

## Policy Brief Three: Integrating Spatial Land-Use Planning, Climate Change, Urban Resilience, SMART and Green Cities into Urban Development in Vietnam



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*On behalf of the Ministry of Construction I would like to express my sincere thanks and gratitude for GIZ's valuable support in integrating spatial land-use planning, climate change, urban resilience, SMART and Green cities into urban development in Vietnam. The reform of urban development is critical for improving public health, the environment and economic growth in Vietnam.*

### Key Points:

- The new Land Law, approved by the National Assembly in 2013, established the legal framework for agricultural, non-agricultural (including urban land) and unused land. The Urban Planning Law was approved in 2009 and provides the framework for the management and use of urban land. Master plans present the design for public works



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*I very much appreciate the close partnership that has developed over the years between MoC and GIZ. Our cooperation has produced many significant results, and most importantly a proposed new law on urban development and management.*

- such as urban transport and flood resilience.
- However, rapid urbanization, the development of new urban areas and the diversification of urban land use has exposed gaps in the legal framework. Important gaps were spatial planning involving the distribution of people in spaces of various scales according to an overall strategy, improving urban resilience and using SMART and

green growth to better respond to climate change.

- As a result the government decided to include urban spatial planning, urban resilience, SMART and green cities in the new law on urban development management. This law will be presented for comment to the National Assembly in May 2018.
- GIZ supported the Ministry of Construction during the drafting process of the new law including regional consultation workshops, technical assistance on urban spatial planning in the Vietnamese context. GIZ carried out advocacy and supported the drafting team to include, urban resilience, green and SMART cities and the chapter on spatial planning in the new law. The beneficiaries of this support are the 30 million residents of urban centres in Vietnam.

## **Introduction:**

This policy brief aims to inform policy makers from the Government of Vietnam and development partners involved in the urban development sector about the integration of urban spatial planning and climate change in the new law on urban development management drafted by the Ministry of Construction. Spatial planning greatly influences the urban environment, for example where to construct new houses and what these houses should look like. Spatial planning uses factors such as house density, access to services, income, average dwelling value, livability and carbon dioxide emissions to develop practical and sustainable development plans that beautify the urban environment.

A city should be an attractive place to live with economic potential for its inhabitants. The policy brief is intended to stimulate dialogue among stakeholders to ensure that subsequent legislation after the law is approved such as a decree, decisions and implementation circulars reflect the needs of all levels of government and the people so they can be effectively implemented.



*Mr. Pham Hong Ha, Minister of Construction discussed with the Committee of Economics – National Assembly of Vietnam about the Urban Development Management Law*

This policy brief is the summary of GIZ's Flood Proofing Programme (FPP) activities carried out to support the Ministry of Construction improve the legal and policy framework in the sector. FPP is funded by the Swiss State Secretariat for Economic Affairs, the Government of Vietnam and the Government of Germany. In 2017 and 2018, FPP carried out an extensive assessment and analysis of the legal and policy framework for urban land-use planning, urban resilience and climate change. Based on the analysis, FPP carried out advocacy and provided technical assistance to the Urban Development Agency (UDA) during the drafting of the new law on urban development and management. Experiences and lessons learnt from implementing activities in 16 provinces in Vietnam form the basis of FPP's advocacy and communication efforts at national level. The main results

of this support included direct comments on drafts of the law, participation in drafting committee and review meetings with MoC vice-minister and minister as well as other ministries and the National Assembly, the inclusion of a sub-chapter on urban resilient, Green and Smart cities, and a chapter on spatial urban land-use planning in the new law. This means that urban plans at all levels of government will integrate the new approaches and include effective land-use, spatial planning and climate change. In addition, FPP provided funding and technical assistance for two regional consultation workshops during the drafting of the law.

At present in Vietnam, the urban population makes up 30% of the total population and is expected to continue growing at a high rate, rising from 25



*Da Nang City*

million in 2009 to 44 million by 2020 and an urbanization rate of 45%. It is estimated that the 20-million increase will include 13 million migrants from rural to urban centres. Vietnam's urban centres are classified into six classes: two national special cities (Hanoi and Ho Chi Minh City), class I (total 19), class II (total 23), class III (total 45), class IV (total 84) and class V (total 640). Economic growth per year in cities is 12-15%. About 45% of the urban population live in small urban centres that have populations around

100,000 people. These centres often lag behind large urban centres in terms of access to basic services and resilience to natural disasters. In some cases, these centres are rapidly growing due to their proximity to larger urban centres. The government's forecast is that by 2025 there will be 1000 cities in Vietnam with the population of 52 million, an urbanization rate of 50% and urban centres will contribute 70-75% of GDP.

## **The Legal and Policy Framework**

Based on research, assessment and analysis, FPP identified the following strengths and weaknesses.

### **Strengths**

- The Land Law is regularly amended to help ensure that the legal framework corresponds to the needs of the people.



*Vice Minister of Construction Phan Thi My Linh and leaders of relevant departments meet with the National Assembly of Vietnam about the Urban Development Management Law*

Amendments to the law occurred in 1987, 1993, 1998, 2001, 2003 and 2013.

- There is consistency in the scope, objectives and priorities between the National Land Use Master Plan to the year 2020 and the National Land Use Plan from 2016-2020

approved by the National Assembly.

- The Land Law and Decree No.88/ND-CP dated 17 August 1994 issued by the Government adequately defined the concept of urban land, management and use of urban land as well as the definition of urban land.

### Weaknesses

- The Land Law defines that urban land is a type of land in the national land use plan but does not provide definition of the conditions and scope of urban land<sup>1</sup>. The different categories of land covered by the urban land-use master plan are not clear<sup>2</sup>. For example, peri-urban land outside of city and town administrative boundaries is not included in the law. Urban land and urban land designated for construction are specifically defined in the Law, however, they are not included in the statistical system and not clearly defined in the land inventory.
- The Urban Planning Law 2009 provides the framework for the management and use of urban land according to master plans<sup>3</sup> and urban plans including land for public works such as transport, urban water supply, flood management and drainage.

However, this Law does not provide definition or encourage spatial planning of urban land.

- In addition to Resolution No. 134 issued by the National Assembly in 2016 that outlines amendments to the Land Use Master Plan to 2020 and the Land Use Plan 2016-2020, there are also other plans that include land management in urban areas<sup>4</sup>. As a result, there are inconsistencies in the policy framework for urban land-use and it is not clear whether urban land should be planned spatially.
- The Land Law only presents land management by purpose of use and has not classified land according to the distribution of people and activities in spaces of various scales in urban centres.
- The Land Law does not define the mechanism for land contribution for the planning and construction of new projects. Contribution of land for urban development is an instrument so that land owners, on a voluntary basis, can contribute a percentage of the land under their ownership to implement an urban development project and will in turn receive a plot with a smaller area in the same project site with higher value and better infrastructure conditions. This instrument would allow land owners to join public private partnerships or several land owners could establish their own

<sup>1</sup> Article 2 Article 38 Land Law 2013.

<sup>2</sup> Number of years respectively from 2016-2020: 1.7 million, 1.77 million, 1.83 million, 1.89 million, 1.94 million ha (rounded up).

<sup>3</sup> Item 3 Chapter V Law on Urban Planning

<sup>4</sup>Numbers in respective years from 2016-2020 are: 179,000; 184,000; 190,000; 195,000; 199,000 ha (rounded up)

partnership and so contribute to sustainable urban development.



*Ho Chi Minh City*

- The Bidding Law was approved by the National Assembly in 2013. The Law outlines the process and conditions that bidding must be organized to select investors for projects that use land<sup>5</sup>. However, the Land Law only defines the conditions that tendering should be organized for the land use rights and the circumstances that tendering is not required for land allocation or land lease<sup>6</sup>. It does not stipulate the circumstances in which bidding is organized to select the investors for projects using land. Inconsistencies between the Land Law and Bidding Law have resulted in inconsistencies and difficulties in implementation of land use projects and the selection of investors.
- The Land Law provides rigid stipulations on land reclamation that includes reclamation of land for construction of new urban areas<sup>7</sup>. These rigid stipulations have made it impossible to reclaim other types of land. In addition, the

Land Law 2013 has not set out specific conditions on the scope of land reclamation.

- The Land Law defines the relationship between land use plans of different levels, for example land use plans of lower levels should be in line with the land use plans of higher levels; and the land use plan should be in line with the land use master plans approved by the competent agencies<sup>8</sup>. However, the Land Law does not include stipulations on the relationship between land-use master plans, land-use plans and technical plans. It is not clear whether the land-use master plan should be developed in advance, then land-use plans and technical plans involving land-use should be developed in line with the land-use master plan; or should the land-use plans and technical plans involving land-use serve as a basis for the development of land-use master plan.

### **Solutions to improve Land-Use Planning**

- The review of the Land Law issued in 1993 and Decree No. 88/ND-CP dated 17 August, 1994 shows that the concept and scope of urban land defined in these legal documents is basically appropriate with the existing situation and should be incorporated in the Land Law. The Land Law is scheduled for amendment while the proposed law on urban development and management has already been submitted to the National

<sup>5</sup> Provision 3 Article 1 of the Bidding Law 2013.

<sup>6</sup> Article 118 Land Law 2013.

<sup>7</sup> Article 62 Land Law 2013.

<sup>8</sup> Provision 2 Article 35 Land Law 2013.

Assembly for review and comment. FPP recommends to focus on the law on urban development and management to include the concept and scope of urban land from the Land Law 1993 and the Decree No. 88/ND-CP and as well include definitions and conditions for the integration of spatial planning in urban development.

- For strategic urban development management, FPP recommends to include regulations on classification of cities based on urban spatial land use. To be clear, classification of cities and classification of land based on land use purposes will be regulated by the Land Law while classification of urban land based on spatial land use will be regulated by the upcoming law on urban development management .



*Consultation Workshop on the Draft Law on Urban Development Management*

- FPP recommends that the new law on urban development and management includes an instrument so that investors and residents can cooperate and contribute land for commercial projects. This will increase urban

development and reduce costs for Government.

- To help ensure the Bidding Law and the Land Law are consistent, FPP recommends that the Land Law is amended to include tendering for land-use rights and land lease and include regulations on the bidding process for land and the selection of investors, land allocation, and land lease for projects that use land.
- The national land-use plan is the basis for sector land use plans. However, to ensure the feasibility and effectiveness in the use of urban land resources, FPP recommends the government to issue clear regulations on the relationship between sector technical plans (for example urban infrastructure such as land for flood management and drainage systems) and land-use plans. In particular, the sector technical plans should be developed first, then the land use plan will be summarized and harmonized for sector plan implementation.

### **Expected Content in the New Law on Urban Development Management**

This section is based on the most recent version of the new law. This version was presented to relevant ministries for comment and submitted to the leadership of the National Assembly in April for review and comment.

- Chapters 3 and 5 of the new law refer to the urban land-use and

management issues. Importantly, the law indicates that the Land Law should be amended to regulate urban land-use exploitation to provide resources for urban development, clarify the conditions for the transfer of land, rent for land, permission to transfer land-use so it can be used for investment projects and land-use for the improvement, beautification and reconstruction of urban areas



- The new law clearly outlines a new definition for urban land-use. And presents a clear and concise definition of the spatial land-use and scope.
- The new law establishes spatial planning as the basis for effective land-use management and implementation of land-use master planning.
- The new law establishes a Land Fund for the improvement and

development of urban areas. There will be three contributors to the Land Fund: land reclaimed by the state, investors who established agreements with land owners, and land users who voluntarily contribute land use rights for mutual benefits and accordingly adjust their land user rights.

- The new law promotes financial resources for urban development. It enables individuals and organizations to transfer development rights of a location to other individuals and organizations, for example when an individual or organization has according to the land-use master plan the right to construct a 10 story building on the location but only constructs a 5 story building, the individual or organization can transfer the right to build the additional stories to other individuals and organizations at another nearby location. The new law presents clearly the new taxation mechanism for these type of transactions.