. The Belvedere Plan therefore declares that cultural-historic information in EIS should be sufficient and complete and should play an equal role with regard to developing and weighing alternatives. In the revised EIA Decree (1999) protected archaeological sites are added to the list of ‘vulnerable areas’, for which specific regulations are in force. Apart from the EIS, the Belvedere Plan encourages other authorities to make use of the so-called Cultural-historic Impact Assessment on a voluntary basis, as a support in decision making.

The provincial governments issue regional physical plans in accordance with the national guidelines. To an increasing extent, these plans take account of the conservation and development of the landscape and cultural heritage. The implementation of plans is progressively done by integrated planning, in which all sector aims are combined to a vision on the regional development. Landscape and cultural heritage are integrated in the planning and implementation. Therefore, all three Wadden Sea provinces are performing mapping of their cultural heritage and revising their policy. The Province of North-Holland also has its own list of protected monuments.

The Wadden provinces all have taken into account landscape and cultural history values in their new policy plans on physical planning and oblige the municipalities to include them too.

The municipalities issue local plans, which are legally binding for the citizens. These plans do not always take full account of the cultural and landscape values although recently a significant improvement has been realized. The major problem is not the inclusion of specific conditions in the plans with respect to the landscape and cultural-historic values, but sustaining the conditions in practice.

As a specific example of a planning and management instrument can be mentioned the covenant concluded for the conservation and management of the cultural and landscape values of the Middag-Humsterland marsh area between the state government authorities, the regional governments, municipalities, the landowners and non-governmental organizations. This plan will enable the maintenance of the values and at the same time create development perspectives for the landowners and strengthen awareness and recreational activities.

Lower Saxony has both an overall state planning, as well as regional and municipal plans. The regional physical plan of the counties states the general lines of regional development and is enforced by the county councils. The statements of the regional plan have to be incorporated in the local plans. Mostly the statements of the regional plans are too general to be useful for measures of protection of cultural heritage. The local plans issued by the municipalities are crucial for the protection of the cultural remains in the planning stage. Here a detailed input of expert knowledge is possible with regard to measures for using the parcels of interest for protection. The local plans have to be incorporated in the actual

building execution plans, which state the actual use of the parcels and which entail detailed stipulations on the protection.

The planning system of Schleswig-Holstein is similar to the Lower Saxon one. A state physical plan is issued by the Ministry of the Interior. This gives the general frame for regionally oriented development plans, also issued by the same ministry. For the North Sea coast, regional plans IV and V apply. The Ministry of Agriculture, Environment and Rural Areas is responsible for the general landscape program and for the issue of the regional landscape development plans, covering the same areas as the regional plans. Therefore plan IV and V apply to the coastal region. A new regional plan and a new landscape development plan for region IV have been issued in 2002. The regional plan for Region V, as well as the landscape development plan, was actualized in 2005. The actual revision of the State Nature Protection Act includes the future abatement of landscape development plans. On a local level, landscape plans are issued by each community. These plans provide measurements and requirements for nature protection and landscape maintenance. They are also a basis for planning in more thematic plans as building guideline plans (Bauleitpläne) and physical plans (Raumordnungspläne).

Landscape development plans and local landscape plans are also meant to register and assess the natural resources as well as to work out recommendations to support the protection and development of these. Landscape development plans display areas more concrete and differentiated which are pointed out in the landscape development program. Regionally important areas or those which require protection or development are added.

Landscape plans are supposed to provide complete information on the state of nature and landscape in a municipality. They also offer recommendations for building guideline planning, city and village development in accordance with nature protection. For specific sectors in local planning there are more concrete plans, such as plantation structure plans (Grünordnungspläne), which are also subject to abatement by the revision of the State Nature Protection Act. For 75% of the municipalities in Schleswig-Holstein, landscape development plans already exist. In order to ensure the integration into overall planning the items relevant for nature protection have to be included into the physical planning programs and building guideline plans. The state physical planning program of 1998 describes perspectives of general spatial development which have to be made more precise through regional development plans. Communal authorities are supposed to be involved in the process of creating physical plans.

Building guideline plans (Bauleitpläne) are made on a municipal level. Nevertheless, the state planning authorities are involved and supervise the concordance of the local plans with state planning.

According to the State Planning Act, regional development concepts on county level are now voluntary coordinating instrument aiming at bridging the gap between regional and local spatial planning and to deliver integrative concepts for local economic development. These concepts are often already taking account of the importance of cultural landscape and other cultural assets for regional development, at its best in regarding protection and use of cultural landscape as guiding principle like in the regional development concept of North Frisia issued in 2003. The islands and Hallig island of North Frisia have their own regional development concept. An already dated county development plan exists for Dithmarschen while the county of Pinneberg is elaborating and discussing a new development plan.

The Planning Act in Denmark aims, a.o., at creating and maintaining valuable urban areas and landscapes through state and local planning. The country is divided into three planning zones: an urban zone, a rural zone and a summer cottage zone. Building in the rural zone requires a permit by the municipality. The Minister of Environment is responsible for planning on the national level. The state issues directives for the national planning act as basis for planning on the municipal level. The municipal plans are an important instrument for

protection of the landscape and cultural environment. The municipal plan divides the rural area into zones of particular interest. The cultural historic interests and especially the cultural environments must be enhanced and guidelines for actions be elaborated. Furthermore, the municipalities must establish guidelines for the establishment of undisturbed zones around churches in the rural area. Local plans are not endorsed by the ministry any longer, though the ministry can decide to sanction plans which go against national interests

The municipalities are also responsible for the protection and preservation of buildings and urban environments. Municipal plans are not directly binding for property owners of buildings worth preserving but they establish a framework for legally binding local plans. A local plan may prohibit parceling out, construction, regulate urban development including preserving settlements and urban environments. A local plan may contain provisions on preserving existing buildings so that buildings may only be demolished, converted or otherwise altered with the permission of the municipal council.

The Ministry for Culture supports the local conservation and planning by a.o. elaborating Culture Heritage Atlas' which describes towns, buildings, historical environments, culture landscapes as well as culture environments in one or several municipalities. A Culture Heritage Atlas is a further development of the Municipality Atlas. There has up till now been produced atlas' for 74 of the 275 "old" municipalities.

### *3.3 Financial Instruments*

In The Netherlands, there is a comprehensive arrangement of financial instruments to support the conservation and management of the landscape and cultural heritage. These include subsidies and tax reductions for owners and other fiscal instruments.

The rules and regulations encompass, e.g., subsidies for the maintenance of historical parks, gardens and estates, contributions to valuable landscapes, nature restoration and management programs and purchase of land also with valuable cultural historic heritage. Examples of such instruments are the Nature and Landscape Management Program, which is a program for supporting financially nature management and agricultural nature management, the 'KOMPAS for the North' generates financial support from national and regional authorities alike. Provinces and municipalities all have their own rules for co-financing the conservation and restoration of landscape and cultural-historic elements such as dykes, dwelling mounds, churches, wooded banks, wheels, pools.

The Belvedere policy plan in 1999 gave an impulse to another way of thinking and dealing with cultural historic values. Since that time the Belvedere project initiated and stimulated numerous concrete projects, also financial.

A new financial instrument is the long term national investment budget on behalf of rural areas (ILG), coming into force 2007. The provinces have to make specific investment plans during 2005 and 2006 (a period of transition) and will be the executors.

Due to the discussions about the actual quality of the Wadden Sea and the allowance of gas extraction in the area there will be a special fund ( 800 mil € over 25 years) for the benefit of the nature quality and sustainable development of the Wadden Sea region. Projects will have to meet several criteria and be co-financed to receive funding.

In Lower Saxony, the financial support for nature and cultural landscape protection issues mainly comes from EU funding as well as from, or in combination with, the regular state budget in various forms. Private funding still plays a lesser role, but is felt of increasing importance. In the last few years the amount of financing out of the state budget is decreasing rapidly. Important still are the much used possibilities of tax mitigation for monument owners.

In Schleswig-Holstein, the financial support of monument protection is confined to the monument fund which is financed by private investors. For private monument owners applies the modernization program issued by the investment bank Schleswig-Holstein.

Financial support for nature and cultural landscape protection comes mostly from the regular state budget. 7-8 % of the area of Schleswig-Holstein is subject to protection programs, which excludes the Wadden Sea National Park. The national support program for nature and landscape provides money for areas of national importance and focuses on land acquisition.

The Nature Conservation Foundation S-H is a foundation of public law and purchases or rents areas for nature protection. A co-operation between the Archaeological Monument Agency and the Foundation ensures that more sensitive archaeological monuments will be included. As areas under the administration of the Foundation can have a substantial size they are in addition often important for the protection of historical landscapes.

The Ministry of Agriculture, Environment and Rural Areas financially supports the set-aside (Flächenstilllegung) of agricultural land with bonus payments. A certain amount of set-aside is mandatory by law for, so far, 8,5 % of the land of farms with cultivated land of more than about 17 acres, except organic farming. The subsidies per acre can be increased by existing historical landscape elements, such as ditches, hedgerows, ponds, walls and other, more natural features which are therefore themselves eligible for financial support. The law and the subsidies provide a good opportunity in order to preserve historical landscapes while still contributing to the income of farmers.

In Denmark, financial instruments are available in the framework of the Nature Protection Act for nature restoration, which will also, in relevant cases, take account of the cultural environment. Subsidies and loans can also be granted for buildings which are preserved according to the Monument Act. Owners of preserved buildings can also deduct maintenance expenses in the income tax. The Urban Renewal Act also provides for subsidies for preservation and restoration of houses and buildings. Finally, it can be mentioned that annually an amount is allocated to the restoration and maintenance of ruins and ancient monuments.

#### **4. Sector Developments and the Cultural and Landscape Heritage**

The above description entails an overview of how the cultural and landscape heritage is protected and managed in the framework of the relevant laws, regulations and planning instruments. The maintenance and management of the heritage is however, to a significant extent, also determined by the sector developments which have an impact on the protection of the heritage and whether and to what extent the legal, policy and management instruments for those sectors can be applied to protect and management the landscape cultural-historic values.

The integration of the protection interest in the relevant sectors can occur in concrete cases through a close contact with the relevant sector authorities in the form of making the national interest apparent and visible and by integrating the protection interests in the sector legislation, including providing for financial means. In the following, a brief outline of some of the main issues are given.

In Germany, it is primarily in concrete cases in which the interests of the landscape and cultural heritage will be taken account of. One of the causes is that there has been designated no valuable cultural environments opposed to natural areas which has made distinguishable the national interests of cultural environments.

In Denmark, the National Forest and Nature Agency I Denmark is developing a method to characterize the landscape. The method is based on the British Landscape Character Assessment. It includes the historical landscape as a subject, but it is not a designation of or a plan for culture environments. The method is ready for use in July 2006. The plan is to have a guidance note for the municipalities ready by January 2007, when they take over the planning for landscapes from the county councils. There is a potential for an integration of

the natural aspect, the landscape and the cultural historic values in the Danish policy, because those interests are the responsibility of the same local authority

In The Netherlands, it can easily be stated that the cultural and historical aspects of the landscape hardly played a major role by the restructuring of the towns and landscape in the period between 1945 and 1985. Housing plans, industrial parks, infrastructure and land re-allocation schemes were carried out with limited concern of the cultural values. Only major monuments and historical towns and villages were protected. At the end of the 1980s, this improved significantly and the awareness of the values of the landscape and cultural heritage has rapidly grown. A totally new trend has been set by the Belvedere Plan, which is now being 'translated' into the regional Physical Planning Plans as well. This means that restructuring the landscape will take place only if the cultural-historic values are taken into account in the planning.

The physical planning is hence an essential element in carefully planning town, village and industrial developments, which have a significant impact on the cultural landscape including developments in the rural areas.

Farming is doubtless the most essential activity, which has the most significant impact on the maintenance and development of the cultural-historic landscape. Farming is predominantly subject to the common agricultural policy of the European Union and can be regulated only to a limited extent on the national and regional level.

As in other countries in The Netherlands, major changes are taking place in the agricultural structure. On the Wadden Sea islands, a development towards biological production, traditional regional products and agrarian nature management (for geese, meadow birds and vegetation) takes place. Conservation of the landscape and cultural heritage plays a secondary role. On the mainland scale enlargements continues in several sectors. In some sectors, agrarian production is changing from bulk-production towards quality-production. Also, a broadening of products takes place. In addition to grassland and traditional products on arable land such as potatoes, sugar beets and wheat new products like bulb-fields, vegetables, maize and greenhouses have been introduced.

The development of greenhouses in, e.g., the northwestern part of Friesland and northeastern part of Groningen draws specific attention. This development has been stimulated by the national and provincial governments. The initial location of these enterprises did not take into account the landscape and cultural-historic value of the region. For the allocation of new greenhouses, an integrated planning and design process has been followed, in which the landscape and cultural-historic values was one of the subjects of investigation

In some areas agrarian nature management and agrarian tourism plays a (minor) role in obtaining an appropriate income. Although there is growing awareness of traditional regional products, this is not always linked to the landscape and cultural heritage policy.

In Denmark, the county councils must designate environmentally sensitive areas in the framework of the regional plans on the basis of which environmental subsidies can be given. Those designations and other EU agricultural regulations do not take account of the cultural environment, however, it will contribute to the maintenance of the landscape heritage.

On the Dutch Wadden Sea islands, pine forestation took place in the first half of the previous century to prevent the dunes to be blown away. Because of the effects of pine on the natural water reserves there is a process going on of changing pine forests into foliage forest The management of the dunes and the forests is aimed at a more ecological development. On the mainland, scattered small woods are planted, especially close to villages or on the sites of former castles and pastures. A regulation to stimulate the transformation of agricultural land into plantations is hardly used. Forestation of the open marshland is undesirable from a

landscape point of view. Therefore, the Province of Groningen has set strict conditions to the location whereas the Province of Fryslân leaves the decision of the allocation to the municipalities.

The network of roads has also been extended in the coastal marsh areas in the past period, both the local, regional and national networks. In Denmark, the National Forest and Nature Agency is consulted on the road constructions of national interests early in the process in the framework of the Nature Protection Act. In the approval of the construction, also account is taken of the cultural historic landscape values. In Germany the State Services for Monument Care are just as well fully participating in planning projects of public interest. The growing acceptance of the cultural landscape as a value of its own can be seen in the new motorway projects near Hamburg (A 26 "Altes Land", A22).

Overhead electricity cables and the booming business of wind turbines constitute a potential impact on the cultural and natural landscape. In particular in recent years the construction of wind turbines in the coastal marsh area and near shore has developed because of the policy of developing sustainable energy sources and the suitability for wind energy in those areas. In the Danish Wadden Sea Area, there is a regional planning for wind turbines which allows for the establishment of single turbines whilst prohibiting the establishment of wind turbine parks in the marsh area.

In The Netherlands, new national roads or railways are not planned in the marsh areas. There still are regional and local initiatives for harbor enlargements. In the approval of local and regional roads the landscape and cultural-historic values (e.g. of a dyke) is progressively taken into account. The discussion on wind turbines primarily focuses on the impact on nature and the landscape versus the environmental benefits. Increasingly policy aims at replacement and combination of individual turbines into concentrated wind turbine parks, on industrial estates or along main infrastructure. The construction of solitary wind turbines is no longer encouraged.