



Ministry of Infrastructure and the  
Environment



# Developing Marine Spatial Planning for the North Sea in the Netherlands

Leo de Vrees

Pärnu, 19 May 2015



# Overview

- Organizational set-up
- Why a new North Sea Policy document/Marine Spatial Plan?
- Long term vision 2050
- Public participation
- MSFD measures including marine litter
- Wind energy development
- Administrative law and some examples of rulings
- Sand extraction
- Lessons learned



## International framework

- UNCLOS: rights and obligations
- EU Marine Strategy Framework Directive (2008/56/EC): to achieve or maintain good environmental status in the marine environment by the year 2020 at the latest
  - 11 descriptors and 58 criteria defined
  - OSPAR is important mechanism for this Directive
- EU Framework for Maritime Spatial Planning (Directive 2014/89/EU): aimed at promoting the sustainable growth of maritime economies, the sustainable development of marine areas and the sustainable use of marine resources.
  - Ecosystem based approach
  - Process oriented directive, not on content of maritime plans



# MSP in the Netherlands

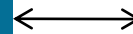
- Marine or Maritime Spatial planning is a **political decision making process** designed to address issues concerning the use of maritime space and establish policy for it
- Policy decisions concerning the use of maritime space lead to a policy statement or – document which gives clarity to all of the foreseen use of certain areas at sea
- The North Sea Policy is an integral part of the National Water Plan, based on the Water Act
- Since it concerns also space, the policy is visualised on a map
- The legal status of the Dutch Maritime Spatial Policy Plan: it is a framework vision as defined by the Spatial Planning Act
- The Dutch central government is the only competent authority as from 1 km offshore.
- The Dutch MSP is self binding for the government



# Governance structure for Integrated Maritime Policy in Netherlands

Cabinet

House of representatives



Ministry  
Infrastructure & Environment

Incl shipping, spatial development  
and water affairs  
*Lead on MSP/ICZM*

Management organisation  
Rijkswaterstaat  
(licenses other than oil/gas)

Min Economic affairs (energy,  
nature & fisheries)

Min Defense (incl coast guard)

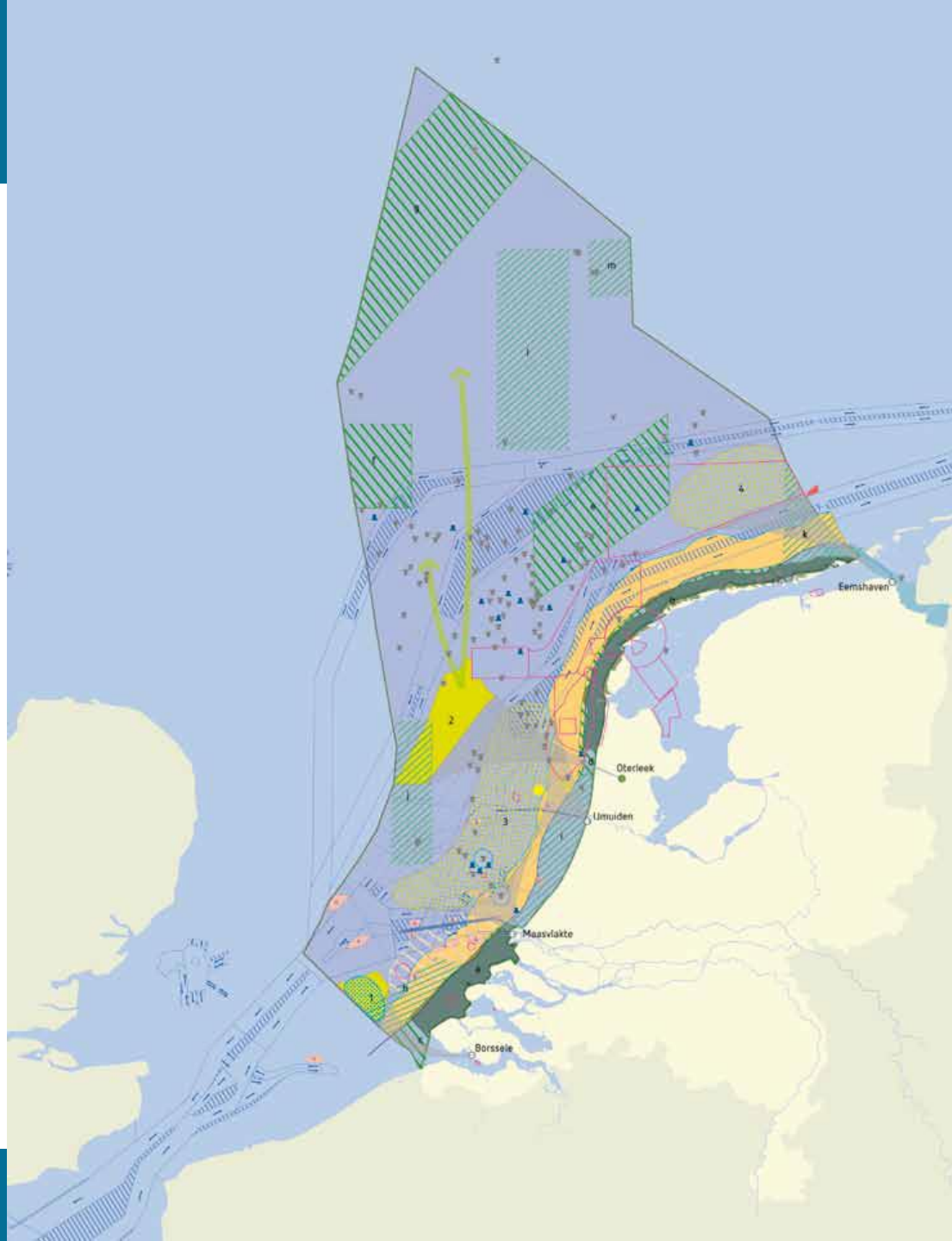
Min Science & Cultural affairs

Min Finance

Intra governmental board of  
Directors on North Sea affairs

## Present situation

- North Sea Policy document is part of National Water Plan 2009-2015
- Every 6 years new plan (Water Act)
- Changes in 2014:
  - Measures MSFD
  - Changes in offshore wind policy
  - Changes in sand extraction policy





## North Sea Spatial Agenda 2050= long term vision

**Aim:** to pursue a development-oriented approach to the sea that leaves room for new initiatives and allows flexible management of the sea. The North Sea 2050 Spatial Agenda fulfils this need for long-term prospects.

**Vision:** The Netherlands benefits from a *safe, clean, healthy and ecologically diverse* North Sea that contributes to the country's economic and social needs (relation to Blue Growth).

The sea also has important sociocultural and historical significance for the Netherlands, and is a source of knowledge.

The contribution of the sea can only be optimal if its natural resilience is – further – restored and augmented and the appeal of the sea is maintained for everyone.



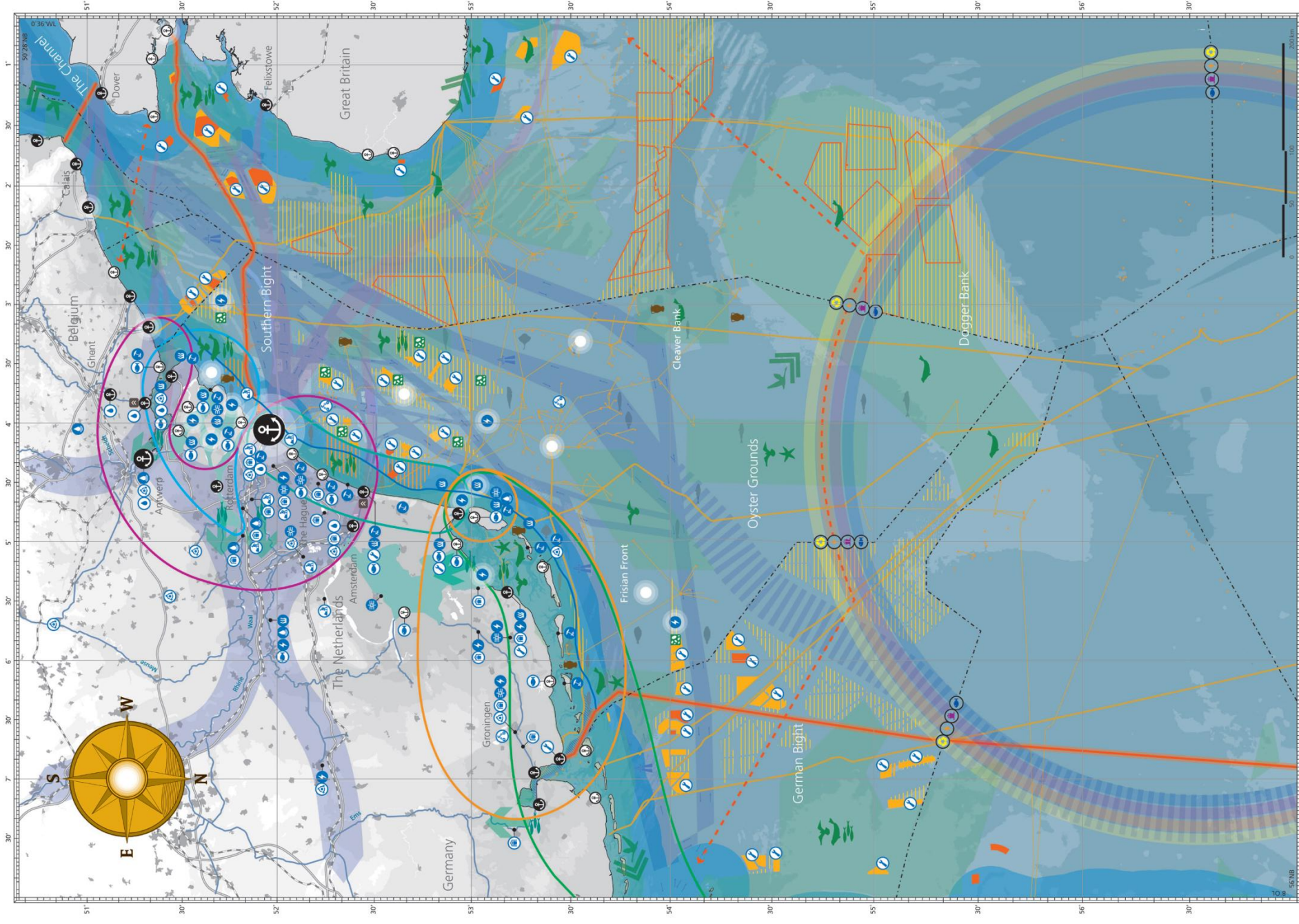
# Spatial Agenda 2050

Five topics identified:

1. Building with nature: cultivating sea weeds, hard substrate/oyster banks, sand mining
2. Energy transition at sea: increase generated MW/km<sup>2</sup> and other forms of production (wave, geotherm, power to gas, energy grid)
3. Multiple use of space: multiple ways of generating energy (i.e. wind and wave)
4. Connections between land and sea: physical, ecological, cultural
5. Accessibility and shipping: more coasters, more ships from the North, more marine service ships due to energy projects at sea

Short/medium term policy and decisions have to keep in mind this long term vision. For instance: also other forms of sustainable energy production next to wind energy will possibly need to be developed at sea.





1° 2° 3° 4° 5° 6° 7°

30° 30° 30° 30° 30° 30° 30°

51° 52° 53° 54° 55° 56°

0 50 100 200 km

56°NB



Draft

# Policy document on the North Sea 2016-2021





## National vision on infrastructure and space

- Decentralized where possible and central where it should
- National priorities are set on basis of three criteria:
  - national revenues/costs (i.e. oil/gas extraction)
  - international obligations (i.e. shipping)
  - across provinces or across national boundaries (sand extraction)



## Priority (spatial) functions and the societal demands

- **Oil- and gas extraction:** maximum use of the potential of oil and gas at sea (small fields policy)
- **CO<sub>2</sub> storage:** to use empty gas fields as a temporary solution
- **Renewable energy:** 3450 MW extra wind energy in 2023; investigate other opportunities for thereafter
- **Shipping:** continues to be safe and will be more sustainable. Network (revised in 2013) with routes, clearways and anchor areas will be maintained. Safe distance to wind farms, preferable agreed in international fora
- **Sand extraction:** reserve enough sand for nourishment of the coast against reasonable costs
- **Defense** (military): maintain the present exercise areas; multiple use possible (but no permanent constructions in those areas)



## Boundary conditions

- Respect the marine environment (Good Environmental Status) and for this implement the Marine Strategy Framework Directive Measures
- Protect six Marine Protected Areas (four at EEZ)
- Respect the cultural heritage (Treaty of Malta)
- Maintain the coastal fundament
- 'Free' horizon up to 12 nautical mile



## (Informal) Public participation

- On-going discussions with relevant stakeholders to develop the Spatial Agenda 2050
- On-going discussions with relevant stakeholders on designating wind energy locations at sea to implement the Energy Agreement for Renewable Energy: 3450 MW at sea (in addition to present 1000 MW) and with coastal communities
- On-going discussions with relevant stakeholders to develop measures to fulfill the requirements of the Marine Strategy Framework Directive: Good Environmental Status of the North Sea in 2020
- Big overlap in all these stakeholders and interest groups (professional 'users' of the sea)
- We used these processes for the whole North Sea Policy
- Twice 'formal' meeting with representatives from sectors
- Formal consultation started 22 December 2014 (6 months)



## Marine Strategy Framework Directive Measures

- Obligation to develop measures by end of 2015 (part 3 of the Marine Strategy)
- MSFD measures in addition to existing measures such as those for Water Framework Directive, Natura2000 and Common Fisheries Policy
- For Dutch situation:
  - Make uses more sustainable
  - Protection of species and habitats
  - Create opportunities to restore habitats
- Extra (MSFD) measures:
  - Extra protection of the sea floor in certain areas against trawling (Frisian Front and Central Oystergrounds)
  - Wide variety of litter prevention measures related to economic sectors (fisheries, shipping, production) and areas (rivers, beaches)



# Marine Litter: to reduce visible litter at the coast and litter within organisms

## **Existing measures:**

- Setting the agenda and raising awareness
- Beaches: Blue Flag, Adopt a Beach
- River basins: clean-ups
- Shipping: Port Reception Facilities, MARPOL V
- Fishing: Fishing for Litter
- Plastic products: separation, collection, re-use; recycling packaging; chain agreement; reduction of one-time use of plastic bags

## **Additional measures:**

- Focus on the top 10 most found items at the beach (nets, ropes, bags, caps, packaging sweets, balloons, (drinking) bottles, industrial plastic) plus micro-plastics.
- Green deals with recreation sector (clean beach), shipping sector, fishery sector





## Wind energy at sea

- 11 existing licenses, only 3 with subsidy
- In previous plan (2009) 2 areas designated, 2 areas to be developed
- Energy agreement: 3450 MW extra (roughly 600 km<sup>2</sup>) in 2023
- Savings of 1-2 billion € when build with central connectors in units of 700 MW, closer to the coast
- Now 2 other areas designated in front of Dutch central coast, made possible due to changed shipping lanes in 2013 because of extension Rotterdam harbor
- Further investigation for possibilities to use part of 10 -12 mile zone as well
- Special Wind Act to combine location and subsidy (July 2015)
- Accumulation of impacts still an issue
- Experiment with multiple use
- 8 non-used licenses will be withdrawn



## Administrative law (1)

- On the draft Structural vision, anybody (private persons, industries, organisations, municipalities) can give their views during the consultation period. Based on the reactions, the final version may change. The final version with an answering note how the reactions have been addressed is approved by the Council of Ministers. The Parliament has to endorse the final version
- The Structural vision is self-binding for the Government
- Based on the Structural vision, more detailed decisions may follow; for instance for permitting a wind farm within a designated area
- The intended decision for granting a permit (with all relevant documents like EIA) is open for consultation during 6 weeks. Anybody can give their views during this period.
- Based on the received views, the competent authorities react to those who gave their views and makes a final decision



## Administrative law (2)

- A person or party who wants to contest the decision has to have an interest. This interest has to be personal (to distinguish him/her from others), specific enough and directly involved with the decision
- Only parties who gave their reaction during the consultation period can appeal
- The appeal is filed to the Administrative Jurisdiction Division of the Council of State
- Any person or party that is not directly affected by the decision will be declared inadmissible by the Council of State
- One special element in Dutch legislation is a Crisis and Recovery Act (2010) which aims at making decision making of certain projects which are important as a reaction to the economic crisis of 2008 more efficient and less time consuming



## Example of ruling against permits for wind farms

- In 2009, eleven permits were granted for wind farms in Dutch marine waters (beyond 12 nM), following the proper administrative procedure (incl. EIA, safety of shipping and accessibility of oil and gas platforms)
- Several appeals were made against these decisions:
  - **Municipality**: their appeal was declared inadmissible due to the Crisis and Recovery Act which rules that a lower governmental body can not appeal against a higher government decision
  - **Association of inhabitants of a living quarter**. The association could not prove that their association had a defined interest which could be damaged. And therefore their appeal was declared inadmissible.



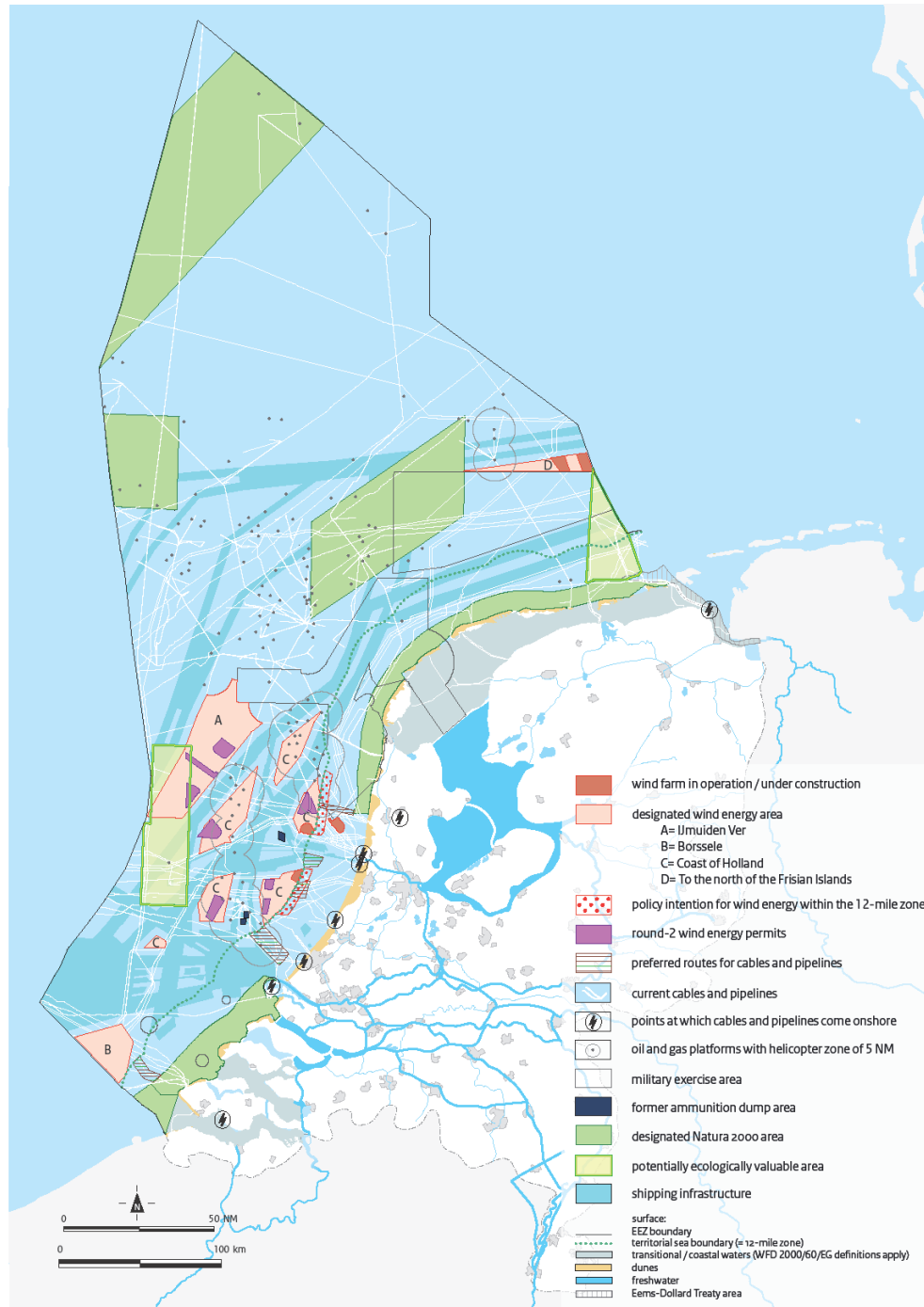
## Example (cont.)

- **Association of beach club owners:** they claimed potential loss of income due to avoidance of tourists to visit that part of the coast. The Council of State looked at three criteria: distance, visibility and physical appearance. The EIA showed that only 10 % of the time the wind farms would be visible. The association was declared inadmissible because it was not directly affected by the decision. In theory, they could claim compensation under civil law when loss of income is proven.



## Consultation process wind energy

- As a principle we involve relevant stakeholders at an early stage
- Discussions with municipalities started in 2014 on possibly using a zone between 10 and 12 nM to meet the policy objective of 3450 MW in units of 350 MW.
- This will require a revision of the Structural vision
- A visualisation tool was developed and discussed with municipalities
- Visibility depends very much on weather conditions, time of the day, seize and density of the turbines, distance
- Administrative legislation: see previous sheets
- Political factor: influencing Ministers or Parliament





## Sand extraction strategy

- Sand important to protect our coast against the sea
- At present 20 million m<sup>3</sup> sand used for nourishment per year
- With sea level rise this may increase to 60 - 80 million m<sup>3</sup> per year
- Reserved zone between -20 m NAP and 12 mile is enough but locally there might be shortages of (affordable) sand
- Policy now is for deeper mining (10 meters) where possible
- Preferred routes are now allocated for cables and pipelines to get ashore at locations where there are already cables/pipes or where sand is not that deep

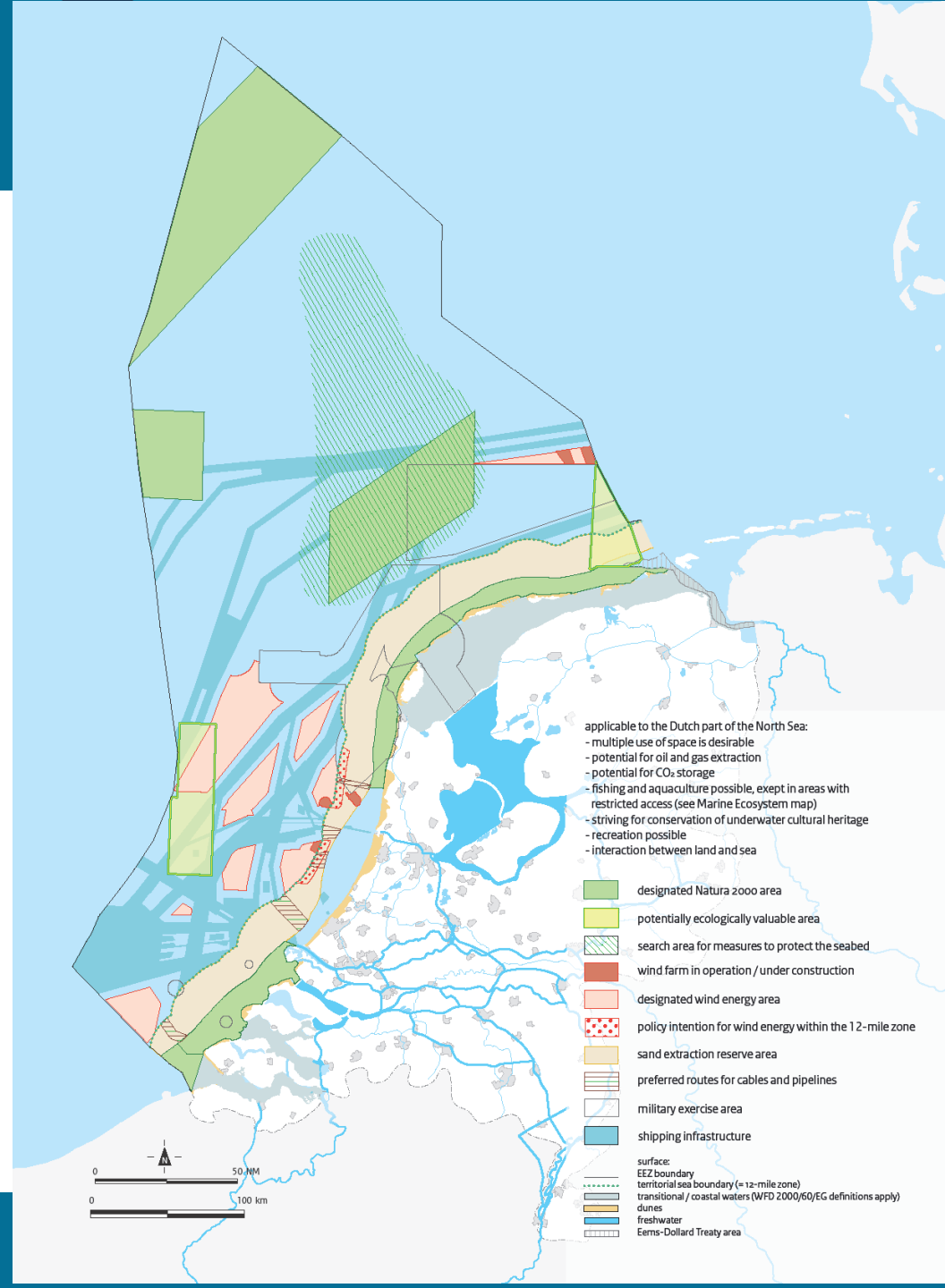




## Other topics

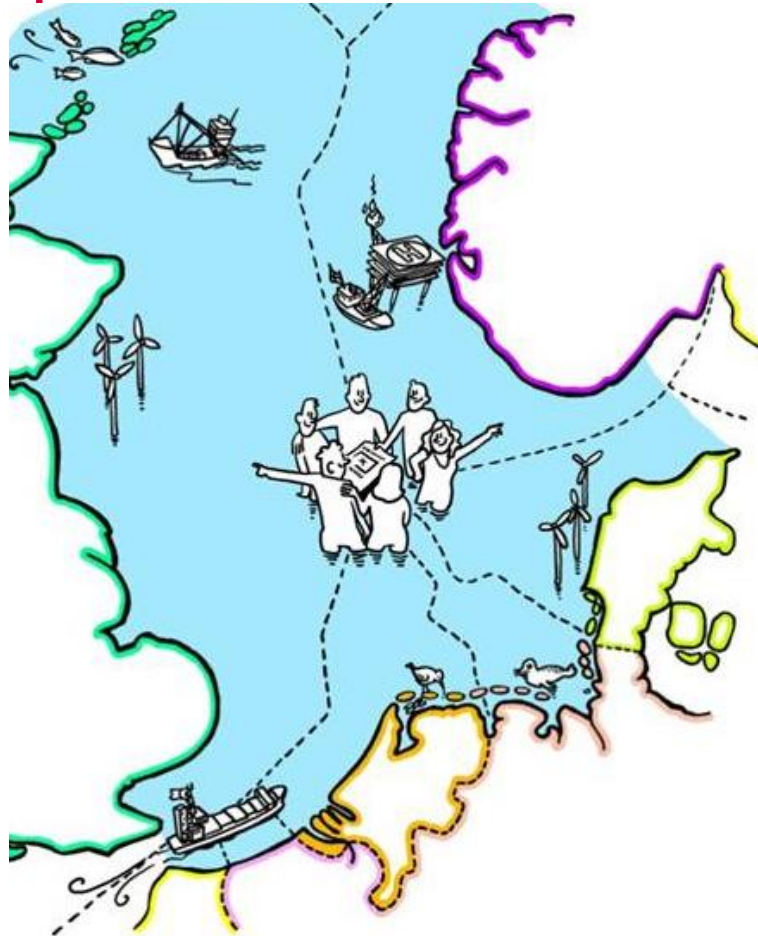
- Other functions of the ecosystem: fishing, cables/pipelines, cultural heritage, tourism/recreation
- Land-Sea interactions
  - Relationships identified: spatial, natural, socio-cultural
  - Will be further explored further with regional /local authorities
- **Assessment framework**
  - Step-wise approach to assess the permissibility of activities at sea for which a permit is required, taking into account the existing policies and legislation and the priority functions which should not be hampered

# Framework vision





# International cooperation





## International cooperation

- International cooperation is essential for an international water
- Already frameworks for cooperation in place (IMO, EU, OSPAR/HELCOM, ICES)
- Formal reaction requested from neighboring countries
- Further cooperation can be in policy, management or research
- Our identified themes for cooperation:
  - Spatial planning
  - Renewable energy
  - Healthy Ecosystems
  - Shipping
  - Food production





## Some lessons learned

- Start with evaluating the objectives and agreed actions from the previous plan or evaluating the new emerging conflicts
- An initial step could be a management plan with opportunity maps
- Define the scope and communicate this
- Don't aim at regulating/planning everything: the sea is dynamic and uses are temporarily
- Early involvement of stakeholders and interest groups; confidence grows only slowly
- Mutual Gains Approach: helps developing optimal solutions
- Fixed positions create inflexibility instead of creativity
- Joint Fact Finding: knowledge generation linked directly to the process: practical knowledge (i.e. captains) and theoretical knowledge (i.e. models, risk analysis).
- Second time is much easier than the first time



## References:

- <http://noordzeeloket.nl/en/spatial-management/>
- [http://www.noordzeeloket.nl/en/Images/Draft%20Policy%20Document%20on%20the%20North%20Sea%202016-2021\\_3917.pdf](http://www.noordzeeloket.nl/en/Images/Draft%20Policy%20Document%20on%20the%20North%20Sea%202016-2021_3917.pdf)
- <http://www.mspchallenge.org/> Awareness tool/game
- [http://www.unesco-ioc-marinesp.be/msp\\_guide](http://www.unesco-ioc-marinesp.be/msp_guide) Guidelines for MSP
- <http://noordzeeloket.nl/nieuws/index.aspx?Component=4133&ComponentTemplate=166> Visualisation tool

Because you don't see it, it does not mean it is not there

