

Planned changes to the LEP NRW (date of draft: 15 December 2017)

Information about how to read the synopsis:

Left-hand column: The specifications and explanations that accompany the current LEP text in which changes were made. If a specification or explanation is not rendered *in full*, this will be pointed out.

Middle column: Here you only find the sections in which changes were made to the text, i.e. sections that were not changed do not appear again in the middle column. Sections where the text was changed are emphasised using *italics*. If entire specifications or paragraphs of the former LEP are deleted, the text will be shown crossed out or this will be pointed out in some other appropriate way.

Right-hand column: Reasons for the intended changes to the LEP text

Specifications (objectives and principles) are in **bold**; and only the **titles of the explanations are in bold** and *italics*.

Reasons

Content

With the implemented changes, the state development plan (LEP) which has been into force since February 8th, 2017, has been changed in some points. The reason for the intended changes are the altered political objectives of the state government.

These include the aim to ensure that rural regions and conurbations have equal development opportunities. To this end, municipalities are to be given more flexibility and decision-making powers when it comes to land-use planning and new residential areas and business areas, including in places with fewer than 2,000 residents, are to be specified as needed.

These changes are designed to create incentives for the protection and creation of jobs and for the protection of value chains.

Furthermore, regional planning thus contributes to making sufficient space available for business. The LEP thus contains, among other things, new specifications on settlement development, the use of renewable energies, traffic infrastructure and raw materials supply.

The development of wind energy is increasingly met with reservations among the population. The changes of locational designations for the use of renewable energies are designed to encourage acceptance for the use of wind turbines and to strengthen municipal decision-making power.

It is our aim to present a flexible and sustainable overall regional planning concept that provides long-term planning security for the state, which leaves sufficient leeway for regional and urban development plans and at the same time leaves sufficient space for the development for our economy in line with our needs.

Reasons for the specifications of the LEP and the associated considerations are laid out in the introduction of the LEP, in the environmental report and in the explanations to the various objectives and principles.

Environmental assessment

In accordance with § 8 ROG [Spatial Planning Law], an environmental report was drawn up for the intended changes of the LEP NRW. This report takes into account the provisions of the ROG for the environmental assessment and methodically follows the environmental report associated with the current LEP NRW in accordance with generally recognised standards. The core of the environmental report is the description and assessment of a possible environmental impact for the planned individual changes of the LEP in uniformly structured test sheets.

The environmental report comes to the general conclusion that, with regard to the intended changes of the LEP, no specific spatial impact on environmental protection goods can be described. However, overall it can be expected that some planned changes to the LEP will lead to a more intensive utilisation of free space. On lower planning levels this is expected to lead to specific adverse effects for individual environmental protection goods (e.g. as a result of land consumption). These planning levels must then carry out their own more specific environmental assessments.

Procedure

In accordance with § 7 para. 7 ROG, the provisions of the ROG, in addition to the drawing up of regional development plans, also apply to their changes, amendments and repeal.

The “*Gesetz zur Änderung raumordnungsrechtlicher Vorschriften*” (act on the amendment of regional planning provisions) (§ 9 paragraph 1), which came into force on 29/11/2017, lays down the obligation that the public and public bodies insofar as they are affected are to be informed of the drawing up of the development plan. In addition, the public bodies are to be requested to provide information about future or already implemented plans and measures and about their time schedule in as far as they can be of significance to the planning process. The same applies to other information available to them that can be useful for the looking into and assessing of the material for consideration.

The guideline itself does not specify a time when the information should be provided; however, according to the explanatory memorandum (BT-Drs. [German Parliamentary Document] 18/10883, page 46) it should happen in the “*period prior to the first draft plan*”.

In the absence of specific federal requirements about the procedure, the information can be provided in a variety of ways.

The state planning authority fulfilled this obligation immediately after the cabinet resolution on the implementation of the scoping process; it did so by scheduling a press conference at which the intended changes were presented (which then appeared in the press across the Land), and at the same time all intended changes were published online in synoptic form.

In addition, there will be cross-border coordination with the neighbouring states of North Rhine-Westphalia in accordance with § 9 para. 4 ROG. (Note.: More details about the progress of the procedure can be added after the participation procedure).

| Geltender LEP (Stand: 08. Februar 2017) | Änderung LEP (Stand: 15. Dezember 2017) | Anlass/Begründung: |
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| 2-3 Objective: Settlement areas and open spaces | 2-3 Objective: Settlement areas and open spaces | |
| <p>As a basis for a sustainable and environmentally sound development of land use taking account of settlement-structural requirements, NRW must be divided into areas giving precedence either to primarily fulfilling settlement functions (settlement areas) or to primarily fulfilling open space functions now or in future.</p> <p>The settlement growth in municipalities is taking place within settlement areas designated in regional plans.</p> <p>Notwithstanding sentence 2, a settlement development is permitted in built-up areas situated within areas designated as open space in regional plans; the settlement developments in these built-up areas must be geared towards the needs of the local population and business, taking into account the requirements of landscape development and the preservation of agricultural land.</p> <p>Exceptionally, building land and development areas can be represented and designated in open space designated in regional plans if</p> | <p><i>Notwithstanding sentence 2, a settlement development is possible in built-up areas situated within areas designated as open space in regional plans, which, in these built-up areas, must be geared towards the needs of the local population and businesses, taking into account the requirements of landscape development and the preservation of agricultural land.</i></p> <p><i>The development of such a built-up area into a general settlement area is possible if the demand for settlement areas has been demonstrated and a sufficiently diverse range of basic supply infrastructure facilities are guaranteed</i></p> <p>Exceptionally, building land and development areas can be represented and designated in open space designated in regional plans if - <i>these are immediately adjacent to the settlement</i></p> | <p>The reason for the intended changes are in particular the following statements of the coalition agreement:</p> <p><i>“Rural regions and conurbations need equal development opportunities again. To this end, we will give back the flexibility and decision-making competence to our municipalities which they need for land-use planning. We will enable the allocation of new residential areas and business areas to meet demands, including in places with fewer than 2,000 residents. (Page 35)</i></p> <p><i>“Animal husbandry facilities in open space should continue to be permitted. Stables do not belong in industrial areas.” (Page 35)</i></p> <p><i>“Animal husbandry facilities are an integral part of agricultural landscapes. Commercial areas are also</i></p> |

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| <ul style="list-style-type: none"> - this is a requirement of the special intended public use as structural installations for the federal or NRW government or - the relevant building uses are clearly subordinate to an appropriate designation as open space. | <p><i>area and the specification of the settlement area is not based on a clearly identifiable border,</i></p> <ul style="list-style-type: none"> - <i>if these are reasonable extensions of existing businesses or a business relocation between neighbouring built-up areas,</i> - <i>if they are an appropriate development of existing sites of significant cultural, recreational, sports, leisure and tourism facilities, including holiday and weekend homes, mainly characterised by buildings</i> - <i>if they are animal husbandry facilities that are no longer subject to the privileges set out in section 35 para. 1 no. 4 of the Federal Building Code or</i> - this is a requirement of the special intended public use as buildings for the federal or NRW government or - the relevant building uses are clearly subordinate to an appropriate designation as open space. | <p><i>scarce in rural areas. We therefore revoke with immediate effect the obligation that new stables for commercial animal husbandry can only be established in industrial or commercial areas.” (Page 88)</i></p> |
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| | <p><i>2-4 Objective Development of districts located in free space specified by the regional plan</i></p> | |
| | <p><i>A settlement development adapted to the existing infrastructure is possible in districts within regionally-specified free space taking into consideration the requirements of landscape development and the preservation of agricultural land.</i></p> <p><i>In addition, the needs-based development of such a district into a general settlement area is possible if the infrastructure is sufficiently diverse to ensure basic supply.</i></p> | <p>“Rural regions and conurbations need equal development opportunities again. To this end, we will give back the flexibility and decision-making competence to our municipalities which they need for land-use planning. We will enable the allocation of new residential areas and business areas to meet demands, including in places with fewer than 2,000 residents.(page 35)</p> |

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| Annotations to 2.3 Settlement areas and open spaces | Annotations to 2.3 Settlement areas and open spaces | |
| <p>(Note: the 4 initial paragraphs of the annotations for objective 2-3 are omitted)</p> <p>General Settlement Areas designated in regional plans are based on an existing or planned minimum level of 2,000 residents; generally, no service functions significant to the central place system can be developed below this level.</p> | <p>(Note: the 4 initial paragraphs of the annotations for objective 2-3 are kept)</p> <p>General Settlement Areas designated in regional plans are as a <i>rule</i> based on an existing or planned minimum level of 2,000 residents; generally, no service functions significant to the central place system can be developed below this level.</p> <p><i>Settlement expansions must overall meet the supralocal demand and therefore have to be coordinated supralocally.</i></p> <p><i>The complete orientation of the settlement development towards settlement areas designated in regional plans would however not be conducive to the interests of existing smaller built-up areas. The stipulated concentration of settlement development to settlement areas designated in regional plans thus also affects the growth-oriented allocation of settlement areas for immigration and business relocations or new settlements</i></p> <p><i>The self-development of smaller built-up areas with a capacity of fewer than 2000 residents for the needs of the local population and the development of existing businesses is possible. Built-up areas with fewer than 2000 inhabitants generally do not have a geographically bundled range of public and private service facilities and public utilities. Nevertheless, in rurally structured</i></p> | <p>see above</p> |

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| <p>Where demand for settlement areas exists but there is no possibility of further developing settlement areas already designated in a regional plan, the development of a small built-up area may be allowed, which will then have to be designated as a settlement area in the regional plan. This is expressed in the formulation “fulfil now or in future” in Objective 2-3 and is possible notwithstanding Principle 6.2-1.</p> | <p><i>areas appropriate public services and more attractive village centres are desirable (as part of self-development through active and integrated village development) in order to preserve them for the long term. In large, sparsely populated and dispersed municipalities, such as in the Eifel region or the Sauerland region, some of these built-up areas can take on service functions (e.g. schools) for other, even smaller built-up areas. The local population may require additional housing, for example due to the natural population development in the built-up area, decreasing occupancy densities of residential units, rising living space requirements of the residents, redevelopment or restructuring measures in existing buildings, for example in order to remedy urban development shortcomings. The personal requirement framework also covers the supply planning of building land and development areas for the local population for a medium to long-term planning horizon.</i></p> <p><i>In addition, a small built-up area in accordance with clause 4 can be developed into a General Settlement Area.</i></p> <p><i>Where demand for settlement areas exists but there is no possibility of further developing settlement areas already designated in a regional plan, the development of a small built-up area may be allowed, which will then have to be designated as a settlement area in the regional plan. This is expressed in the formulation “fulfil now or in future” in Objective 2-3 and is possible notwithstanding Principle 6.2-1.</i></p> <p><i>Here, the settlement area requirement is deemed proven if the determined need for the municipality in</i></p> | |

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| | <p><i>accordance with objective 6.1-1 covers this and the advantages of such a settlement development compared with an extension of existing General Settlement Areas outweigh the disadvantages</i></p> <p><i>This may be the case, for example, if the possibilities for the development of existing settlement areas are limited due to:</i></p> <ul style="list-style-type: none"> <i>– conflicting regional planning open space specifications such as regional green corridors, areas for the protection of nature, such as forest etc.,</i> <i>– other conflicting specialist legal provisions like water protection areas, flood plains etc.,</i> <i>– conflicting topographical or natural landscape conditions,</i> <i>– non-realizable or high-cost extensions of the developments or the necessary technical infrastructure (e.g. expansion of the entire sewer system in a General Settlement Area just to be able to realise additional individual residential areas).</i> <p><i>This can be also be the case when the allocation of new General Settlement Areas for residential use is only possible in existing General Settlement Areas for commercial uses. Short distances to the town centre can also have an advantage over extending existing General Settlement Areas in locations far away from the centre.</i></p> <p><i>With regard to a possible further development of a General Settlement Area, a particular possibility are smaller built-up areas which already have a sufficiently wide range of basic supply infrastructure facilities or it is assured to them for the future.</i></p> | |

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| <p>The term “settlement development” as used in the Objective encompasses in particular the designation of building land and development areas in urban development plans as well as developments as defined in Section 34 of the Federal Building Code. The settlement development thus defined must take place in the settlement areas designated in regional plans and – to a limited extent – in smaller locations designated as open space in regional plans.</p> <p>With the exception of the specification in Objective 2.3, sentence 2, the representation and designation of construction projects are for</p> <ul style="list-style-type: none"> - national or NRW government projects which are necessary for pressing public interest reasons but cannot be located either in the settlement area or in the built-up areas in the open space designated in the regional plan (e.g. projects required in NRW’s interests with a special intended use such as correctional facilities or forensic clinics), - projects functionally assigned an open space use and clearly subordinated in the potentially available area. | <p><i>The term “settlement development” used in the objective encompasses the designation of building land and development areas. The settlement development thus defined must take place in the settlement areas designated in regional plans and – to a limited extent – in smaller locations designated as open space in regional plans.</i></p> <p><i>The first bullet point of the exception clarifies that building land and development areas can exceptionally be presented and specified if they are not located within the settlement area specified by the regional plan, but are only adjacent to these. This takes account of the regulation in section 35 para. 2 LPIG DVO, according to which spatially significant planning and measures should generally only be graphically represented from a land requirement of more than 10 ha. However, if the plan provider made a deliberate and useful distinction between settlement area and open space (e.g. the area boundary is reflected in natural factors such as the course of a river, in existing infrastructure or a geographical border) then the exception is not applicable. The relevant information may not only be drawn from the graphic representation but also from the plan explanation or the accompanying documents (e.g. OVG NRW, judgement of 30/09/2014 – 8 A 460/13 -, BRS 82 no. 111)</i></p> <p><i>Die Ausnahme gilt auch für Bauleitplanungen für die Erweiterung oder Änderung von Tierhaltungsanlagen, die infolge dessen nicht mehr der Privilegierung gemäß § 35 Abs. 1 Nr. 4 BauGB unterliegen und deren geplante Erweiterung oder Änderung im funktionalen Zusammenhang mit dem bereits bestehenden Betrieb steht.</i></p> | |

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| | <p><i>Projects permitted in the open space remain unaffected by this. To that extent, municipalities can do finely tuned urban land-use planning for projects permitted for open space. This means that the development of businesses within the context of section 35 para. 2 Federal Building Code and section 35 para. 4 no. 6 Federal Building Code is also possible. In this context, we refer to section 35 para. 4 no.6 Federal Building Code and the relevant supreme court decision.</i></p> <p><i>The second bullet point enables land-use planning with regard to the relocation of businesses between adjacent built-up areas, i.e. from one built-up area to the other. This may for example be required to optimise your own operations or because small-scale businesses such as small handicraft businesses rely on customers, supplies and staff from the surrounding area. To protect agricultural land, this exception does not include the relocation of businesses from the settlement area to the built-up areas located in the open space specified by the regional plan. This would run counter to a concentrated settlement development and the associated efficient utilisation of infrastructures and the economical use of land.</i></p> <p><i>The exception of the third bulletin point is designed to make more efficient use of and give economic prospects to the existing structures for culture, recreation, sports, leisure and tourism in North Rhine-Westphalia. With this exception, land-use planning can be done at isolated already existing sites mainly through spatially significant cultural, recreational, sports, leisure and tourism facilities including holiday and weekend home areas. The existing sites within the meaning of the</i></p> | |

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| <p>Where the LEP contains specifications for other projects, e.g. projects as defined in 6.6-2 (Locational requirements for certain facilities for recreation, sport, leisure and tourism), 8.3-2 (Locations for waste treatment plants) and 10.2-5 (Solar energy use), these are not affected.</p> | <p><i>exception include the actually existing projects that are approved or approvable according to §§ 30 ff. Federal Building Code. Regarding the appropriate development of an existing site, the details under the second bullet point can be referred to.</i></p> <p><i>When it comes to the development of existing sites, which as new sites would meet the site requirements of objective 6.6-2, there are no further requirements.</i></p> <p><i>The exception also applies to urban development plans for the extension or change of animal husbandry facilities, which consequently are no longer subject to the privilege set out in section 35 para. 1 no. 4 Federal Building Code and whose planned expansion or change is already functionally related to the existing business.</i></p> <p><i>Where the LEP contains specifications for other projects, e.g. the specifications of chap. 6.5 regarding projects as defined in 6.6-2 (Locational requirements for certain facilities for recreation, sport, leisure and tourism), 8.3-2 (Locations for waste treatment plants) and 10.2-5 (Solar energy use), these are not affected.</i></p> | |

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| <p>The exception does not apply to urban development plans for commercial enterprises which do not enjoy the privileges set out in Section 35, para. 1, No. 1, 4 or 6 of the Federal Building Code after establishment or no longer enjoy them as a result of an extension or alteration. This exception must be applied within narrow boundaries. Changes to existing, previously approved enterprises, which serve solely to maintain the previously approved enterprise, continue to be permitted pursuant to Section 35, para.1, No. 4 of the Federal Building Code, especially if they are not connected with a structural expansion and serve the purposes of environmental protection or animal welfare. For this reason, a finely tuned development plan will not be ruled out either.</p> <p>(Note: the following 4 paragraphs of the annotations for objective 2-3 were moved upward, if still relevant (look in the middle column)</p> | <p>The exception does not apply to urban development plans for commercial enterprises which do not enjoy the privileges set out in Section 35, para. 1, No. 1, 4 or 6 of the Federal Building Code after establishment or no longer enjoy them as a result of an extension or alteration. This exception must be applied within narrow boundaries. Changes to existing, previously approved enterprises, which serve solely to maintain the previously approved enterprise, continue to be permitted pursuant to Section 35, para.1, No. 4 of the Federal Building Code, especially if they are not connected with a structural expansion and serve the purposes of environmental protection or animal welfare. For this reason, a finely tuned development plan will not be ruled out either.</p> <p>Structural works within the meaning of the fifth bullet point are in particular correctional facilities and forensic clinics.</p> | |
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| | <p>Annotations to 2-4 Development of districts located in free space specified by the regional plan</p> | |
| | <p>The districts situated within the regionally-specified free spaces also have development prospects. The needs-based development of these districts (in accordance with § 35 para. 5 LPIG-DVO [State Planning Act – Article on the Implementation of the State Planning Act] Places of residence with a capacity of fewer than 2000 residents) is possible in the context of the viability of the existing infrastructure.</p> | |

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| | <p><i>Here, needs-based means, with reference to a district, that the natural population development in the district, decreasing occupancy densities of residential units, rising living space requirements of the residents or redevelopment or restructuring measures in existing buildings such as in order to remedy urban development shortcomings are taken into account. In this connection, supply planning of building land and development areas is possible for a medium- to long-term planning horizon. In addition, in these districts, an urban development completion or extension of housing land is possible provided the existing infrastructure is viable.</i></p> <p><i>In addition to the exception specified in Objective 2-3 for existing businesses or business relocations, for the businesses located in small districts (e.g. agriculture and forestry, crafts and trade) extensions on site or business relocations within the district, e.g. from the town centre to the edge of the town, are possible. This also applies to the securing under the development plan of business-specific land reserves for the business in the district.</i></p> <p><i>Needs-based also means that the settlement development enabled in the settlement area and in the districts must be covered by the existing demand for settlement areas. In addition, such settlement developments in these districts must not be contrary to the alignment of the settlement development with the settlement area.</i></p> <p><i>For the purpose of municipal management and to provide a coherent reason for the above described district</i></p> | |

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| | <p><i>developments, an overall municipal concept with an analysis of the existing infrastructure in the districts, the free capacities and the resulting urban development potential taking into account the existing demand for settlement areas can be useful.</i></p> <p><i>Districts with fewer than 2000 inhabitants generally do not have a geographically bundled range of public and private service facilities and public utilities. A small district, under the conditions set out in paragraph 2 can, however, also be developed into a General Settlement Area.</i></p> <p><i>With regard to a possible further development of a General Settlement Area, smaller districts which already have a sufficiently wide range of basic supply facilities or in which these supply facilities will be created, have a chance to be developed. Such basic supply includes for example a child daycare centre, a town hall or a community centre, a primary school, a church or a supermarket or discount store. In the future, parts of this basic supply, provided there is appropriate broadband provision, can be covered by digital offerings such as online supermarkets or e-health services. In large, sparsely populated and dispersed municipalities, such as in the Eifel region or the Sauerland region, some of these districts can take on service functions for other, even smaller districts. The redefinition of a smaller district as a GSA could also be based on efficient public transport connections.</i></p> <p><i>The development of a small district into a General Settlement Area requires a transparent overall municipal concept about the intended settlement development.</i></p> | |

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| | 5-4 Principle Structural change in coal mining regions | |
| | <i>To avoid structural collapses, the structural change in the coal mining regions should be organised in regional cooperation. To this end, regional concepts for further utilisation must be developed sustainably and be accompanied by new economic developments.</i> | The coalition agreement for the Rheinisches Revier area announces a sustainable outlook and support of the municipalities in managing the structural change. For the Ruhr area, a conference on the future of the Ruhr area is to be announced. Both objectives are given effective support through the regional cooperation of local actors. |
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| | <i>Annotations to 5-4 Structural change in the coal mining regions</i> | |
| | <p><i>At the end of 2018, state-subsidised coal mining in North Rhine-Westphalia comes to an end. In the Rheinisches Braunkohlenrevier, lignite mining and power generation will continuously decline.</i></p> <p><i>The pending structural change in the regions must happen without structural collapse. What is required is strong regional cooperation that brings together the various planning processes. The aim is to successfully implement the subsequent utilisation and concepts for the spaces previously used by mining. At the same time, new impetus for the future of the economy and society must be developed. The state government will support the regions in this process and provide funding.</i></p> <p><i>It will be the responsibility of the regional councils and their committees to utilise their planning tools to ac-</i></p> | |

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| | <p><i>company this structural change without structural collapse. The state government will support the regional councils of Cologne and Düsseldorf to assign the municipalities of the Rheinisches Revier a special position in the allocation of additional industrial and commercial areas without impact in other regions. What's more, in addition to the area of the Ruhr regional association, we are also involved in the structural change of the areas in the Münsterland region affected by the end of coal mining.</i></p> <p><i>The aim is for spatially balanced conditions to strengthen regional growth and innovation potential. The people in the regions, the decision-makers on various levels, the mining companies, the universities and the chambers of commerce and trades must all be involved.</i></p> | |
| <p>6.1-2 Principle: "Land-saving settlement development" model Regional and urban development planning should implement land-saving settlement development in accordance with NRW's model of reducing the daily growth of land for settlement and traffic use to 5 ha by 2020 and to net zero in the long term.</p> | <p>6.1-2 Principle: "Land-saving settlement development" model Regional and urban development planning should implement land-saving settlement development in accordance with NRW's model of reducing the daily growth of land for settlement and traffic use to 5 ha by 2020 and to net zero in the long term.</p> | <p>The reason for the intended changes are in particular the following statements of the coalition agreement:</p> <p><i>"To be able to make more suitable housing land available to communities, unnecessary barriers for the allocation of building land are removed from the regional development plan."</i> (Page 79)</p> <p>The principle in its present form does not mean allocation of land use. Nonetheless, even in the second LEP participation procedure, the 5-ha principle (despite its demotion from objective to principle) was clearly still understood as an unnecessary obstacle for building land development.</p> |

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| <p>Annotations to 6.1-2 “Land-saving settlement development” model</p> <p>The NRW government supports the objective of the national sustainability strategy to reduce land consumption to 30 hectares per day by 2020 across Germany, i.e. to reduce land consumption for NRW to at least five hectares per day in line with its share of Germany’s settlement and transport infrastructure. Its longer-term objective is to achieve net zero land consumption, i.e. building land, open space, transport infrastructure areas and industrial sites are to show no more growth in the land balance sheet.</p> <p>As stated in Section 2, para. 2, No. 6 ROG: “On account of its importance to the functional capacity of the soil, the water balance, animal and plant life and the climate, including the interactions between them, space must be developed, protected or – where necessary, possible and reasonable – restored. [...] The first-time use of open space for settlement and transport purposes must be reduced, in particular by giving priority to exhausting the potential for rehabilitating land, building on vacant lots and other infill measures within urban areas and municipalities, as well as developing existing traffic areas.”</p> <p>The reduction of new land uses is a major task in terms of the future development of NRW. Land-saving and demand-led settlement and transport infrastructure developments will help to avoid possible competition between municipalities, resulting in rising infrastructure costs and increasing economic burdens for the municipalities and their residents. It should be regarded as a development opportunity and not as an impediment.</p> | <p>Annotations to 6.1-2 “Land-saving settlement development” model</p> <p>The NRW government supports the objective of the national sustainability strategy to reduce land consumption to 30 hectares per day by 2020 across Germany, i.e. to reduce land consumption for NRW to at least five hectares per day in line with its share of Germany’s settlement and transport infrastructure. Its longer-term objective is to achieve net zero land consumption, i.e. building land, open space, transport infrastructure areas and industrial sites are to show no more growth in the land balance sheet.</p> <p>As stated in Section 2, para. 2, No. 6 ROG: “On account of its importance to the functional capacity of the soil, the water balance, animal and plant life and the climate, including the interactions between them, space must be developed, protected or – where necessary, possible and reasonable – restored. [...] The first-time use of open space for settlement and transport purposes must be reduced, in particular by giving priority to exhausting the potential for rehabilitating land, building on vacant lots and other infill measures within urban areas and municipalities, as well as developing existing traffic areas.”</p> <p>The reduction of new land uses is a major task in terms of the future development of NRW. Land-saving and demand-led settlement and transport infrastructure developments will help to avoid possible competition between municipalities, resulting in rising infrastructure costs and increasing economic burdens for the municipalities and their residents. It should be regarded as a development opportunity and not as an impediment.</p> | |

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| <p>The decline in population projected for NRW, at least in the long term, may make it easier to achieve the aim of reducing land consumption as pursued in this model and the national sustainability strategy. However, the growth in settlement land cannot be reduced within the planning period of the LEP without additional management by the spatial planning authorities.</p> <p>The aim must be to achieve economically efficient land use in accordance with the three essential strategies: Avoidance (active area conservation and land-saving construction), release (activation of spaces between buildings, depaved areas in the housing stock) and revitalisation (revitalisation and recultivation of derelict land and urban redevelopment).</p> <p>Regional planning is to implement the principle by ensuring that the regional planning authorities in the formulation procedure record the contribution from regional plan amendments to the daily growth of settlement and transport infrastructure for their planning area and report it to the NRW planning authority in accordance with Section 4, para. 4, LPIG (Monitoring). Redesignating settlement areas makes it possible actually to consume this land after the amendment of urban development plans accordingly. The NRW planning authority already evaluates this in the context of its advice to the regional planning authorities in the current procedure with regard to the NRW-wide development of settlement and traffic areas. As the model, in particular the reduction of greenfield land consumption to 5 ha per day by 2020, relates to the indicator "Increase in Settlement and Traffic Areas (SuV)", NRW also continuously evaluates how this indicator is</p> | <p>The decline in population projected for NRW, at least in the long term, may make it easier to achieve the aim of reducing land consumption as pursued in this model and the national sustainability strategy. However, the growth in settlement land cannot be reduced within the planning period of the LEP without additional management by the spatial planning authorities.</p> <p>The aim must be to achieve economically efficient land use in accordance with the three essential strategies: Avoidance (active area conservation and land-saving construction), release (activation of spaces between buildings, depaved areas in the housing stock) and revitalisation (revitalisation and recultivation of derelict land and urban redevelopment).</p> <p>Regional planning is to implement the principle by ensuring that the regional planning authorities in the formulation procedure record the contribution from regional plan amendments to the daily growth of settlement and transport infrastructure for their planning area and report it to the NRW planning authority in accordance with Section 4, para. 4, LPIG (Monitoring). Redesignating settlement areas makes it possible actually to consume this land after the amendment of urban development plans accordingly. The NRW planning authority already evaluates this in the context of its advice to the regional planning authorities in the current procedure with regard to the NRW-wide development of settlement and traffic areas. As the model, in particular the reduction of greenfield land consumption to 5 ha per day by 2020, relates to the indicator "Increase in Settlement and Traffic Areas (SuV)", NRW also continuously evaluates how this indicator is changing by analysing the relevant statistics.</p> | |

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| <p>changing by analysing the relevant statistics.</p> <p>On the one hand, the urban planning level is to implement the principle by continuing to be involved in the settlement land monitoring system, thereby helping to make the consumption of land reserves more transparent. On the other hand, the opportunities to work towards a land-saving implementation of the plan must be exploited, especially when formulating specifications in development plans.</p> | <p>On the one hand, the urban planning level is to implement the principle by continuing to be involved in the settlement land monitoring system, thereby helping to make the consumption of land reserves more transparent. On the other hand, the opportunities to work towards a land-saving implementation of the plan must be exploited, especially when formulating specifications in development plans.</p> | |
| <p>Annotations to 6.3-3 New areas for commercial and industrial use</p> <p>In this case, the “subsequent use of already sealed land including existing infrastructure” referred to in the objective does not mean that non-minor adjustments to meet the current requirements of industry (e.g. broadband expansion, upgrading of existing transport links) can be made.</p> | <p>In this case, the “subsequent use of already sealed land including existing infrastructure” referred to in the objective does not mean that minor adjustments to meet the current requirements of industry (e.g. broadband expansion, upgrading of existing transport links) can be made.</p> | <p>Reason for the deletion: The proper upgrading of a traffic-related development of the above sites is essential for the further development of the site. The existing regulation makes subsequent use more difficult for potential investors.</p> |
| <p>6.4-2 Objective: Use of locations for major projects significant to NRW and involving intensive land use</p> <p>Locations for major projects significant to NRW and involving intensive land use are reserved for spatially significant projects of particular importance for NRW’s economic development which are of an industrial nature and require at least 80 ha of land. This size relates to the planned final stage of completion of a project.</p> <p>Exceptionally, a location can be occupied for project consortia consisting of several businesses, if it has been ascertained that</p> <ul style="list-style-type: none"> – the individual projects are functionally inter-linked and | <p>6.4-2 Objective: Use of locations for major projects significant to NRW and involving intensive land use</p> <p>Locations for major projects significant to NRW and involving intensive land use are reserved for spatially significant projects of particular importance for NRW’s economic development which are of an industrial nature and require at least 8050 ha of land. This size relates to the planned final stage of completion of a project.</p> | <p>The reason for the intended change is in particular the following statement of the coalition agreement:</p> <p>“The newPark is to be a top location for new industry in North Rhine-Westphalia in the coming years. The industrial area on the northern edge of the Ruhr metropolis is to become a location for the industries and jobs of the future. Industrial companies from all over the world are to be welcomed there.” (Page 35)</p> <p>A justification on the basis of structural policy is currently being developed in collaboration with department V A 4 and with RWTH Aachen University, which serves as the basis for a reduction of the minimum area size.</p> |

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| <ul style="list-style-type: none"> – the first project group to be established is by a manufacturing company with a land requirement of at least 10 ha. | | <p>In the newPark example (see report by newPark GmbH), the first part of the development plan only contains a marketable GE-/GI area of 60 ha, because the development of other areas presupposes the realisation of the Waltrop bypass.</p> |
| <p><i>Annotations to 6.4-2 Use of locations for major projects significant to NRW and involving intensive land use</i></p> <p>Locations for major projects significant to NRW and involving intensive land use are reserved for the establishment of projects of particular importance for NRW's economic development. Of particular importance for NRW's economic development are projects, which</p> <ul style="list-style-type: none"> – make a substantial contribution to the creation and safeguarding of jobs (labour-intensive businesses) or – are important to NRW's supply and processing industries (important link in the value chain) or – help to strengthen NRW's innovative capability (companies or networks of companies with new, pioneering products or production processes). <p>The use of the locations by projects which are neither significant to NRW nor involve intensive land use, such as merely company relocations, is generally excluded. However, the following exceptions may be granted:</p> <ul style="list-style-type: none"> – relocations where businesses can no longer expand at their existing location; – the creation of an additional new corporate location while retaining the existing site; – the development of new fields of business by a | <p><i>Annotations to 6.4-2 Use of locations for major projects significant to NRW and involving intensive land use</i></p> | |

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| <p>company.</p> <p>The locations have been primarily earmarked for uses of an industrial nature or of particular importance to industry. Examples include companies in the automotive, mechanical engineering and plant construction sectors, the pharmaceutical, chemical and plastics industries and power systems and control engineering or labour-intensive processing companies in the logistics industry.</p> <p>The locations are not part of the regional supply of land for pollution-emitting commercial and industrial enterprises and are therefore not included in the determination of the regional demand for industrial land (see Section 6.3 of the LEP). The establishment of large-scale retail, leisure, sports or recreational facilities is not taken into consideration (see Sections 6.5 and 6.6 of the LEP).</p> <p>According to the norms of business promotion, the minimum amount of land required for major projects is 80 ha.</p> <p>In a particular justified case, a project group comprising multiple companies may be recognised as a “major project involving intensive land use” subject to the conditions referred to in the objective and expanded upon below. Although each individual project in such a project group has a land requirement of less than 80 hectares, the individual projects are functionally interconnected so that they require at least 80 hectares in total by the final stage of completion. Here too, the size of 80 ha relates to the planned final completion stage of a project group.</p> | <p>According to the norms of business promotion, the minimum amount of land required for major projects is 8050 ha.</p> <p>In a particular justified case, a project group comprising multiple companies may be recognised as a “major project involving intensive land use” subject to the conditions referred to in the objective and expanded upon below. Although each project group has a land requirement of less than 8050 hectares, the projects are functionally interconnected so they require at least 8050 hectares by the final stage of completion. Here, too, the size of 8050 ha relates to the planned final completion stage of a project group.</p> | <p>The term individual sub-project is misleading. A project group is made of individual projects.</p> |

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| <p>The first project group to be established must be by a company with a land requirement of at least 10 ha.</p> <p>The deciding factor is the specific amount of land required by the project as a whole as result of the functional interconnection. Unlike a purely organisational or legal connection, a functional group exists in the relationship between a supplier and the final technical assembly stage or in the manufacture of a product from multiple chemical feedstocks. For example, integrated chemical plants as defined in the Ordinance on Installations Requiring a Permit (4 BImSchV) and UVPG should be classified as a functionally connected project in this context (i.e. a group established to manufacture substances or groups of substances through chemical conversion on an industrial scale, in which multiple units are located close together and are interconnected from a functional point of view). Locating functionally connected projects together on a single site prevents traffic between the individual projects and in any case allows uses which are interdependent.</p> <p>A spatial planning contract, which is also binding on private project initiators, is to be recommended when a site is being used by a functional project group.</p> | <p>The deciding factor is the specific amount of land required by the project as a whole as a result of the functional interconnection. Unlike a purely organisational or legal connection, a functional group exists in the relationship between a supplier and the final technical assembly stage or in the manufacture of a product from multiple chemical feedstocks <i>or between businesses that are part of the same innovation or value creation network</i>. A functional group in this sense would, for example, be an integrated chemical plant according to 4. BImSchV or UVPG (i.e. a group established to manufacture substances or groups of substances through chemical conversion on an industrial scale, in which multiple units are located close together and are interconnected from a functional point of view). This joint placement of functionally related projects in a single site prevents too much traffic volume</p> | <p>This addition makes it clear that not just a chemical park could represent a project group, but rather, project groups can also represent several sectors provided there is a functional association.</p> |
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| 6.6-2 Objective: Locational requirements | 6.6-2 Objective New locational requirements | |
| Spatially significant recreation, sports, leisure and tourism facilities predominantly characterised by structural installations, including areas of holiday and weekend homes must be designated so as to | New spatially significant recreation, sports, leisure and tourism facilities predominantly characterised by structural installations, including areas of holiday and weekend homes must be designated so as | Consequential change as a result of change in Objective 2-3 |

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| <p>take account of environmental, social and urban planning issues.</p> <p>New areas of holiday and weekend homes must be designated directly adjacent to General Settlement Areas.</p> <p>Other spatially significant recreation, sports, leisure and tourism facilities predominantly characterised by structural installations must generally be designated within or directly adjacent to General Settlement Areas or areas for commercial and industrial uses.</p> <p>Exceptionally, other potentially suitable land situated in open spaces may be considered if</p> <ul style="list-style-type: none"> – it consists of derelict land (e.g. former military land earmarked for redevelopment) – provided that it is suitable for such a subsequent use – or suitable built-up areas, and – it has priority for open space functions, and – the interests of nature conservation and landscape management, soil and groundwater protection, emission control, listed buildings and the natural uniqueness of the landscape including the image of the locality and the landscape and their recreational value are taken into account, and – an efficient short connection to the supraregional road network and high-capacity modes of transport (in particular rail, waterway, local public transport) exists or is planned. | <p>to take account of environmental, social and urban planning issues.</p> <p><i>Exceptionally, other possible land areas located in the open space could be considered for new spatially significant sites mostly characterised by buildings including recreational, sports, leisure and tourism facilities:</i></p> <ul style="list-style-type: none"> – it consists of derelict land (e.g. former military land earmarked for redevelopment) – provided that it is suitable for such a subsequent use – or suitable built-up areas, and – priority of open space functions are observed, and – the interests of nature conservation and landscape management, soil and groundwater protection, emission control, listed buildings and the natural uniqueness of the landscape including the image of the locality and the landscape and their recreational value are taken into account, and – an efficient short connection to the supraregional road network and high-capacity modes of transport (in particular rail, waterway, local | |

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| | public transport) exists or is planned. | |
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| Annotations to 6.6-2 Locational requirements | Annotations to 6.6-2 New site requirements | |
| <p>Both private and public recreation, sports, leisure and tourism facilities are making increasing demands on space in densely populated NRW. For example, the number of large-scale leisure facilities alone has risen from 197 in 1997 by about 57% to 309 in 2006, of which 131 are located in areas of a predominantly rural spatial structure (source: ILS Research 2/09 "Moderne Freizeiteinrichtungen in Nordrhein-Westfalen" [Modern leisure facilities in North-Rhine Westphalia], May 2009).</p> <p>According to Section 2 (2) Nos. 2 and 3 ROG, settlement activity should be physically concentrated, land consumption in the open space limited and spatial structures must be designed to reduce traffic pollution and prevent additional traffic. Principles 6.1-8 and 7.1-7 must be taken into account.</p> <p>In NRW there are some 300 areas of holiday and weekend homes in a wide variety of sizes. In the past, there have been repeated undesirable developments aimed at establishing a permanent residential use in these areas, associated with a long-term functional change to the accommodation concerned and the demands on the infrastructure in these areas. Bearing this in mind, areas of holiday and weekend homes are in future to be developed directly adjacent to General Settlement Areas in order to protect the open space from urban sprawl. The development of weekend and holiday home areas should exploit the unique qualities</p> | <p>In NRW there are some 300 areas of holiday and weekend homes in a wide variety of sizes. In the past, there have been repeated undesirable developments aimed at establishing a permanent residential use in these areas, associated with a long-term functional change to the accommodation concerned and the demands on the infrastructure in these areas. Bearing this in mind, <i>new</i> areas of holiday and weekend homes are in future to be developed directly adjacent to General Settlement Areas in order to protect the open space from urban sprawl. The development of weekend and holiday home areas should exploit the unique</p> | <p>In the explanations, the word "new" was added where appropriate.</p> |

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| <p>of the region and safeguard the attractiveness of their landscapes in the long term as a means of promoting tourism.</p> <p>Any other spatially significant recreation, sports, leisure and tourism facilities predominantly characterised by structural installations must generally be designated directly adjacent to General Settlement Areas or areas for commercial and industrial uses. The latter are considered in individual cases, e.g. for reasons of emission control. The conditions for allowing an exception are referred to in the objective; suitable built-up areas are those which, although represented as open space in regional plans, have at least a basic supply of public and private medical and care services on account of their size.</p> <p>Spatially significant recreation, sports, leisure and tourism facilities predominantly characterised by structural installations must be designated as a General Settlement Area for specific uses. The designation of special areas for projects as defined in Section 11, para. 3 of the Land Use Ordinance in spatially significant recreation, sports, leisure and tourism facilities predominantly characterised by structural installations is based on Section 6.5 of the LEP.</p> <p>Regional consultation and cooperation are useful in exploiting and developing the tourism potential of a region and ensuring the sustainability of large recreation, sports, leisure and tourism facilities with extensive supply areas. Account should be taken of the resulting informal plans in the regional plan.</p> | <p>qualities of the region and safeguard the attractiveness of their landscapes in the long term as a means of promoting tourism.</p> <p><i>Any new spatially significant sites</i>, mostly characterised by structural installations including recreational, sports, leisure and tourism facilities, must generally be designated directly adjacent to General Settlement Areas or areas for commercial and industrial uses. The latter are considered in individual cases, e.g. for reasons of emission control. The conditions for allowing an exception are referred to in the objective; suitable built-up areas are those which, although represented as open space in regional plans, have at least a basic supply of public and private medical and care services on account of their size.</p> | |
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| <i>7.1-7 Principle: Use of former military land earmarked for redevelopment</i> | <i>7.1-7 Principle: Use of former military land earmarked for redevelopment</i> | |
| <p>Former military land of a mainly rural nature (e.g. training areas) should be subject to priority specifications and measures to protect nature and the landscape and/or be used for renewable energies. In particular, any sites which are not predominantly characterised by structural installations must be designated for use as open space.</p> | | <p>The principle remains unchanged; here, only the explanations change.</p> |
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| <i>Annotations to 7.1-7 Use of former military land earmarked for redevelopment</i> | <i>Annotations to 7.1-7 Use of former military land earmarked for redevelopment</i> | |
| <p>Because of the peculiarities of military use, former military land earmarked for redevelopment often has special significance for biotope and species protection. This applies in particular to training areas, which have often been created in localities with low-nutrient soils and used extensively when occupied by the military. The former military land of a mainly rural nature which is located in the open space should therefore be prioritised for the purpose of nature and landscape conservation in future.</p> <p>In the case of larger areas of former military land, this may also be advisable as part of a shared use with renewable energy production facilities. However, they should not have a detrimental effect on nature conservation goals. Facilities that take up a lot of land, e.g. photovoltaic power plants should therefore only be considered on already sealed sites.</p> <p>Other uses can also be considered in individual cases.</p> | <p>In the case of larger areas of former military land, this may also be advisable as part of a shared use with renewable energy production facilities. However, they should not have a detrimental effect on nature conservation goals. Facilities that take up a lot of land, e.g. photovoltaic power plants should therefore only be considered on already sealed sites.</p> | <p>Statement in the small government declaration, among other things, by Minister Pinkwart before the Committee on economy, energy and regional planning of the state parliament of NRW, that the use of solar energy should be developed. The deletion simplifies the establishment of open space solar plants on former military land for regions and municipalities</p> |

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| <p>Sites which have not previously been built on or sealed should continue to be preserved for open space functions. Principle 6.1-8 must be taken into account and Objective 6.3-3 observed when the use of areas previously predominantly characterised by structural installations is being considered for a subsequent use involving structures.</p> | | |
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| <p><i>7.2-2 Objective Nature conservation areas</i></p> | <p>7.2-2 Objective Nature conservation areas</p> | |
| <p>The nature conservation areas mapped out in the LEP are to be secured for the state-wide habitat network and specified in the regional plans by defining nature conservation areas. These nature conservation areas are to be preserved and developed through nature conservation and landscape management.</p> <p>The exceptional character and habitat diversity of the nature conservation area mapped out in the LEP, which overlaps with the area of the existing Eifel National Park, is to be preserved and developed.</p> <p>The exceptional character and habitat diversity of the nature conservation area mapped out in the LEP, which overlaps with the area of the current Senne military training area and is owned by federal government, is to be preserved by specifications in regional planning as one of the most important continuous habitat complexes in North Rhine-Westphalia in order for it to be designated national park status.</p> | <p>The exceptional character and habitat diversity of the nature conservation area mapped out in the LEP, which overlaps with the area of the current Senne military training area and is owned by federal government, is to be preserved by specifications in regional planning as one of the most important continuous habitat complexes in North Rhine-Westphalia. in order for it to be designated national park status.</p> | |

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| Re 7.2-2 Nature conservation areas | Re 7.2-2 Nature conservation areas | |
| <p>In the nature conservation areas specified in the LEP, the nature conservation objectives have priority over other spatially significant usage requirements. These areas are to be preserved and developed as a basic structure of the state-wide biotope network.</p> <p>The graphic specification of the nature conservation areas comprises the FFH areas, core bird protection areas, the Eifel National Park, the designated nature conservation areas as well as other valuable nature protection areas that are of special significance for the development of a state-wide biotope network. This also comprises the special protection of areas for which there is the political goal to create a future Senne national park.</p> <p>Objective 7.2-2 paragraph 2 and paragraph 3 serve the regional planning safeguarding of the existing Eifel National Park and the safeguarding of a suitable area for the possible designation of a future “Senne” national park.</p> <p>Unanimous state parliament resolutions from 1991 and 2005 are in place, which assign the strategic goal of designating a national park in the Senne area.</p> <p>There is expert evidence for the suitability of the Senne military training area for such use. Once the Senne military training area is no longer used for military purposes, or to the extent as this is reconcilable, a Senne national park is to be created on the federal areas. The written specifications serve to preserve for the long</p> | <p>In the nature conservation areas specified in the LEP, the nature conservation objectives have priority over other spatially significant usage requirements. These areas are to be preserved and developed as a basic structure of the state-wide biotope network.</p> <p>The graphic specification of the nature conservation areas comprises the FFH areas, core bird protection areas, the Eifel National Park, the designated nature conservation areas as well as other valuable nature protection areas that are of special significance for the development of a state-wide biotope network. This also comprises the special protection of areas for which there is the political goal to create a future Senne national park.</p> <p>Objective 7.2-2 paragraph 2 and paragraph 3 serve the regional planning safeguarding of the existing Eifel National Park and the safeguarding of a suitable area for the possible designation of a future “Senne” national park.</p> <p>Unanimous state parliament resolutions from 1991 and 2005 are in place, which assign the strategic goal of designating a national park in the Senne area.</p> <p>There is expert evidence for the suitability of the Senne military training area for such use. Once the Senne military training area is no longer used for military purposes, or to the extent as this is reconcilable, a Senne national park is to be created on the federal areas. The written specifications serve to preserve for the long</p> | |

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| <p>term the special protection worthiness of the Senne region with the spatial planning funds. In order to preserve uniqueness of the Senne area as one of the most important continuous habitat complexes in North Rhine-Westphalia, the regional plan in particular ensures that the natural conditions are in place for it to be under nature protection as a national park in the future.</p> <p>The threshold for these areas in the LEP is scale-dependent at 150 ha, which is why the LEP can only map out the basic structure of the state-wide biotope network. This means that the regions for the protection of nature are to be specified in the regional plans by defining nature conservation areas (BSN) and, on the basis of an expert nature protection contribution, add other areas to it that are of significance for the regional habitat network.</p> <p>On the basis of the obligation to create a European protected area network “(Natura 2000), North Rhine-Westphalia has reported to the EU a total of 518 FFH [Flora/Fauna Habitat protection] areas and 28 bird protection areas (Stand 2011), which take up an area of approximately 8.4% of the total state territory. The FFH areas are largely designated nature protection areas.</p> <p>The protection of the bird protection areas is already regulated in § 48 c para. 5 LG NW and requires no further specification as a nature reserve, unless in some areas different reasons for protection call for it.</p> <p>In addition to the Eifel National Park and the already legally established nature reserves (from 150 ha), other areas considered valuable for nature conservation</p> | <p>term the special protection worthiness of the Senne region with the spatial planning funds. In order to preserve uniqueness of the Senne area as one of the most important continuous habitat complexes in North Rhine-Westphalia, the regional plan in particular ensures that the natural conditions are in place for it to be under nature protection as a national park in the future</p> <p>(The following sections remain unchanged.)</p> | |

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| <p>and for the state-wide habitat network defined in regional plans (31/12/2014) as nature conservation areas must be included in this set of nature conservation areas.</p> <p>The definition of the nature conservation areas is based on expert assessments of the LANUV[State Agency for Nature, Environment and Consumer Protection] and, on the planning level of the LEP, has been weighed up against other usage requirements. Other spatial requirements continue to be taken into account on lower planning levels in the context of the further specifications of protection areas or measures of nature and landscape protection under inclusion of contractual nature conservation.</p> <p>The designation of protected nature and landscape areas is not decided on in the LEP, but rather at the lower planning level in the context of landscape planning or by the authorities responsible for nature conservation.</p> <p>This includes an examination into the extent to which the objectives and principles of nature conservation and landscape conservation can be achieved through contractual agreements (contractual nature conservation).</p> <p>The definition of nature conservation areas also covers protection-worthy parts of areas that are used for military purposes. With regard to nature protection and landscape maintenance on land that is exclusively or mainly used for the purposes of defence, including the fulfilment of international obligations and the protection of the civilian population or that is designated in a binding plan for these purposes, their intended use must be</p> | | |

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| <p>guaranteed. The objectives of nature protection and landscape maintenance must be taken into account here (cf. § 4 BNatSchG [German Federal law for Nature Conservation]). This does not affect nature protection and landscape maintenance measures based on mutual agreements between the administrations of the military and of nature protection.</p> | | |
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| <p>7.3-1 Objective: Forest conservation and forest consumption</p> | <p>7.3-1 Objective: Forest conservation and forest consumption</p> | |
| <p>In view of their importance for sustainable timber production, species and biotope conservation, the cultural landscape, landscape-oriented recreation, sport and leisure use and climate protection and because of their important function of regulating the landscape and ecosystem, forests must be preserved, protected from inappropriate developments and further developed. To this end, suitable areas of forest are designated in regional plans.</p> <p>Exceptionally, forest areas may only be used in plans and measures if there is a proven need for the desired uses, this cannot be achieved outside the forest and the forest conversion is confined to what is strictly necessary.</p> <p>The erection of wind turbines is possible, provided that this does not have a significant adverse effect on the essential functions of the forest.</p> | <p>The erection of wind turbines is possible, provided that this does not have a significant adverse effect on the essential functions of the forest.</p> | <p>The reason for the intended change is in particular the following statement of the coalition agreement:</p> <p><i>“The enormous development of wind energy is increasingly met with reservations among the population. We want to maintain acceptance for the use of the wind turbines. To this end and taking into consideration legal security and protection of confidence, we will make the following changes:</i></p> <p>[...]</p> <ul style="list-style-type: none"> – <i>We strengthen local decision-making power.</i> – <i>The obligation in the regional development plan to allocate wind priority zones as well as the privileged status of wind energy generation in the forest is lifted.”</i> |
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| <p>Annotations to 6.3-1 Forest conservation and for-</p> | <p>Annotations to 6.3-1 Forest conservation and for-</p> | |

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| <i>est consumption</i> | <i>est consumption</i> | |
| <p>(Note: In the annotations for objective 7.3-1 the last paragraphs were deleted. The paragraphs before them were omitted.)</p> <p>This general specification on an exceptional consumption of the forest by other uses is open to wind energy use in the forest, as a steadily increasing proportion of electricity generation is being changed over to renewable energy and the expansion of wind energy use is set to make a significant contribution to this. Because of the unequal distribution of forest areas, this mostly applies to densely forested regions within NRW.</p> <p>There is no reason to prevent the erection of wind turbines in forests, provided that this does not have a significant adverse effect on the essential functions of the forest.</p> <p>The forest functions as described in Objective 7.3-1 are based on forest function mapping. Where there is no forest function mapping, the functions must be determined individually at each location. A substantial encroachment on the recreation function by wind turbines in the forest presupposes that the effective scope of the planned intervention affects forest areas with an above-average significance for recreation and leisure uses. This can happen, for example, if forest areas are used intensively for recreation and leisure or if the forest areas concerned are the subject of specific tourism development.</p> <p>In sparsely forested areas in which forests are often only small-scale and form islands in landscape areas</p> | <p>(Note: In the annotations for objective 7.3-1 the last paragraphs were deleted. The paragraphs before them were omitted.)</p> <p>This general specification on an exceptional consumption of the forest by other uses is open to wind energy use in the forest, as a steadily increasing proportion of electricity generation is being changed over to renewable energy and the expansion of wind energy use is set to make a significant contribution to this. Because of the unequal distribution of forest areas, this mostly applies to densely forested regions within NRW.</p> <p>There is no reason to prevent the erection of wind turbines in forests, provided that this does not have a significant adverse effect on the essential functions of the forest.</p> <p>The forest functions as described in Objective 7.3-1 are based on forest function mapping. Where there is no forest function mapping, the functions must be determined individually at each location. A substantial encroachment on the recreation function by wind turbines in the forest presupposes that the effective scope of the planned intervention affects forest areas with an above-average significance for recreation and leisure uses. This can happen, for example, if forest areas are used intensively for recreation and leisure or if the forest areas concerned are the subject of specific tourism development.</p> <p>In sparsely forested areas in which forests are often only small-scale and form islands in landscape areas</p> | <p>The changes result from the change of the objective</p> |

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| <p>mainly used for agriculture, forests are generally highly rated for the biotope system, species and biotope protection, the function of regulating the natural balance and landscape-oriented recreation and scenic functions.</p> <p>In these areas, it is also generally safe to assume that sufficient suitable locations for wind turbines are available outside the forest.</p> <p>The financial earnings function of the forest does not generally prevent land from being designated for wind energy use in the forest because only small areas (mainly the foundations) are permanently removed from forestry production.</p> | <p>mainly used for agriculture, forests are generally highly rated for the biotope system, species and biotope protection, the function of regulating the natural balance and landscape-oriented recreation and scenic functions.</p> <p>In these areas, it is also generally safe to assume that sufficient suitable locations for wind turbines are available outside the forest.</p> <p>The financial earnings function of the forest does not generally prevent land from being designated for wind energy use in the forest because only small areas (mainly the foundations) are permanently removed from forestry production.</p> | |
| <p>8.1-6 Objective: Airports in NRW of significance to NRW and the region</p> | <p>8.1-6 Objective: Airports of significance to NRW</p> | |
| <p>The airports in NRW which are of significance to NRW and region are: the airports of significance to the airports: Düsseldorf (DUS) and Cologne/Bonn (CGN) and Münster/Osnabrück (FMO) and the regionally significant airports: Dortmund (DTM), Paderborn/Lippstadt (PAD) and Niederrhein: Weeze-Laarbruch (NRN).</p> <p>NRW's significant airports, including the land used for the airport infrastructure and for airport-related businesses, should be developed to meet demand.</p> | <p>The airports in NRW which are of significance to NRW and region are: the airports of significance to the airports: Düsseldorf (DUS) and Cologne/Bonn (CGN) and Münster/Osnabrück (FMO) and the regionally significant airports: Dortmund (DTM), Paderborn/Lippstadt (PAD) and Niederrhein: Weeze-Laarbruch (NRN).</p> <p><i>The airports Düsseldorf (DUS), Cologne/Bonn (CGN), Münster/Osnabrück (FMO), Dortmund (DTM), Paderborn/Lippstadt (PAD) and Weeze/Niederrhein (NRN) are airports that are sig-</i></p> | <p>The reason for the intended changes are in particular the following statements of the coalition agreement:</p> <p><i>“We will remove the distinction between airports and ports of state and of regional significance in the LEP in order to give all sites the same development opportunities.” (Page 35)</i></p> <p><i>“We will remove the arbitrary distinction in the state development plan of North Rhine-Westphalia between airports and ports of regional and of state significance.” (Page 51)</i></p> |

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| <p>Regionally significant airports and other airports should be safeguarded in line with NRW's air transport programme and the development of its significant airports</p> | <p><i>nificant for North Rhine-Westphalia within the context of the decentralised airport infrastructure. Together with the areas for the airport infrastructure and for airport-related businesses, these must be developed in line with demands in order to integrate the state of North Rhine-Westphalia into international and domestic air traffic.</i></p> <p>Regionally significant airports and other airports should be safeguarded in line with NRW's air transport programme and the development of its significant airports.</p> | <p>Consequential change</p> |
| <p>8.1-7 Objective: Protection from aircraft noise</p> | <p>8.1-7 Objective: Protection from aircraft noise</p> | |
| <p>The population must be protected from the environmental impact of air traffic, including aircraft noise. For this reason, the regional plans must designate an Extended Noise Zone around the significant airports and the military air bases at Geilenkirchen and Nörvenich, which results from the recommendations of the Länder Working Group on Emissions Control [Länderarbeitsgemeinschaft Immissionsschutz (LAI)].</p> <p>In addition, the noise zones designated in regulations under the Aircraft Noise Act (FlugLärmG) must be included in the regional plans for information.</p> <p>For areas within the Extended Noise Zone, development plans and rules must include a note to the effect that the property developers must refer to the considerable noise pollution caused by air traf-</p> | <p>The population must be protected from the environmental impact of air traffic, including aircraft noise. For this reason, the regional plans around the <i>airports of state significance according to objective 8.1-6</i> and the military air bases Geilenkirchen and Nörvenich will designate an extended noise protection zone, resulting from the recommendations of the Länder Working Group on Emissions Control (LAI).</p> | <p>The editorial change results from the changed objective 8.1-6.</p> |

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| <p>fic in the building permit.</p> <p>Where regulations provide for designated noise zones for other regional airports and airfields, an Extended Noise Zone can be designated in regional plans.</p> | <p>Where regulations provide for designated noise protection zones for other <i>airports and airfields</i>, an Extended Noise Protection Zone can be designated in regional plans.</p> | |
| <p>Annotations to 8.1-6 Airports in NRW of significance to NRW and the region</p> | <p>Annotations to 8.1-6 Airports in NRW of significance to NRW and the region</p> | |
| <p>Transport systems form the necessary basis to ensure the efficient functioning of a modern society and economy. In times of increasing globalisation, air transport becomes increasingly important. It guarantees the fastest possible transportation of passengers and goods over long distances.</p> <p>The backbone of NRW's airport infrastructure consists of three NRW-significant airports (Düsseldorf, Cologne/Bonn and Münster/Osnabrück) and three "major" regional airports with airline and charter traffic (Dortmund, Paderborn/Lippstadt and Niederrhein/Weeze-Laarbruch).</p> <p>The airports which are significant to NRW and its regions are designated as priority areas in the graphical representations in the LEP with the symbol for "airports significant to NRW and regions".</p> <p>There is no demand for the construction of new airports in the planning period. NRW's air transport programme of 2010 does not provide for any new airports. Instead, it involves developing and securing existing airports to meet demand. The top-level air traffic authority assesses the demand on a project basis, based on demand forecasts by external experts.</p> | <p><i>In North Rhine-Westphalia, the airports Düsseldorf, Cologne/Bonn, Münster/Osnabrück, Dortmund, Paderborn/Lippstadt and Weeze/Niederrhein with their scheduled and charter traffic form the backbone of a decentralised airport infrastructure.</i></p> <p><i>The airports which are significant to NRW are designated as priority areas in the graphic representations in the LEP using the airport symbol.</i></p> <p>There is no demand for the construction of new airports in the planning period. <i>Instead, it involves developing and securing existing airports to meet demand. Objective 8.1-6 only refers to the possible area safeguarding in the regional plan when required. Beyond a demand-led safeguarding of the area in the regional plan no further support claims can be derived for the state.</i></p> | |

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| <p>The three airports of significance to NRW (Düsseldorf, Cologne-Bonn, Münster-Osnabrück) have a major part to play. In the case of Düsseldorf Airport, the Angerland Agreement on the limits of the airport's expansion and the reduction of aircraft noise must be observed.</p> <p>The airports are also increasingly assuming a role in freight transport. Commercial development at the airports is to be confined to businesses that have an affinity with airports, i.e. to the establishment of enterprises that require a direct link to air transport. This will avoid creating a competitive situation with regional and municipal business locations integrated in urban development plans.</p> <p>For reasons relating to the regional economy and structural policy, regional airports have been promoted in order to balance out locational disadvantages or encourage industrial development. In order to guarantee a sustainable and demand-led provision of airports, regional expansion, reconstruction or conversion projects must be consistent with NRW's air transport programme and the development of airports of significance to NRW.</p> <p>To ensure the demand-led development and designation of airports of significance to NRW and its regions and the integration of the airports of regional significance into NRW's air transport programme and the development of the airports of significance to NRW, the Regional Councils will seek the opinion of NRW's top-level air traffic authority via the NRW planning authority when relevant projects are proposed. The NRW government will decide whether the designation and development of regionally significant airports are con-</p> | <p><i>The Angerland Agreement must be taken into account for Düsseldorf Airport..</i></p> <p>For reasons relating to the regional economy and structural policy, regional airports have been promoted in order to balance out locational disadvantages or encourage industrial development. In order to guarantee a sustainable and demand-led provision of airports, regional expansion, reconstruction or conversion projects must be consistent with NRW's air transport programme and the development of airports of significance to NRW.</p> <p>To ensure the demand-led development and designation of airports of significance to NRW and its regions and the integration of the airports of regional significance into NRW's air transport programme and the development of the airports of significance to NRW, the Regional Councils will seek the opinion of NRW's top-level air traffic authority via the NRW planning authority when relevant projects are proposed. The NRW government will decide whether the designation and development of regionally significant airports are con-</p> | |

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| sistent with the development of airports of significance to NRW. | sistent with the development of airports of significance to NRW. | |
| <p>Annotations to 8.1-9 Ports and waterways significant to NRW (excerpt) [...]. In addition, it is essential to avoid restrictions on port development due to the proximity of neighbouring uses with increasing demands on pollution control.</p> <p>Ports are deemed to be significant to NRW in the NRW Waterway, Port and Logistics Plan based on the following criteria: the volume of freight (over 2 million tonnes per annum), container transshipment on the waterside (over 50.000 TEU (standard Containers) per annum) or their special significance in terms of local economy. [...]</p> | <p>Annotations to 8.1-9 Ports and waterways significant to NRW (excerpt)</p> <p><i>Regional plans may protect further ports – be it the public ports mentioned in the Port Concept – or industrial ports important for Northrhine-Westphalia from another landuse in their vicinity (compare objective 6.3-2) This objective is to be observed by local area planning , too.</i></p> | <p>An addition to the explanations as agreed with the Transport Ministry.</p> |
| | 8.2-7 Principle Energy transition and grid expansion | |
| | <p><i>The regional plans should take into account the requirements of the energy transition and the therefore required expansion of the energy grids as well as the feasibility under the regional plan of the planned lines including the plants necessary for their operation.</i></p> | <p>Through the specifications of principle 8.2-7, the LEP NRW takes account of the requirements of a safe and cost-effective adaptation of the transmission grid to the challenges of the energy transition. It fleshes out and places focus on the principle of § 2 para. 2 no. 4 clause 5 of the ROG. At the same time, the regional planning authorities are called upon, in addition to the requirements of the ROG, to take into consideration this aspect when drawing up the regional plans.</p> |
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| | Annotations to 8.2-7 Energy transition and grid expansion | |
| | The nationwide energy transition requires, among other things, the optimisation and the expansion of the transmission grids to include electricity from renewable energy sources and to avoid structural bottlenecks in the transmission grid. Future-proofing the electricity grids is thus of utmost importance for North Rhine-Westphalia as an energy location. In addition to the adaptation of existing extra-high-voltage lines and the construction of new ones, this requires additional projects such as current inverters (converters). This must be taken into account when drawing up regional plans and making changes to regional plans. Given the diverse land-use requirements in NRW, in this context, to ensure a speedy implementation of the energy transition, there must be greater coordination of the regional planning authorities and specialist planners to promote their regional planning feasibility. | |
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| 9.2-1 Objective: Spatial specifications for non-energy resources near the surface | 9.2-1 Objective: Spatial specifications for non-energy resources near the surface | |
| Regional plans must designate areas for the protection and exploitation of near-surface deposits of non-energy resources as priority areas with the status of suitable areas. | <i>Regional plans must designate areas for the protection and exploitation of near-surface deposits of non-energy resources as priority areas. In special planning-related conflict situations, priority areas with the status of suitable areas must be defined.</i> | In the currently applicable state development plan, raw material supply is managed through the definition of priority areas with the status of suitable areas (concentration zones). With these priority areas with the status of suitable areas, raw material exploitation is focused on these areas in the plans and excluded elsewhere. Such restrictive and complex management has in principle proven successful for special planning-related conflict situations. Here, the definition of concentration |

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| | | <p>zones strikes a balance between the inconveniences suffered by the local residents and the local municipalities because of the excavation and industry's interests in adequate raw materials supply.</p> <p>However, raw material deposits, which in North Rhine-Westphalia are generally widespread but not extensive, are to be assessed differently. Here, there will be no conflict situations, and from a professional perspective no concentration zone planning is required.</p> <p>With the new version of objective 9.2-1, raw material supply is therefore regularly ensured only through priority areas that safeguard the raw material areas without having an additional exclusionary effect.</p> <p>Dispensing with concentration zone planning has the advantage of significantly simplifying the procedure. The planning foundations can be developed much more easily and quickly, and changes can be made much more flexibly.</p> |
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| 9.2-1 Objective: Spatial specifications for non-energy resources near the surface | 9.2-1 Objective: Spatial specifications for non-energy resources near the surface | |
| Regional plans must designate areas for the protection and exploitation of near-surface deposits of non-energy resources as priority areas with the status of suitability areas. | <i>Regional plans must designate areas for the protection and exploitation of near-surface deposits of non-energy resources as priority areas. In special conflict situations, priority areas with the status of suitability areas must be defined.</i> | <p>New: In the currently applicable state development plan, raw material supply is managed through the definition of priority areas with the status of suitability areas (concentration zones). With these priority areas with the status of suitability areas, raw material exploitation is focused on these areas in the plans and excluded elsewhere.</p> |

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| | | <p>Such restrictive and complex management has in principle proven successful for large-scale raw material deposits and special conflict situations. Here, the definition of concentration zones strikes a balance between the inconveniences suffered by the local residents and the local municipalities because of the excavation and industry's interests in adequate raw materials supply.</p> <p>However, isolated rather than large-scale raw material deposits in North Rhine-Westphalia are to be assessed differently. Here, there will be no large-scale conflict situations, and from a professional perspective no concentration zone planning is required.</p> <p>With the new version of objective 9.2-1, raw material supply is therefore regularly ensured only through priority areas that safeguard the raw material areas without having an additional exclusionary effect.</p> <p>Only in particular conflict situations, the regional planning – in line with the previous LEP regulation - can also manage this with the more restrictive planning instrument of the priority areas with the status of suitability areas.</p> <p>Dispensing with concentration zone planning has the advantage of significantly simplifying the procedure. The planning foundations can be developed much more easily and quickly, and changes can be made much more flexibly.</p> |
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| 9.2-2 Objective: Periods of supply | 9.2-2 Objective: Periods of supply | |
| The areas for the protection and exploitation of near-surface deposits of non-energy resources must be designated for a period of supply of at least 20 years for unconsolidated material and at least 35 years for bedrock. | The areas for the protection and exploitation of near-surface deposits of non-energy resources must be designated for a period of supply of at least 2025 years for unconsolidated material and at least 35 years for bedrock | The reason for the intended change is in particular the following statement of the coalition agreement: “As part of the LEP we want to extend the allocation of supply periods and reserve periods for raw material supply to 25 years each.” (p. 35) |
| 9.2-3 Objective: Updating | 9.2-3 Objective: Updating | |
| The areas for the protection and exploitation of near-surface deposits of non-energy resources must be updated so as to ensure that the period of supply does not fall below 10 years for unconsolidated material and 25 years for bedrock. The update must re-establish the period of supply as stated in Objective 9.2-2 | The areas for the protection and exploitation of near-surface deposits of non-energy resources must be updated so as to ensure that the period of supply does not fall below 15 years for unconsolidated material and 25 years for bedrock. The update must re-establish the period of supply as stated in Objective 9.2-2. | In line with the extension of supply periods from 20 to 25 years (see objective 9.2-2), the lower time limits for the update obligation of the regional plans must also be raised from 10 to 15 years. |
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| | 9.2-4 Principle reserve area | Defining a new principle |
| | <i>For long-term raw material supply, reserve areas should be included in the explanations of the regional plan.</i> | The reason for the intended change is derived from the interpretation of the statement of the coalition agreement in objective 9.2-2: A binding specification of reserve areas cannot be implemented in all planning areas of the regional plan. For long-term raw materials supply, reserve areas should be included, in line with the term “reserve periods” in the coalition agreement. |
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| Annotations to 9.2-1 Spatial specifications for non-energy resources near the surface | Annotations to 9.2-1 Spatial specifications for non-energy resources near the surface | |
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| <p>Besides the unconsolidated rock and bedrock close to the surface as discussed in detail in this section, e.g. sand and gravel, clay, loam, limestone, claystone, basalt and sandstone, non-energy resources also include minerals generally extracted by deep mining, e.g. salts, ores, barite and roofing slate. Regional plans do not generally contain a specification for the latter</p> | | |
| <p>The local near-surface mineral resources are safeguarded in regional plans by means of text and graphical specifications of “areas for the safeguarding and extraction of near-surface mineral resources” (BSABs) as priority areas with the status of suitability areas.</p> | <p>The local near-surface mineral resources are safeguarded in regional plans by means of text and graphical specifications of areas for the safeguarding and extraction of near-surface mineral resources (BSAB) as <i>priority areas</i>. <i>In special conflict situations, for example in the case of rare resources, priority areas with the status of suitability areas must be defined.</i></p> | <p>Adjustment to the change of objective 9.2-1</p> |
| <p>Knowledge of the local mineral resource potential is essential if reasonable safeguards are to be provided in plans. The existing geological maps and data collections and, in particular the NRW mineral map by the competent authority for geology, serve as the key basis for planning. The NRW mineral map provides the necessary information for identifying significant deposits so that they can be included in all planning appraisal processes. BSABs should where possible be specified for mineral safeguarding in areas which are designated in the NRW mineral map with comparatively higher concentrations of mineral reserves. The qualities should also be taken into account.</p> | | |
| <p>The spatial management of mineral extraction takes the form of a regional safeguarding plan within the context of a coherent planning concept encompassing the entire planning area which takes account of the recommendations of the competent authority for geology as regards the geological aspects of the minerals.</p> | <p><i>For the supply of industry and the population with non-energy raw materials, the regional plan is safeguarding BSAB as priority areas which takes account of the recommendations of the competent authority for geology. Here, the operational development needs and competing utilisation needs are to be taken into con-</i></p> | <p>In accordance with section 7 para. 2 ROG, when drawing up the spatial development plans, the public and private interests (as far as these are discernible on the respective planning level and are important) must be weighed up against each other and between them.</p> |

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| Operational development proposals should also be taken into account. | <i>sideration as a whole or in a standardised way.</i> | |
| The graphical representation of BSAB show that it is expected that the land can generally be used for excavations and this potential use will prevail in decisions at subordinate planning levels. | <p><i>If special conflict situations arise in the case of large-scale raw material deposits because of competing utilisations (such as the extraction of gravel and sand in the Lower Rhine region and limestone extraction in the Soester Börde) then continued spatial management is required. In these cases, the spatial management of raw material extraction is done through priority areas with the status of suitability areas.</i></p> <p>The graphic specification of BSAB as <i>priority areas with the status of suitability areas</i> calls for a coherent planning concept that covers the entire planning area. The graphical representation of BSAB shows that it is expected that the land can generally be used for excavations and this potential use will prevail in decisions at subordinate planning levels.</p> <p><i>Changes to the specification of priority areas with the status of suitability areas (e.g. because of overriding interest) are possible provided they continue to be in line with the underlying overall spatial concept or perpetuate it.</i></p> | The addition is designed to make clear that the specifications of BSAB as priority areas with the status of suitability areas are changed in the plans. |
| Excavation projects must take place within the BSABs. The regional plans regularise justified exemptions in which small-scale excavations are compatible with the spatial planning objectives, even outside the designated BSABs. | Excavation projects must take place within the BSAB <i>in the case of priority areas with status of suitability areas</i> . The regional plans <i>in the case of spatial management can also</i> define exceptions in text form. | Consequential change |
| The specifications in plans conform equally to the extraction of mineral resources as described in the provisions of the NRW Scouring Act, the Federal Mining Act, the Federal Pollution Control Act and the Federal Water Act. Both because of the importance of mineral resources to the economy as a whole and because of the conflicts of uses that their extraction often triggers, | | |

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| they have to be safeguarded for the long term in spatial development plans as a precautionary measure; they precede special legal approvals. | | |
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| Annotations to 9.2-2 Periods of supply | Annotations to 9.2-2 Periods of supply | |
| A demand-based period of supply, relative to the types of minerals available in the planning area, must be guaranteed with the graphical representation. To this end, the priority areas with the status of suitability areas must be assessed to ensure that the deposits they contain cover the projected demand for at least 20 years for unconsolidated material and at least 35 years for bedrock.. | A demand-based period of supply, relative to the types of minerals available in the planning area, must be guaranteed with the graphical representation. To this end, <i>the priority areas or</i> the priority areas with the status of suitability areas must be assessed to ensure that the deposits they contain cover the projected demand for at least 20 25 years for unconsolidated material and at least 35 years for bedrock. | The reason for the intended change is in particular the following statement of the coalition agreement: “As part of the LEP we want to extend the allocation of supply periods and reserve periods for raw material supply to 25 years each”. (p. 34) |
| The rule is 20 years for unconsolidated material and 35 years for bedrock. With regard to the many and varied conflicts of use associated with excavations, these periods of supply should not be significantly exceeded in new regional plans. Longer supply periods already designated in regional plans can therefore justify deviations from the rule | <i>The rule is 20 25 years for unconsolidated material and 35 years for bedrock. Longer supply periods already designated in regional plans can therefore justify deviations from the rule.</i> | |
| The periods can be less than specified if it is found during the consideration process that no suitable land is available for 20 or 35 years. | The periods can be less than specified if it is found during the consideration process that no suitable land is available for 20 or 35 years. | It goes without saying that when the raw material deposits are too low, the supply periods can be shorter. |
| The period of supply for bedrock is longer than that for unconsolidated material as limestone extraction and cement production involve substantial investment costs and require planning certainty for at least 25 years for the amortisation of these costs, otherwise no further investment would be possible. | | |
| Demand is determined on the basis of a uniform excavation monitoring system across NRW which records the progress of mineral extraction by area and volume. | Demand is determined on the basis of a uniform excavation monitoring system across NRW which records the progress of mineral extraction by area and volume. | |

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| <p>During the excavation monitoring process, major aspects, including the supply of industry and the population, the possibility of substitution and the targeted use of mineral deposits with higher concentrations, are taken into account in the determination of demand. The mineral reserves still available in approved excavations outside BSABs must be taken into account in the places of supply. Furthermore, quantities of minerals from open-cast lignite mines must be included when determining demand, provided that this does not have an adverse effect on the regular operation and completion of open-cast lignite mining.</p> | <p>During the excavation monitoring process, major aspects, including the supply of industry and the population, the possibility of substitution and the targeted use of mineral deposits with higher concentrations, are taken into account in the determination of demand. The mineral reserves still available in approved excavations outside BSABs must be taken into account in the places of supply. Furthermore, quantities of minerals from open-cast lignite mines must be included when determining demand, provided that this does not have an adverse effect on the regular operation and completion of open-cast lignite mining.</p> | <p>The last sentence will be deleted because only 2 of 6 planning areas are affected.</p> |
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| <p>Annotations to 9.2-3 Updating</p> | <p>Annotations to 9.2-3 Updating</p> | |
| <p>Mineral extraction is supervised by aerial or satellite monitoring according to the instructions of the NRW planning authority. As part of the monitoring process, progress of the extraction is recorded and the mineral reserves remaining in the designated BSABs and approved areas are evaluated using the NRW mineral map. The results are used by the relevant regional planning authorities to verify an update requirement. The regional planning authority will decide whether to update the regional plan.</p> | | |
| <p>The excavation monitoring system is used to conduct an annual survey to quantify the extent of the residues of individual mineral groups (e.g. sand and gravel, clay and loam, limestone, claystone, basalt and sandstone) in the plans.</p> | | |
| <p>The updating must begin promptly to ensure that the period of supply does not fall below 10 years for unconsolidated material and 25 years for bedrock. The timing of the update is based on the fact that a regional plan usually runs for 10 years and is then followed by a</p> | <p>The updating must begin promptly to ensure that the period of supply does not fall below 1015 years for unconsolidated material and 25 years for bedrock. The timing of the update is based on the fact that a regional plan usually runs for 10 years and is then followed by a</p> | |

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| review of the regional plan. If it is found during the extraction monitoring process that the period of supply of the BSABs is dropping faster than originally determined, the BSAB must be extended so as not to compromise the control effect of the regional plan. | review of the regional plan. If it is found during the extraction monitoring process that the period of supply of the BSABs is dropping faster than originally determined, the BSAB must be extended. | |
| Where an update is found to be necessary, the planning scope for all near-surface non-energy resources covered in the plan must be extended again to at least 20 years for unconsolidated material and at least 35 years for bedrock. | Where an update is found to be necessary, the planning scope for all near-surface non-energy resources covered in the plan must be extended again to at least 20 years for unconsolidated material and at least 35 years for bedrock. | Consequential change |
| | Annotations to 9.2-4 Reserve areas | |
| | <i>In order to leave open the utilisation of mineable deposits for later generations, major deposits could be secured for the long term in addition to the BSAB defined in the regional plan. This is achieved by including reserve areas in the explanations to the regional plan. Plan specifications for these areas must be specified in the regional plan.</i> | Explanations for the new principle |
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| 10.1-4 Objective: Combined heat and power | 10.1-4 Principle: Combined heat and power | |
| The potential of combined heat and power generation and the use of waste heat must be exploited in regional and urban development planning to achieve the most efficient use of energy possible. | The potential of combined heat and power generation and the use of waste heat <i>should be exploited</i> in regional and urban development planning to achieve the most efficient use of energy possible | This change serves to deregulate. Principles (unlike specified targets, which must be strictly observed) depend on the considerations of the subsequent planning authorities with the result that they can be subordinate to other relevant specialist interests. |
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| 10.2-1 Objective: Tips and landfill sites as sites for the use of renewable energies | 10.2-1 Principle: Tips and landfill sites as sites for the use of renewable energies | see 10.1-4 |
| Tips and landfill sites must be protected as sites for the production of energy from renewable sources, provided- | Tips and landfills <i>ought to be protected</i> as sites for the production of energy from renewable sources provided | |

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| <p>ed that the technical conditions are right and practical requirements do not prevent this.</p> <p>Exceptions from the above are waste tips and landfill sites already used for culture. Practical requirements also prevent use for energy production from renewable sources where a regionally coordinated and decided subsequent use programme specifies uses in the area of art and culture for waste tips and landfill sites.</p> | <p>that the technical conditions are right and practical requirements do not prevent this.</p> | |
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| <p>10.2-2 Objective: Priority areas for wind energy use</p> | <p>10.2-2 Principle: Priority areas for wind energy use</p> | |
| <p>To meet the objective of providing at least 15% of NRW's power supply from wind energy by 2020 and 30% from renewable energy by 2025, sufficient areas must be designated in regional plans as priority areas for the use of wind energy in proportion to its regional potential.</p> | <p><i>In the planning regions areas can be designated as priority areas for the use of wind energy.</i></p> | <p>The reason for the intended change is in particular the following statement of the coalition agreement:</p> <p><i>The enormous development of wind energy is increasingly met with reservations among the population. We want to maintain acceptance for the use of the wind turbines. To this end and taking into consideration legal security and protection of confidence, we will make the following changes:</i></p> <p>[...]</p> <ul style="list-style-type: none"> - We strengthen local decision-making power |
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| <p>10.2-3 Principle: Extent of land designated for wind energy use</p> | <p>10.2-3 Principle: Extent of land designated for wind energy use</p> | |
| <p>The priority areas mapped out by the regional planning authorities for wind energy use should safeguard at least the following surrounding areas in regional plans:</p> <p>Arnsberg planning area 18,000 ha, Detmold planning area 10,500 ha,</p> | <p>The priority areas mapped out by the regional planning authorities for wind energy use should safeguard at least the following surrounding areas in regional plans:</p> <p>Arnsberg planning area 18,000 ha, Detmold planning area 10,500 ha,</p> | <p>The reason for the intended change is in particular the following statement of the coalition agreement:</p> <p><i>The enormous development of wind energy is increasingly met with reservations among the population. We want to maintain acceptance for the use of the wind turbines. To this end and taking into consideration</i></p> |

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| <p>Düsseldorf planning area 3,500 ha, Cologne planning area 14,500 ha, Münster planning area 6,000 ha, Planning area for the Ruhr Regional Association 1,500 ha.</p> | <p>Düsseldorf planning area 3,500 ha, Cologne planning area 14,500 ha, Münster planning area 6,000 ha, Planning area for the Ruhr Regional Association 1,500 ha.</p> | <p><i>legal security and protection of confidence, we will make the following changes:</i> [...] – We strengthen local decision-making power.</p> |
| | <p>10.2-3 Principle Distance from areas/spaces with wind turbines</p> | |
| | <p><i>In the planning of wind turbines in regional plans and in municipal land use plans, a distance must be maintained to General Settlement Areas and to housing land in the plans that is suitable to local conditions. The distance to general and purely residential areas should be 1500 metres. This does not apply to the replacement of old facilities (re-powering).</i></p> | <p>The state government has set itself the goal to newly design the expansion of wind energy and to promote the acceptance of wind energy as an integral part of the energy transition. The possibility of a regulation about distance to sensitive areas for residential use is designed to contribute to this. There will therefore be a new principle in the LEP which recommends there to be a precautionary distance from the priority areas for wind energy use to General Settlement Areas in the regional plans and from the concentration zones to general and pure residential areas in the land use plans. In as far as local conditions permit this, a distance of 1500 metres should be adhered to.</p> |
| <p>10.2-5 Objective: Solar energy use</p> | <p>10.2-5 Objective: Solar energy use</p> | |
| <p>The use of open spaces for the spatially significant use of solar energy must be avoided.</p> <p>Exceptions to this are open space solar energy installations, where the site is compatible with the protective and utility function in the relevant specification in the regional plan and the plan involves</p> <ul style="list-style-type: none"> <input type="checkbox"/> the re-use of derelict land formerly used for commercial, mining, transport or housing purposes or military land earmarked for redevelopment and predominantly characterised by structural installations, <input type="checkbox"/> tips, or | <p>The use of open spaces for the spatially significant use of solar energy is possible,</p> <ul style="list-style-type: none"> <input type="checkbox"/> the re-use of derelict land formerly used for commercial, mining, transport or housing purposes or military land earmarked for redevelopment and predominantly characterised by structural installations, <input type="checkbox"/> tips, or <input type="checkbox"/> sites along federal highways or railways of supra-regional significance | <p>Statement in the small government declaration, among other things, by Minister Pinkwart before the Committee on economy, energy and regional planning of the state parliament of NRW, that the use of solar energy should be developed. With regard to the establishment of solar systems, the target is therefore positively worded.</p> |

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| <input type="checkbox"/> sites along federal highways or railways of supra-regional significance | | |
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| Annotations to 10.2-2 Priority areas for wind energy use | Annotations to 10.2-2 Priority areas for wind energy use | |
| <p>According to NRW's objectives for the expansion of wind energy, the proportion of wind energy in the NRW electricity supply should be at least 15% by 2020, as a first step. Compared with electricity consumption in 2010, this corresponds to approx. 21 TWh/a. The proportion of renewable energy should rise to 30% of the electricity supply by 2025. Based on the electricity consumption in 2010, this means that a total of approx. 41 TWh/a will have to be generated from renewable sources in NRW. Taking into account the current expansion targets and trends for other types of renewable energy, this corresponds to generating approx. 28 TWh/a from wind energy.</p> <p>The proportion of renewable energy should rise to 80% of Germany's electricity supply by 2050. This means that wind energy use – including in NRW – will continue to have an important part to play. In addition to the erection of additional wind turbines, the repowering of wind turbines is set to become increasingly important. Even though sites of older wind turbines will not always be suitable for new, modern turbines (greater distances needed), we can still expect that the growth of wind energy as part of the electricity supply will no longer have to be entirely achieved through the consumption of additional land for the erection of new wind turbines.</p> <p>The potential for wind energy use in NRW depends on a variety of factors such as topography, settlement structure and other vulnerable uses, as a result of which not all planning areas can make the same con-</p> | <p>According to NRW's objectives for the expansion of wind energy, the proportion of wind energy in the NRW electricity supply should be at least 15% by 2020, as a first step. Compared with electricity consumption in 2010, this corresponds to approx. 21 TWh/a. The proportion of renewable energy should rise to 30% of the electricity supply by 2025. Based on the electricity consumption in 2010, this means that a total of approx. 41 TWh/a will have to be generated from renewable sources in NRW. Taking into account the current expansion targets and trends for other types of renewable energy, this corresponds to generating approx. 28 TWh/a from wind energy.</p> | |

tribution to the expansion of wind energy.

The specification of priority areas in the regional plans promotes the expansion of wind energy use, in which especially suitable sites are safeguarded in spatial development plans and kept free from conflicting uses. Using the priority areas as efficiently as possible allows optimum use to be made of the wind energy available on the site and at the same time the consumption of land, e.g. for road building and cable laying – to ensure the space-saving use of land – to be minimised. When combined with the representation of concentration zones for wind energy use in urban development plans, it is possible to keep other areas with sensitive uses free from spatially significant wind turbines.

In the interests of minimising conflicts of use between sites for wind turbines and other uses, the following are among the aspects that must be checked when suitable sites are being designated for wind energy use:

- wind conditions,
- proximity to infrastructure corridors (Federal highways, rail routes of supraregional significance or high-voltage overhead power lines),
- distance from settlement areas, cultural heritage sites and tourist facilities,
- impact on elements significant to the cultural landscape, e.g. local view, city skyline, large-scale visual axes, scenery and recreational function,
- distance from nature reserves,
- compatibility with the conservation objectives or protective purpose of Natura 2000 areas,
- requirements for statutory species protection,
- aviation safety.

Embracing the counterflow principle, the regional planning authorities consider the concentration zones represented in urban development plans in terms of their

In the regional plans, priority areas for wind energy use can be defined. The specification of priority areas in the regional plans promotes the expansion of wind energy use, in which especially suitable sites are safeguarded in spatial development plans and kept free from conflicting uses. Using the priority areas as efficiently as possible allows optimum use to be made of the wind energy available on the site and at the same time the consumption of land, e.g. for road building and cable laying – to ensure the space-saving use of land – to be minimised. When combined with the representation of concentration zones for wind energy use in urban development plans, it is possible to keep other areas with sensitive uses free from spatially significant wind turbines

suitability for the specification of priority areas for wind energy use in regional plans.

Depending on the planning area to be considered and the criteria used in the site search process, there may be differences between the specifications for sites for wind energy use in regional and urban development plans. The graphical designations in the regional plans are therefore deemed to be priority areas without the status of a suitability area. This enables the municipal planning authorities to represent other land for wind energy use outside priority areas designated in regional plans in the interests of expanding renewable energy. The municipalities may designate areas in their zoning plans that concentrate wind energy use on suitable sites.

Outside the priority areas for wind energy use designated in regional plans, the proposed representation of areas for wind energy use must be oriented towards the text and graphical specifications of the NRW planning standards and the regional plans that exist for the planning area.

Priority areas designated in regional plans and concentration zones represented in zoning plans outside priority areas together contribute to the above-mentioned expansion targets for wind energy. This is consistent with the nature of the expansion targets as minimum targets. The NRW government expects the regions and municipalities not to content themselves with fulfilling the minimum target once it has been set but to show a commitment far beyond this by opening up approx. 2% of the area for wind energy use. An expansion of wind energy beyond the priority areas in regional plans will also create a reserve for contingencies in the actual implementation of land-use planning and facilitate the problem-free expansion of wind ener-

~~Priority areas designated in regional plans and concentration zones represented in zoning plans outside priority areas together contribute to the above-mentioned expansion targets for wind energy. This is consistent with the nature of the expansion targets as minimum targets. The NRW government expects the regions and municipalities not to content themselves with fulfilling the minimum target once it has been set but to show a commitment far beyond this by opening up approx. 2% of the area for wind energy use. An expansion of wind energy beyond the priority areas in regional plans will also create a reserve for contingencies in the actual implementation of land-use planning and facilitate the problem-free expansion of wind ener-~~

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| <p>gy after 2025.</p> <p>In the interests of creating added value for municipalities, the latter should make an effort to safeguard a site at an early stage in the process of establishing a priority area/concentration zone for wind energy use. Concluding site safeguarding agreements under construction law and initiating participation models, such as “civic wind farms” (Bürgerwindparks) can increase the acceptance of wind energy use and therefore assist in the rapid implementation of the energy revolution.</p> <p>Further information on the planning and approval of wind turbines can be found in the current version of the Common Circular Decree known as the “Wind Energy Decree”.</p> | <p>gy after 2025.</p> <p><i>The NRW energy atlas of the NRW Office for Nature, the Environment and Consumer Protection provides the latest review of the stock of wind turbines, their performance and their income and documents the progress of the expansion of wind energy use.</i></p> | <p>Addition of another paragraph; taken from the now deleted explanation to 10.2-3.</p> |
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| <p>Annotations to 10.2-3 Extent of land designated for wind energy use</p> | <p>Annotations to 10.2-3 Extent of land designated for wind energy use</p> | |
| <p>In 2012, the NRW Office for Nature, the Environment and Consumer Protection conducted a “Potential Study into Renewable Energy in NRW, Part 1 – Wind Energy, LANUV Technical Report 40” (Wind energy potential study). In its NRW lead scenario, this study showed that there is potentially approx. 113,000 ha of land available for wind energy use in NRW. This potential supply of land includes land both for wind farms (three or more turbines) and for individual turbines. For wind farms alone, the study showed a potential 74,600 ha of land (Table 20, Feasible potential for NRW, NRW-wide</p> | <p>In 2012, the NRW Office for Nature, the Environment and Consumer Protection conducted a “Potential Study into Renewable Energy in NRW, Part 1 – Wind Energy, LANUV Technical Report 40” (Wind energy potential study). In its NRW lead scenario, this study showed that there is potentially approx. 113,000 ha of land available for wind energy use in NRW. This potential supply of land includes land both for wind farms (three or more turbines) and for individual turbines. For wind farms alone, the study showed a potential 74,600 ha of land (Table 20, Feasible potential for NRW, NRW-wide</p> | |

review (rounded), potential land for the NRW lead scenario).

The LANUV potential study shows that NRW's expansion targets for wind energy use are already achievable on 1.6% of its territory (approx. 54,000 ha). This provides the regional planning authorities with sufficient leeway within which to take their own planning decisions. From a planning point of view, the concentration of turbines in wind farms is preferable to wind energy sites with a single turbine. The potential for using wind energy varies widely in NRW's planning areas. The area outline for the proportional contributions of the regions have been taken from the results of the wind energy potential study.

According to the study, the quantities for the individual planning regions are:
 Arnsberg planning area 18,000 ha (8.9 TWh/a),
 Detmold planning area 10,500 ha (5.6 TWh/a),
 Düsseldorf planning area 3,500 ha (1.7 TWh/a),
 Cologne planning area 14,500 ha (8.0 TWh/a),
 Münster planning area 6,000 ha (3.0 TWh/a),
 RVR planning area 1,500 ha (0.8 TWh/a).

(Potential Study into Renewable Energy in NRW, Part 1 – Wind Energy, LANUV Technical Report 40, Table 28, NRW Lead Scenario for Feasible Potential in the Planning Regions)

The NRW energy atlas of the NRW Office for Nature, the Environment and Consumer Protection provides the latest review of the stock of wind turbines, their performance and their income and documents the progress of the expansion of wind energy use.

~~review (rounded), potential land for the NRW lead scenario).~~

~~The LANUV potential study shows that NRW's expansion targets for wind energy use are already achievable on 1.6% of its territory (approx. 54,000 ha). This provides the regional planning authorities with sufficient leeway within which to take their own planning decisions. From a planning point of view, the concentration of turbines in wind farms is preferable to wind energy sites with a single turbine. The potential for using wind energy varies widely in NRW's planning areas. The area outline for the proportional contributions of the regions have been taken from the results of the wind energy potential study.~~

~~According to the study, the quantities for the individual planning regions are:
 Arnsberg planning area 18,000 ha (8.9 TWh/a),
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 Münster planning area 6,000 ha (3.0 TWh/a),
 RVR planning area 1,500 ha (0.8 TWh/a).~~

~~(Potential Study into Renewable Energy in NRW, Part 1 – Wind Energy, LANUV Technical Report 40, Table 28, NRW Lead Scenario for Feasible Potential in the Planning Regions)~~

~~The NRW energy atlas of the NRW Office for Nature, the Environment and Consumer Protection provides the latest review of the stock of wind turbines, their performance and their income and documents the progress of the expansion of wind energy use.~~

Annotations to 10.2-3 Distance from areas/spaces of wind turbines

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| | <p><i>The state government has set itself the goal to newly design the expansion of wind energy and to preserve acceptance of wind energy as an integral part of the energy transition. The possibility of a regulation about distance to sensitive areas for residential use is designed to contribute to this. In as far as local conditions permit this, a distance of 1500 metres should be maintained to pure and general residential areas.</i></p> <p><i>If such a precautionary distance is maintained, it can generally be assumed that the wind turbines, while still increasing in height, do not constitute a visual nuisance from the point of view of residential use and therefore do not violate the requirement of consideration. The precautionary measure refers to aspects of emission control, general nuisance and a shadow effect, and it takes into consideration regional development and design possibilities of the municipalities, specifically with regard to potential settlement expansion.</i></p> <p><i>Municipal land use planning, in the context of concentration zone representation in the land use plans of wind energy use, must substantially create space. A general precautionary distance must be taken into account when making decisions about the specification of priority areas in regional plans and concentration zones in the land use plans. The Wind Energy Decree of North Rhine-Westphalia provides further details about precautionary distances.</i></p> <p><i>The replacement of old facilities (repowering) in existing priority areas for wind energy use and concentration zones as well as in existing wind farms in municipalities without wind energy use plans is not covered by this regulation. This is designed to take into account the special potential of repowering at high wind energy sites and limiting of the number of new plants.</i></p> | |
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| Annotations to 10.2-5 Solar energy use | Annotations to 10.2-5 Solar energy use | |
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| <p>The use of solar energy on and near structural installations is preferred to the construction of large scale solar energy installations in open spaces (open space solar energy installations). Existing buildings provide great potential in terms of suitable spaces, which can be increased further by forward-looking urban planning. "Solar land registers" are also helpful in this regard.</p> <p>Sites for open space solar energy installations should therefore only be designated in the open space in exceptional cases. The site requirements should take into account the interests of open space protection and the scenic qualities of the landscape and contribute to sustainable land consumption. It is essential that this does not involve new sites situated in an isolated location in the open space but sites which are already predominantly characterised by structural installations from their previous use or had been built as artificial structures (e.g. waste tips).</p> <p>This helps to prevent conflicts with other use and protection functions and is in the interests of the conservative use of land and soil. Their exposed location makes waste tips and landfill sites suitable for solar energy use.</p> <p>Unlike wind turbines and privileged biomass energy plants, open space solar installations are not privileged under construction planning law. For an open space solar energy installation to be erected as an independent installation, it will be necessary to draw up a zoning plan which must be amended to comply with the text and graphical specifications of the NRW planning</p> | <p>The use of solar energy on and near structural installations is preferred to the construction of large scale solar energy installations in open spaces (open space solar energy installations). Existing buildings provide great potential in terms of suitable spaces, which can be increased further by forward-looking urban planning. "Solar land registers" are also helpful in this regard.</p> <p>Sites for open space solar energy installations should therefore only be designated in the open space in exceptional cases. The site requirements should take into account the interests of open space protection and the scenic qualities of the landscape and contribute to sustainable land consumption.</p> <p><i>Beyond this, the utilisation of agricultural land is not covered by the target.</i></p> <p>This helps to prevent conflicts with other use and protection functions and is in the interest of the conservative use of land and soil. Their exposed location makes waste tips and landfill sites suitable for solar energy use.</p> | |

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| standards and the regional plans that exist for the planning area. | | |
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| 10.3-2 Principle: Requirements for new sites to be designated in the regional plan | 10.3-2 Principle: Requirements for new sites to be designated in the regional plan | |
| <p>New sites to be designated in the regional plan should</p> <ul style="list-style-type: none"> – allow a minimum electrical efficiency of 58% for the power station or the highly efficient use of combined heat and power (CHP) facilities with a total efficiency of 75% with CHP – be geared to existing and planned power and district heating networks so that as little land as possible is used for new pipe and cable runs and structural installations for the energy supply networks. – guarantee that a suitable mains connection is available. | <p>New sites to be designated in the regional plan should</p> <p>— allow a minimum electrical efficiency of 58% for the power station or the highly efficient use of combined heat and power (CHP) facilities with a total efficiency of 75% with CHP</p> <ul style="list-style-type: none"> – be geared to existing and planned power and district heating networks so that as little land as possible is used for new pipe and cable runs and structural installations for the energy supply networks. – guarantee that a suitable mains connection is available. | This change serves to deregulate. Technical requirements for power plants do not require regional planning specifications. |
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| <i>Annotations to 10.3-2 Requirements for new sites to be designated in the regional plan</i> | <i>Annotations to 10.3-2 Requirements for new sites to be designated in the regional plan</i> | |
| <p>In order to achieve the climate protection targets (see Section 4. Climate protection and climate adaptation) the fluctuating electricity production from renewable energy is to be bolstered by highly efficient, flexible power stations (see also Principle 10.1-10).</p> <p>The efficiency of a power station is determined by its electrical efficiency and fuel utilisation efficiency (total efficiency). For example, modern gas and steam turbine plants can achieve the electrical efficiency specified in the principle of 58% without making special demands</p> | <p>In order to achieve the climate protection targets (see Section 4. Climate protection and climate adaptation) the fluctuating electricity production from renewable energy is to be bolstered by highly efficient, flexible power stations (see also Principle 10.1-10).</p> <p>The efficiency of a power station is determined by its electrical efficiency and fuel utilisation efficiency (total efficiency). For example, modern gas and steam turbine plants can achieve the electrical efficiency specified in the principle of 58% without making special</p> | |

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| <p>on the site. The spatial management of gas and steam turbine plants mainly takes place via the link to the existing and planned mains supply.</p> <p>A cogeneration plant is a high-efficiency plant for the purposes of the Combined Heat and Power Act if it produces high-efficiency cogeneration as defined in Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC (Official Journal No. L52, p. 50). In order to guarantee this, the potential of cogeneration must be exploited to the full.</p> <p>Meeting the requirements of the electricity grid should guarantee the integration of renewable energy into NRW's electricity system using high-efficiency, flexible power plants and help to secure grid stability. Additional expansion of the grid and the consumption of land and landscape should generally be avoided. This also satisfies the justified interest of local residents in protecting their living environment.</p> <p>The above-mentioned requirements for the designation of new power station sites must be considered alongside other requirements for the energy supply as stated in Principle 10.1-1 Sustainable energy supply</p> | <p>demands on the site. The spatial management of gas and steam turbine plants mainly takes place via the link to the existing and planned mains supply.</p> <p>A cogeneration plant is a high efficiency plant for the purposes of the Combined Heat and Power Act if it produces high efficiency cogeneration as defined in Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC (Official Journal No. L52, p. 50). In order to guarantee this, the potential of cogeneration must be exploited to the full.</p> | |
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11. Legal foundations and legal effects

The legal foundations of the LEP are provided by the Federal Spatial Planning Act (Raumordnungsgesetz = ROG) of 22 December 2008 (BGBl. I p. 2986), last amended by Article 2, para 15 of the Act of 20 July 2017 (BGBl. I S. 2808) and in addition in the Land Planning Act (Landesplanungsgesetz = LPIG) of 3 May 2005 (GV. NW. p. 430), last amended by the Act of 24 May 2016 (GV. NRW. p. 259).

As part of the reform of the federal system, the legislative powers of the Federal Government and the Länder have been redefined by means of an amendment to the German Constitution. The area of spatial planning has been transferred from framework legislation to concurrent legislation (Section 74, para. 1, No. 31 of the Constitution), with the result that the provisions of the ROG now apply directly.

Section 1, para. 1 ROG states that the whole territory of the Federal Republic of Germany and its regions must be developed, organised and safeguarded by comprehensive, supraregional and interdisciplinary spatial development plans (...). Spatial development plans have therefore assumed the function of harmonising the different demands on an area, resolving any conflicts that may arise at a particular planning level and allowing for the individual uses and functions of the area.

Whether spatial planning at NRW level is entitled to binding standards under the constitution and, if so, which, can be gleaned from the principles developed in the Federal Constitutional Court (cf. BverfGE 3, 407). They state that spatial planning is “the comprehensive, overarching planning and organisation of space”. It is overarching because it is supraregional planning and because it combines and coordinates a variety of sectoral plans. This can be found in Section 1 ROG as the allocation of spatial planning duties.

“As a mediator between private investors and sectoral planning authorities, spatial planning specifies to municipal development planning the lines of spatial development within the framework of which land and soil are to be used for settlement activity, economic development and infrastructure projects and designated for spatial functions (cf. Runkel, Section 1, annotation 48 in Spannowsky/Runkel/Goppel, Commentary on ROG).

Furthermore, spatial planning is used to effect the large-scale separation of incompatible uses, e.g. airports and the settlements that surround them (loc. cit., annotation 49).

Another task is to designate spatial functions, most of which consist of safeguarding specific functions predominating in an area against economically attractive demands on land use. Nature and landscape, groundwater and local recreation are functions which should be safeguarded by spatial planning against other uses in their spatial distribution area (loc. cit., annotation 50).”

Section 2 (principles of spatial planning) and Section 13, ROG (countrywide spatial development plans, (...)), state what a permissible subject for a spatial planning rule and the contents of spatial development plans can be. Section 2, para. 1, ROG requires the principles as defined in the overall concept of sustainable spatial development to be applied and to be fleshed out by specifications in spatial development plans. The possible contents of a spatial development are listed in Section 13, para. 5, ROG by way of example and not exhaustively.

At the same time, spatial development plans are given the function of a supraregional and interdisciplinary plan. Their supraregional nature serves as a boundary separating them from the municipal local planning system. Their supraregional nature is also defined according to the purpose of the plans.

Already, Section 78, para. 2 of the NRW constitution shows that the right to local self-government is not unlimited but is only guaranteed within the framework of current laws which in turn are subject to constitutional restrictions and require justification. The fact that municipalities are bound by the specifications of the LEP does not in principle infringe the right to local self-government. This was clearly stated by the Federal Administrative Court as long ago as 2003 (cf. Federal Administrative Court, judgment of 15.03.2003 – BverwG 4 CN 9.01) and was confirmed again in a decision by the court (cf. Federal Administrative Court, decision of 09.04.2014 – 4 BN 3.14, Rn.7).

The ROG states that spatial development plans for a specific planning area and a regular medium term must set out specifications in the form of objectives and principles for the development, organisation and protection of the area, especially as regards the uses and functions of the area (Section 7, para. 1, ROG). Section 13, para. 1, sentence 1, No. 1 of the ROG states that a regional spatial development plan must be prepared for each individual Land.

As a spatial development plan for the whole Land, the LEP consists of specifications in the form of text and graphical representations with explanations. The specifications in text form, expressed as objectives and principles, must be identified as such.

Spatial planning objectives

are, according to Section 3, para. 1, No. 2 of the ROG, prescribed standards in the form of texts or drawings in regional plans which are governed by or can be reconstructed on the basis of area-specific or functional features and which have been finally decided upon by state authorities responsible for regional or sub-regional planning in the individual Länder; they serve to develop, organize and protect the respective areas. They must be **observed** by the authorities referred to in Section 4, para. 1 of the ROG. In other words, they are specifications which have a binding effect and cannot be negotiated away by trade-off. Under Section 1, para. 4 of the Federal Building Code (BauGB), urban development plans must be amended to meet spatial planning objectives; for this reason, local urban development plans have a duty to take action to achieve the spatial planning objectives.

Spatial planning principles

are general statements concerning the development, organisation and protection as standards to be complied with in subsequent judgements and discretionary decisions. They must be **taken into account** as stated in Section 4, para. 1 of the ROG. In other words, they must be given their due weight in considerations and be overcome when considered with other relevant interests.

The specifications can describe priority, reserve and suitability areas as stated in Section 7, para. 3 of the ROG:

- **Priority areas** are areas scheduled for certain spatially significant functions or uses, excluding other spatially significant uses in this area, if they are inconsistent with the priority functions or uses.
- **Reserve areas** are areas where special importance is attached to certain spatially significant functions when balanced with competing spatially significant uses.
- **Suitability areas** are areas where certain spatially significant measures or uses which are to be assessed in accordance with Section 35 of the Federal Building Code do not impede other spatially significant interests. At the same time, these measures or uses are prohibited in another location in the planning area.

Section 7, para. 3, sentence 2 of the ROG states that priority areas for spatially significant uses may be established to have the simultaneous effect of suitability areas for spatially significant measures or uses.

The **graphical area specifications in the LEP** appear as **priority areas** in the scale of 1:300,000 with a display threshold of 150 ha as a result of the scale used. For this reason, the levels subordinate to the Land planning level (regional planning, urban development planning and sectoral planning) have options in terms of design to put the graphical specifications in the LEP into practice under their own responsibility. In this way, the priority areas graphically represented in the LEP can be supplemented in regional plans with further appropriate priority areas – also with individual additional areas in excess of 150 ha.

The plan symbols to be used to implement the LEP in regional plans are set out and defined in the implementing order for the Land Planning Act.

Open spaces, settlement areas and brown coal mining areas are also included in the LEP plan map within their current boundaries in regional plans in the form of an **informative** representation. These informative representations do not have any legal effect of their own; they are only intended to show the current plans and spatial structures to which certain text specifications in the LEP relate, especially with regard to the further development of settlement areas and open spaces.

Figure 7 shows the position of the LEP in the planning system.