2 February 2023

To:

The Ministers of the Israeli Government

Greetings,

**Comments of the Society for the Protection of Nature on the Arrangements Law**

The Society for the Protection of Nature (SPNI) is pleased to submit its comments on the Arrangements Law, including amendments to the National Infrastructure Law as well as the structural changes draft to the 2023–2024 budget.

SPNI welcomes a number of positive clauses in the plan, there are nonetheless many environmentally problematic clauses that we propose deleting or amending in order to prevent their potential damage to our natural surroundings.

It has now become clear to all that we are in the midst of two interrelated crises – the climate crisis and the ecological crisis – that endanger the quality and well-being of our lives, if not its very existence. Hence, it is necessary not only to avoid promoting proposals harmful to humans and the environment, but also to take proactive action.

This document lists a number of proposals and ways for promoting environmental aims that will lead to an improvement in the quality of life in Israel and the protection of the ecological systems as well as, to financial benefits for the State of Israel in certain cases. Unfortunately, these suggestions are missing from the present draft arrangements law.

We hope that the Israeli government will adopt our proposals and amend its plans in order to prevent harm to the citizens of Israel, the Israeli environment, and its natural habitat, as well as adopt operative proposals to promote the quality of life and the environment in Israel while confronting the challenges facing us.

Respectfully,

Iris Han

General Manager, SPNI

**Comments on the “Promotion of the National Infrastructure” Document**

**Determination of Preferred Essential Infrastructure Projects (p. 5)**

Clause 18: The list of national infrastructure projects detailed in Government Decision No. 202 also includes the construction of an additional airport, in light of previous government decisions approving the construction of an airport at Ramat David. However, a later government decision, numbered 547, from 24 October 2021, cancelled the decision to construct the additional airport at Ramat David.

The construction of an international airport at Ramat David would entail enormous environmental hazards to the environment and agriculture in the Jezreel Valley, including a risk to millions of wild birds nesting and passing through the area. **In light of this, and in order to prevent a conflict between the various government decisions, it is proposed that the national infrastructure chapter should explicitly note that the national infrastructure project regarding the additional airport will not be executed in Ramat David.**

**Forests (p. 7)**

Clause 24: This clause enumerates a list of factors the forestry official must consider, while ignoring the central factor underlying the Forestry Ordinance, which is the protection of the trees. **Therefore, we propose including an additional factor to be specified in the Forestry Ordinance: the age, scarcity, measurements, location as well as the scenic, environmental, ecological and historical value of the protected or mature tree for which the license is being requested.**

Clause 25: The wording of this clause in effect revokes the authority of a forestry official to withhold approval for felling trees in preferred essential infrastructure projects and transfers this authority to the director general of the Treasury and the director general of the ministry in charge of infrastructure. This represents severe interference in the professional considerations of the forestry officer, which will likely lead to a massive felling of trees even when this is not required to realize construction. **Therefore, we propose deleting this clause.**

**Planning and Licensing (p. 8)**

Clause 31(B): This clause seeks to cancel the right of appeal against decisions of the district planning and construction committee and to review appeals only upon authorization by the chairman. The existing law balances the right of appeal and permission, so that in a small number of cases it is possible to appeal, and in most cases, permission must also be requested, and there a right only in a small number of cases. The right is granted sparingly by the law, and in many cases where it is used, the appeal process has led to necessary changes in the plan.

Preventing the right of appeal breaches the existing balance, while harming the right of the public to influence the planning processes, and creates a situation in the name of efficiency (purportedly), whereby the public is excluded from planning that will affect it. **Therefore, we propose deleting this clause.**

Clause 31(C): This clause proposes cancelling the requirement to bring before the Coastal Environment Protection Committee a national infrastructure plan and a detailed plan for national infrastructures and the permits under the authority of the National Infrastructure Committee which have been proposed in the coastal environment.

There are only few such cases, but when national infrastructure enters the coastal environment, it is appropriate that such a scarce resource be examined by the Coastal Environment Protection Committee, to which authority has been given, to ensure that there will be minimal harm to this sensitive environment. **It is therefore proposed deleting this clause.**

Clause 31(D): This is a most problematic clause that changes the environmental consultation within the planning committees from advice provided by professionals in the Ministry of Environmental Protection to advice given by paid external private entities that are not part of comprehensive planning and may even be found to have conflicts of interests. Below are our detailed comments on the clause:

1. Clause 31(D)(1) proposes to amend the Planning and Construction Law so that the environmental advisor to the committees (the National Council and the district committees) will be replaced by an environmental consultant who is not an employee of the state in place of an employee of the Ministry of Environmental Protection.
2. Clause 31(D)(2) proposes to amend the Planning and Construction Law so that the review is submitted to the new environmental consultant rather than the Ministry of Environmental Protection.
3. Clause 31(D)(3) proposes that the Minister of the Interior amend the Planning and Construction Regulations in the matter of the environmental impact review, in accordance with the above-mentioned changes.
4. Clause 31(D)(4) proposes that it will be possible to appoint a consultant not from the list agreed by the Minister of Environmental Protection in the National Infrastructure Committee.

Until now, the Ministry of Environmental Protection has played a fundamental role determining policy in the decision-making process, including setting environmental provisions in the planning process and in setting the policy of the National Council and the planning system.

At present, Clause 31(D) in effect adopts and expands the working model of the National Infrastructure Committee and the National Committee for the Planning and Construction of Preferred Housing Complexes. Both these committees bypass the regular planning system with the purpose not of implementing a planning policy but of approving specific plans. This proposal opens a door to problematic conflicts of interests, as it refers to consultants working for the public sector and the private sector simultaneously.

The lack of separation between the purely public interest and the interest of the environmental consultant, who is also supposed to serve entrepreneurs, poses fertile ground for creating very serious damage to public health and the environment. Currently, the planning institutions already apply significant pressure to promote plans quickly while waiving environmental considerations To date, the Ministry of Environmental Protection as a public entity has succeeded in standing firm despite the great challenge in the matter.

**What is now being proposed is that the private environmental consultation market become a closed market in which the same members prepare the environmental documents as well as write the guidelines and examine these same documents. This is a dramatic and destructive change in the field of planning which directly affects the ability to ensure the protection of environmental values in planning and development processes in Israel.**

**If the environmental consultant is employed by the planning institution that is also promoting a plan, the quality and level of environmental review will be undermined along with the public interest. The need to advance expedited procedures to the satisfaction of the committee will eclipse a real environmental review that only an independent party is able to provide.**

It should be noted that the environmental consultants of the National Infrastructure Committee and the National Committee for the Planning and Construction of Preferred Housing Complexes currently receive considerable assistance from the environmental consultants of the Ministry of Environmental Protection regarding the determination of methodologies and the significance of data, and especially regarding highly complex subjects for which it is difficult to reach planning decisions. This is due to the extensive expertise and experience of the consultants in the Ministry of Environmental Protection as well as their ability to view the overall picture beyond short-range planning.

**In light of the far-reaching environmental implications, we propose deleting this clause. In addition, it is proposed adding the following to this section in the Arrangements Law:**

1. In order to maintain public health and protect the environment, it will be determined that any independent consultants acting on behalf of the state will prepare the environmental documents to be paid for by the plan’s initiators by paying into a fund dedicated to this purpose.
2. The environmental consulting for the planning institutions (the National Council and the district committees will remain in the hands of the Ministry of Environmental Protection and will not privatized.
3. The responsibility for environmental consulting for the National Infrastructure Committee and the National Committee for the Planning and Construction of Preferred Housing Complexes will be transferred to the Ministry of Environmental Protection.
4. The budgets and the regulations required to ensure its ability to execute its task faithfully and within the required deadlines will be made available to the Ministry of Environmental Protection.

Clause 31(F): In effect, this clause proposes to override the conditions required in the plan and the permit. That is, the licensing authority may grant a permit and approval prior to the work, even if no approval has been given by an approving authority as defined in the above-mentioned law and even if no consent has been given by another authority whose consent is required as a precondition.

This situation will complicate the planning system, as the planning institution will be required to solve all the problems at the planning stage of new plans and not leave matters to the licensing stage, which will no longer be reliable. Moreover, this clause creates retroactive harm with significant implications for approved plans, many of which resolved problems, since many of the plans have addressed problems in accordance with the requirement for consultation during the licensing phase. **Therefore, we propose deleting this clause.**

**Innovation (p. 10)**

Clause 36: This clause proposes permitting the construction of pilot installations with a categoric exemption from a plan and a permit. Presently, about 120 pilot programs are being promoted for agro-PV installations by means of a detailed national outline plan (NOP). According to what is being proposed in this clause, it will be possible to undertake these programs with an exemption from preparing a plan and obtaining a permit, with no limitation and absolutely contrary to the Planning and Construction Law and the entire national planning policy formulated over many years. **This is an unusual and dangerous step with the potential for massive, negative impacts on the environment and humans, and therefore we propose deleting the clause.**

**Changes and Easenebts in Outline Plans or Existing Installations (p. 10)**

Clause 37: This clause proposes to permit the construction of new transmission power lines (161 and 400) without any detailed plan, especially when they have been marked in a national outline plan. If this means NOP 41, which marked “corridors for preservation,” this is not a detailed plan. Moreover, during the preparation of the NOP, no examination of alternatives was conducted, which is required in the detailed plan.

This clause, then, permits waiving this stage as well as permitting power lines to be constructed without an examination of alternatives, without a survey of the impact on the environment, and, in fact, without a plan. This is a damaging step, particularly in light of the fact that in the coming years, hundreds of kilometers of power lines are expected to be promoted throughout the country. If this section is approved, these lines will advance without the public having any ability to influence the planning. **Therefore, we propose deleting this clause.**

Clause 39: This clause proposes changing long-standing practices regarding the process of changing a national infrastructure plan. Presently, a change may be made by means of a relief (in a limited way) or by means of a plan change for any purpose. In contrast, it is now proposed allowing changes that are likely to be dramatic to be made by means of a process similar to an easement, which can amount to 10% of the area of the plan. In our opinion, it is unreasonable to make changes of this kind without a remedial plan. **The proposed clause in effect brutally shatters the rationale behind the institution of easements, and, therefore, we propose deleting it completely.**

**The Planning and Construction Regulations (p. 12)**

Clause 44: This clause proposes requiring preparation for installation of a solar panel on each roof of 250 m2 or more. Despite the fact that we welcome the promotion of solar rooftop installations, the language of the clause is not sufficiently clear. **Therefore, we propose stating explicitly that photovoltaic installations will be constructed on every new roof built in Israel as well as on existing structures.**

**Comments on the Document “Structural Changes Booklet for the 2023–2024 Budget”**

**Ensuring the Supplying of the Electricity Needs of the Israeli Economy**

We welcome the proposals to promote electricity generation by means of renewable energy. However, since there is an acute shortage of land resources in Israel, priority should be given to solutions that do not waste open areas, as do land-based solar installations, and instead prioritize solar energy on roofs. Below are comments to specific clauses:

Clause 7: In effect, this clause proposes imposing annual planning goals for land-based solar installations in the planning system, thus depriving it of its ability to determine planning policy, as well as the independence to make decisions on plans on the subject. **We propose deleting the clause and, alternatively, propose that the National Council be given the responsibility for examining land-based solar energy planning policy, including goals and limitations in regarding the scope of planning for land-based solar installations.**

Clause 8: This clause proposes excluding plans initiated by the government from the quota set by the National Council. However, the limitation of open areas in Israel does not depend on ownership or title to the land, and land allocation and use for development must be highly efficient, whether the land is owned by the state or if there are leasing rights. **Therefore, we propose deleting Clause 8(A).**

**In addition, we propose deleting Clause 8(B), which seeks to annul the quota. Alternatively, it is proposed to establish a review that will be carried out regarding the need for updating the quota rather than its complete cancellation.**

Clause 9: This clause proposes establishing transaction and marketing objectives of land for solar energy, while completely ignoring Israel’s abnormal density of land use and the depletion of its land resources. **Therefore, we propose that no such objectives should be set, since the Israel Lands Authority has the duty to preserve state lands and ensure their sustainable preservation and efficient utilization over time.**

**Specifically, we propose deleting Clause 9(D), which seeks to set a target for marketing land for land-based solar installations in the central regions of Tel Aviv and Jerusalem.** This is because there is an acute land shortage in these regions in particular; therefore the existing planning policy, which does not promote the marketing of land for land-based solar installations in these regions, should be kept in place.

Clause 11: This clause proposes setting a price for land for each type of electricity-producing installation. However, the clause does not refer to Israel’s land scarcity. **It is proposed that the following sentence be added at the end of the clause: “In determining the price of the land, the fact of its scarcity throughout the country should be taken into account and reflected in the price to be determined.”**

Clause 12: This clause proposes adopting the report of the inter-ministerial team on the subject of agrivoltaic development by the Ministry of Finance. The team was to have dealt with the land issue in the matter, but broadened its scope regarding planning topics which were dealt with in other frameworks. As a result, the Ministry of Finance team gave recommendations in purely planning issues not corresponding with the policy of the National Council or with the directions proposed in the framework of the discussions of policy documents and the national outline plans being promoted at present regarding agro-solar installations.

At the present time, it is proposed to adopt the report despite its contradictions regarding these issues and to attempt to impose its position on planning system bodies in decision-making positions. **In light of the above, we propose not adopting the report as a government decision, but rather stating that the planning issues will be determined in the framework of discussions on the policy documents and relevant national outline plans.**

Clause 12(B): The clause proposes fixing a maximum quota for an agricultural settlement of 500 dunams of agro-solar installations in addition to 250 dunams of land-based solar installations. This is a very large area which often amounts to 20% of the surface area of the entire agricultural allotment. This is a clearly inequitable allotment that discriminates against most of the country’s residents who are not entitled to make a living from solar energy production. Moreover, on an environmental level, this is a massive deployment of solar installations in open areas despite the shortage of land in Israel. **We propose deleting the clause.**

Clause 12(C): This clause proposes creating a route for building installations in the center of the country, despite the fact that this is unfeasible from a planning aspect. This is “putting the cart before the horse,” since the planning discussion on the construction of installations in the central area has not yet been determined. There are also differing positions regarding the justification for building these installations in a crowded area in which land is a scarce resource and subject to great competition between uses. **Therefore, we propose deleting the clause.**

Clauses 13 and 15: These clauses state that the sanction for failure to comply with the terms of agricultural growth will be a reduction in the electricity rate paid for the production of solar energy. **We propose that the sanction be the dismantling of the installation and restoration of the agricultural activity, and not only a reduction in the rate.**

Clause 16: This clause in effect seeks to impose the principles of the Ministry of Finance on the National Council and on the planning system, as outlined in the clause. This proposal harms the independence of the planning system and imposes non-planning considerations on it. **Therefore, we propose deleting this clause.**

Alternatively, we propose determining that the committee drawing up the national outline plan for agrivoltaic installations will draft its proposal and bring ti before the National Council, which will decide planning questions, including principles, as has been done regarding every national outline plan.

**In addition, it is proposed to add Clause 16A, which states that agrivoltaic solar installations will not be fenced, which is not required for agricultural activity.**

Clause 17: This clause proposes eliminating the need to bring a plan of an agrivoltaic installation before the Committee for the Preservation of Agricultural Land and Open Areas. This is a completely unreasonable proposal since the committee is tasked with ensuring the protection of agricultural land, and it is precisely on this complex issue of an attempt to permit the production of solar energy alongside agricultural activity that this committee has a structural advantage.

Moreover, the purpose of the committee is to ensure not only the protection of agricultural land, but also the protection of open areas and their functioning in general. Therefore, in ensuring the protection of the additional environmental values of agricultural land as a part of the array of open areas, this committee has a special importance. Agrivoltaic projects are expected to be one of the factors that will affect the greatest amount of total open areas in the future, and therefore the committee has an even greater importance in examining these plans. **Therefore, it is proposed not to exempt agrivoltaic plans from the hearings of the Committee for the Preservation of Agricultural Land and Open Areas.**

Clause 18: This clause in effect instructs project initiators to contact the titleholders of the land to advance the production installations, which will lead to installations being promoted on the basis of land ownership rather than on the needs of the economy, and above all, not according to location.

Instead, there is a need for a nationwide process of planning production needs and identifying locations. If these locations are in the area of agricultural allotments, for example, they should be expropriated by the state and placed out to tender. Only in this way will it be possible to ensure that the installations being promoted are necessarily based on the needs of the economy and according to the required locations.

In addition, since a power station has many environmental impacts, such as air pollution, land use, and more, the Ministry of Environmental Protection must be included in the team. **Therefore, it is proposed to delete the clause, and, alternatively, to amend it in accordance with what is stated above.**

Clause 21: This clause proposes to amend the Electricity Sector Law so that the policy principles determined by the Minster of Energy are subject to the approval of the Minister of Finance. These principles are liable to have an extraordinary environmental impact due to the effect on air quality, land consumption, scenic harm and ecological harm. **Therefore, it is proposed to state that the principles are to be determined only with the consent of the Minister of Environmental Protection.**

**Water and Sewage (p. 12)**

Clause 4: We welcome the initiative to promote the field of the treatment of construction waste in Israel. However, in our view, the steps proposed in this clause are insufficient to deal with the problem. **Therefore, we propose adding the following clauses:**

1. The amendment to the Law for Maintaining Cleanliness (Removal of Construction Waste), which passed the first reading in the Knesset in 2012 but has since been stalled, will be advanced.
2. The existing exemption from receipt of a building permit for work that changes the surface of the land will be cancelled, and any work that changes the surface of the land will require a building permit.
3. There will be a statutory retirement to construct waste “pooling” sites in order to overcome the time gaps in the use of material and to provide a response to the need to remove the material.
4. An integrated legal opinion of the Ministry of Environmental Protection, the Ministry of Justice, the Ministry of Agriculture and the Planning Administration, clarifying the local possibility of executing the removal of surplus soil to agricultural areas as well as the responsibility of the promoters and land owners for the soil surpluses removed in agricultural areas.

**Reduction of the Regulatory Burden in Fruit and Vegetables in Order to Reduce the Cost of Living (p. 22)**

The importing of food products, especially plant matter, constitutes a most dangerous entry vehicle for invasive species into Israel. Invasive species[[1]](#footnote-1) are foreign fauna and flora that enter Israel, spread uncontrollably and cause great economic and social damage.

Even at present, the state of prevention of biological invasions into Israel is very poor,[[2]](#footnote-2) and this has economic, health, and environmental implications. In an age of climate change, the consequences of invasive species are even intensifying according to the leading international organization for nature conservation, the International Union for Conservation of Nature (IUCN). Climate changes facilitate the spread and establishment of many foreign species and reduce the resistance of natural habitats, agricultural systems, and urban areas to climate changes.[[3]](#footnote-3)

From an economic assessment carried out on the feasibility of treating invasive species by the Ministry of Agriculture, the Ministry of Environmental Protection, and the Nature and Parks Authority, it appears that the annual cost of the damage done as a result of the invasion and establishment of invasive species could reach NIS 473 million.[[4]](#footnote-4) In comparison, the annual cost of preventing the entry of these invasive species, reducing the scope of their establishment, and destroying them, was estimated at only NIS 35 million.

These data point to the economic desirability of prioritizing investment in the treatment and prevention of the entry of invasive species over the treatment of damage caused by them after the fact, and that any preventive action will result in huge savings in future expenses.

However, the present proposal in the Arrangements Law is liable to negate the few environmental tests that are still being carried out in Israel by the plant protection services in the Ministry of Agriculture on imported agricultural produce, produce that constitutes a significant vehicle for the entry of invasive species. The proposal will cause economic, social, health and environmental costs that all citizens of Israel at present and in the future will incur. **Therefore, we object to this chapter in the Arrangements Law and call for it to be deleted.**

As an alternative only, and without derogating from what is stated above, we propose that every application for a relief in the requirements of the importing terms and conditions be given not only with the approval of the Minister of Agriculture but also with the approval of the Minister of Environmental Protection, who will consult with the professional bodies in the ministry and receive their opinion regarding the environmental consequences liable to be caused as a result of approving the application.

**Promotion of the Urban Renewal Processes (P. 101)**

Clauses 1–5: We welcome these clauses, which aim to promote urban renewal plans in urban neighborhoods with single-story homes. These are urban spaces characterized by an inefficient use of the land, thus making it possible to promote the addition of hundreds of thousands of residential units without creating overcrowding.

Clause 6: This clause proposes the addition of residential units by way of a relief in ground-level lots without ensuring efficient land use. Moreover, this type of single-story home is found in suburban settlements, rural settlements and suburban neighborhoods, where the addition of a few residential units not according to a comprehensive urban renewal program will necessarily lead to the inefficient use of infrastructures and encourage the use of private vehicles, thereby exacerbating the transportation crisis. **Therefore, we propose deleting the clause.**

**Increasing Economic Efficiency in the Tourism Sector (P. 121)**

Clause 7: This clause states that the Minister of Tourism shall instruct the ministry’s representative in a planning institution on how to vote, contrary to the existing guideline of the Attorney General, according to which the minister is prohibited from interfering with the independence of a representative in a planning institution in order to maintain the independence of the representative and permit the representative to make a decision on a professional basis only. **This is an illegal clause, and therefore we propose deleting it.**

**Green Licensing (P. 157)**

This section makes it possible to reduce the applicability of the Clean Air Act, 5768-2008 by lifting restrictions on emission allowances under the law. This is intended to increase the certainty for permit applicants, but it will harm the environment and health of the public, which the Clean Air Act is intended to protect.

Clause 1: The proposal that factories with a significant environmental impact will receive only one permit for a long period in accordance with the principles existing in the European Union on the date the permit is given negates the possibility of the regulator updating the permit from time to time according to new data revealed after the permit was given and even “freezes” the condition existing on the date the permit was given according to the European standard, which itself is liable to change over time. **Therefore, it is proposed to delete the clause and grant the regulator flexibility to demand a number of permits for various periods according to need, with the aim of protecting the environment and public safety.**

Clause 1(B): This clause permits the applicant for the permit to make use of the old permit for one additional year due solely to a delay in issuing a decision on the request to renew the original permit. **It is proposed to amend the clause so that the old permit remains in force only until the new permit is received, and not for one full year.**

Clause 1(D): As stated above, the regulator should not be restricted and prevented from updating the permit from time to time according to new findings that are discovered. Certainty for businesses should not overwhelmingly prevail over the public interest in protecting health and the environment. **It is proposed to delete the clause.**

Clause 1(F): This clause represents interference in the discretion of the professional giving the license, **and therefore it is proposed to delete the clause**. Alternatively, we propose the following amendments:

Replace the words “If he/she believed that the terms of the permit…” with “If he/she has proven that the terms of the permit...,” as an appeal by the recipient of the permit against a professional decision must be based on evidence of significant harm in it rather than only on conjecture.

In the third line, the words “or portions thereof” will be deleted, as they effectively make every change virtually unappealable, which is inconsistent with the basic rationale that the permit should not result in the closure of the business.

Before the words “the Director General of the office will hold a consultation,” add the words “The Director General of the ministry will request the expert opinion of the senior professional who issued the permit. To the extent that the Director General renders a decision contrary to the opinion of the aforementioned professional, this will be done on the basis of reasons that will be recorded and published as part of the publication of the permit.” This is to ensure that the decision is reached only after consultation with the senior level and that a deviation from his position will be only for exceptional circumstances. In addition, the amendment increases the transparency of the decision of the Director General if it is contrary to the position of the professionals in the ministry.

Clause 1(H): It is proposed to delete the word “significant,” which is subjective and is not defined in this clause, and instead specify that only changes that do not lead to any harm will not necessitate changes in the permit.

Clause 1(J): In order to prevent duplication in the authorization required for discharging waste pursuant to both the Water Law and the Law for the Prevention of Sea Pollution, we propose stating that the granting of permission to discharge sewage to streams and other water sources be given in the same way in which permissions to discharge sewage to water are given, including the payment of a fee for each discharge, in order to reduce the incentive for a continuation of pollution beyond the minimal amount required.

1. <http://www.polshim.org.il/%d7%9e%d7%94%d7%9d-%d7%9e%d7%99%d7%a0%d7%99%d7%9d-%d7%a4%d7%95%d7%9c%d7%a9%d7%99%d7%9d/> [↑](#footnote-ref-1)
2. <http://www.polshim.org.il/wp-content/uploads/2017/01/IAS_Legal_framework_final2016_Nov16.pdf> [↑](#footnote-ref-2)
3. <https://www.iucn.org/resources/issues-briefs/invasive-alien-species-and-climate-change#:~:text=IAS%20are%20compounded%20by%20climate,urban%20areas%20to%20climate%20change>. [↑](#footnote-ref-3)
4. This data also appears in the report of the State Comptroller from May 2022 on the subject of invasive species:

   <https://www.mevaker.gov.il/sites/DigitalLibrary/Documents/2022/2022.5/2022.5-211-Migvan-Biology-Taktzir.pdf> [↑](#footnote-ref-4)