Netherlands Enterprise Agency

Guide to the permit granting process for Projects of Common and Mutual Interest (PCIs and PMIs) in trans-European energy infrastructure

Commissioned by the ministry of Economic Affairs and Climate Policy

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Rijksoverheid

Guide to the permit granting process for Projects of Common and Mutual Interest (PCIs and PMIs) in trans-European energy infrastructure

as referred to in Article 9(1) of Regulation (EU) 2022/869

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Disclaimer

The English version of this document is not a literal translation of the original text in Dutch. Where appropriate, existing English-language materials have been incorporated, and additional explanations have been included to clarify the content.

Reader's guide

To accelerate energy projects of significant importance to the European Union, the European Parliament and the Council adopted on 30 May 2022 Regulation (EU) 2022/869 on guidelines for trans-European energy infrastructure (hereinafter: the Regulation).[1] The Regulation entered into force on 23 June 2022 and repealed Regulation (EU) No 347/2013.

The Regulation sets out guidelines to speed up the development of cross-border energy infrastructure projects that are considered essential for the energy market and security within the European Union. These are the so-called Projects of Common Interest (hereinafter: PCIs), which are included in the Union list as referred to in Article 1(2) of the Regulation. This guide (hereinafter: Guide) describes the permit granting process applicable in the Netherlands for the implementation of PCIs.

Chapter 1 briefly addresses the Regulation: what is the purpose of the Regulation and of this Guide.

Chapter 2 outlines how the realisation of PCIs is legally organised in the Netherlands.

Chapter 3 discusses the legislation required for the realisation of PCIs. This mainly concerns the Environment and Planning Act (*Omgevingswet*, hereinafter: Ow) and the General Administrative Law Act (*Algemene wet bestuursrecht*, hereinafter: Awb).

Chapter 4 addresses the permits and other decisions that may be required. For each project it must be determined which decisions are specifically applicable.

Chapter 5 sets out the content, structure and level of detail of the documents that must be submitted together with the applications for decisions: what must the project promoter investigate and submit to the competent authority?

Chapter 6 concerns the assessment of environmental effects in the preparatory procedures leading to the decisions required for PCIs.

Chapter 7 provides a practical elaboration of the national permit granting process in relation to the Regulation.

Chapter 8 describes how citizens and businesses are involved in the process before and during the permit granting (transparency and public participation) and the legal protection options available.

Chapter 9 contains information on the reporting obligations for PCIs by project promoters, the national competent authority and the EU.

Chapter 10 finally lists the contact details and websites of the public authorities involved and of the project promoter(s) of PCIs.

[1] Source: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R0347

1. Introduction

Regulation (EU) 2022/869

This Guide has been drawn up further to Regulation (EU) 2022/869 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure. The Regulation aims to modernise energy infrastructure in the EU and better align it with the Union's climate objectives, such as the European Green Deal and the ambition to achieve climate neutrality by 2050.

Projects of Common Interest (PCI) and Projects of Mutual Interest (PMI)

Under the Regulation, the European Commission designates PCI through a strict assessment process. These concern cross-border energy infrastructure projects considered essential for the energy market and security within the European Union. A project is included on the Union list of PCIs if it is submitted and meets the requirements set out in Article 4 of the Regulation. The Union list can be found on the website of the European Commission: https://energy.ec.europa.eu/topics/infrastructure/projects-common-interest-and-projects-mutual-interest/pci-and-pmi-selection-process_en.

The Regulation also applies to Projects of Mutual Interest (PMIs). These concern projects relating to cross-border energy infrastructure that are essential for the energy market and security and in which the Union cooperates with third countries. As follows from the Regulation, PMIs must be treated in the same way as PCIs, with all provisions applicable to PCIs also applying to PMIs, unless otherwise specified.[2] For this reason, and for ease of reference, this Guide makes no distinction between PCIs and PMIs. Therefore, the remainder of this document speaks of PCI-projects, knowing that the same information applies to PMI-projects.

Guide to procedures for the permit granting process

The Regulation sets out guidelines to accelerate the development of PCIs. One of its objectives is to provide for a simplified and accelerated permit granting procedure. Pursuant to Article 9 of the Regulation, Member States are responsible for drawing up and updating a national guide concerning the procedures for PCIs (hereinafter: Guide). The Guide must include at least the following information[3]:

a) a detailed indication of the relevant legislation on which the decisions and opinions regarding the different types of PCIs are based, including environmental legislation;
b) the list of relevant decisions and opinions to be obtained;
c) the names and contact details of the competent authority, other authorities involved and main stakeholders;
d) the workflow, including an overview of all stages of the process, an indicative timetable and a concise overview of the decision-making process for the different types of PCIs;
e) information on the content, structure and level of detail of the documents to be submitted with applications for decisions, including a checklist;
f) the stages of the process and the ways in which the public can participate;
g) how the competent authority, other authorities involved and the project promoter must demonstrate that account has been taken of the views expressed during the public consultation, for example by showing which changes have been made to the project location or design, or by explaining why certain views have not been taken into account;

[2] Preamble to Regulation 2022/869 (Recital 20).
[3] Article 9(1) and Annex VI(1) of Regulation (EU) 2022/869.

h) where possible, translations of the content into all languages of neighbouring Member States, in consultation with the respective neighbouring Member States.

This Guide sets out the above information in accordance with applicable Dutch legislation and regulations. The Guide is not legally binding, but refers to the relevant statutory provisions, procedures and information[4].

[4] See also: Article 9(1) of Regulation 2022/869.

2. Relevant legislation and regulations

This chapter discusses the main legislation and regulations governing the realisation of PCIs. It concerns the relevant legal instruments at national, regional and local level. The rules governing the assessment of environmental impacts of projects through the environmental impact assessment (EIA) procedures are also addressed.

Note. *Complex projects in the physical environment, such as PCIs, are often subject to a wide range of legislation and regulations. The following sections set out the most relevant acts, regulations and instruments for PCIs. This list is not exhaustive.*

2.1 Environment and Planning Act

The Environment and Planning Act (*Omgevingswet*, hereinafter: Ow) provides an integrated legal framework for various aspects of the physical environment, such as the environment, nature, water, spatial planning, soil, noise, health and monuments. The Ow is therefore of great importance for PCIs. The Act forms the basis for further elaboration of regulations on these subjects by the national government and by decentralised authorities.

The Ow is elaborated in four general administrative orders (*algemene maatregelen van bestuur* − AMvB) and one ministerial regulation:

Environmental Activities Decree (Bal)
The Environmental Activities Decree contains general rules for activities in the physical environment, applicable to all actors in the physical environment− citizens, companies and public authorities.
wetten.nl - Regulation - Environmental Quality Decree - BWBR0041313

Environmental Quality Decree (Bkl)
The Environmental Quality Decree sets out rules on environmental values, instruction rules, assessment rules and rules on monitoring. It applies to the national government and to decentralised authorities.
wetten.nl - Regulation - Environmental Activities Decree - BWBR0041330

Structures (Living Environment) Decree (Bbl)
The Structures (Living Environment) Decree contains rules on the safety, health, sustainability and usability of buildings. It also includes rules on the condition and use of buildings, and on carrying out construction and demolition works.
wetten.nl - Regulation - Structures (Living Environment) Decree - BWBR0041297

Environment and Planning Decree (Ob)
The Environment and Planning Decree supplements the Ow. Among other things, it regulates which administrative authority is the competent authority for granting an environmental and planning permit, which procedures apply and how other administrative bodies are involved in decision-making. In addition, it contains a number of independent provisions, for example on environmental impact assessments (EIA) and financial arrangements. The Environment and Planning Decree is relevant to all target groups − citizens, companies and public authorities.
wetten.nl - Regulation - Environment and Planning Decree - BWBR0041278

Environment and Planning Regulations (Or)

The Environment and Planning Regulations build on the Ow, Ob, Bkl, Bal and Bbl. They mainly contain technical and administrative rules and applies to all actors in the physical environment – citizens, companies and public authorities.
wetten.nl - Regulation - Environment and Planning Regulations - BWBR0045528

For more information on the Environment and Planning Act (Ow): *Environment and Planning Act of the Netherlands | Informatiepunt Leefomgeving*

Access to regulations
Regional and local regulations can be consulted via
https://omgevingswet.overheid.nl/regels-op-de-kaart/ and https://wetten.overheid.nl

2.2 Other sectoral legislation and regulations

In addition to the Ow and its associated regulations, other sectoral legislation and regulations may also apply to PCIs. Important examples include:

- *Offshore Wind Energy Act*
  The Offshore Wind Energy Act (*Wet windenergie op zee*) regulates, among other things, the allocation of sites and permits for offshore wind farms in the North Sea. It also introduced the wind farm site decision (*kavelbesluit*), which determines where and under what conditions a wind farm may be constructed and operated. Section 3.4.4 discusses this in more detail.

- *Mining Act*
  The Mining Act *(Mijnbouwwet)* regulates the use of subsurface resources, such as the exploration, extraction and storage of minerals and geothermal energy. It establishes permit requirements, for example for the exploration and extraction of minerals, geothermal energy, pipelines for mining activities, and the exploration of CO_2 storage sites.

- *Nuclear Energy Act*
  The Nuclear Energy Act *(Kernenergiewet)* contains rules to prevent harmful effects of ionising radiation, for example from nuclear power plants, fissile materials, radioactive substances and radioactive waste. A permit is required for establishing, commissioning, modifying, decommissioning and dismantling a nuclear power plant.

- *Energy Act*
  On 10 December 2024 the Upper House of the Dutch Parliament adopted the bill entitled '*Regels over energiemarkten en energiesystemen'* (Rules on energy markets and energy systems, hereinafter: Energy Act). This marks an important step towards enabling an integrated energy system in legal terms. The Energy Act will replace the Electricity Act 1998 and the Gas Act, combining the rules on the transport and supply of gas and electricity. The Act also contains provisions implementing European legislation on electricity and gas, as well as provisions contributing to the transition to cleaner and renewable sources of energy. The Act is intended to enter into force on 1 January 2026.

The above Acts are examples of sectoral legislation and regulations that may be relevant to PCIs, depending on the type of project. A complete and up-to-date overview of national legislation and regulations can be found on: https://www.wetten.overheid.nl.

2.3 EU regulations and directives

In addition to national legislation and regulations, the realisation of PCIs is also subject to EU regulations and directives governing activities in the physical environment, such as those relating to environmental impact assessment, nature conservation and restoration, marine strategy, and air and water quality. Attention is also drawn to the principles regarding the availability and transparency of environmental information, and the right to public participation in the case of projects with a cross-border character and/or cross-border environmental impacts, as laid down in the Espoo Convention, the Aarhus Convention and the relevant provisions of Union law.

For more information, see: https://european-union.europa.eu/index_en andhttps://eur-lex.europa.eu.

3. Competent authorities, legal instruments and preparatory procedures (overview)

Given their nature and scale, PCIs are often complex projects of public interest in the physical environment. Dutch legislation and regulations provide instruments to prepare and adopt decisions for such projects in a careful yet efficient manner. This section discusses the national competent authority designated for PCIs, the applicable legal instruments and the corresponding preparatory procedures in outline.

3.1 Competent authorities

3.1.1 National competent authority

The Regulation seeks to simplify the permit granting process for PCIs by obliging Member States to designate a national competent authority to oversee and coordinate the process. This authority is also responsible for ensuring that the decisions are taken within the prescribed time limits.

In the Netherlands, the secretary of state of Climate Policy and Green Growth (KGG), in agreement with the minister for Housing and Spatial Planning (VRO), acts as the national competent authority for the permit granting process for PCIs. This follows from:

- Article 141a(1)(d) of the Mining Act (*Mijnbouwwet*),
- Article 6.1(1)(e) of the Energy Act

read in conjunction with Section 5.2 of the Ow.

Other national competent authorities

The secretary of state is the competent authority for decision-making whereas the Ministry of Economic Affairs and Climate (EZK) act as the coordinating authority for permit granting under the project procedure. Next to the Ministry of EZK, other national authorities may also be involved in the permit granting process, for instance as co-competent authority, in the adoption of implementing decisions, or in providing opinions and approvals. The most common national authorities are:

- Ministry of Housing and Spatial Planning (VRO)
- Ministry of Economic Affairs and Climate (EZK)
- Ministry of the Interior and Kingdom Relations (BZK)
- Ministry of Agriculture, Fisheries, Food Security and Nature (LVVN)
- Ministry of Defence
- Ministry of Infrastructure and Water Management (IenW)
- Ministry of Education, Culture and Science (OCW)

(See also: www.rijksoverheid.nl/ministeries)

3.1.2 Decentralised competent authorities

In addition to the role of the national competent authority for PCIs, decentralised authorities also play an important role: the Municipal Executive (B&W), the Provincial

Executive (GS) and the Executive Board (DB) of the water boards. Decentralised authorities are responsible for decentralised regulations and for granting permits and other decisions, as well as for issuing opinions and approvals and handling notifications.

3.2 Applicable legal instruments

In preparing and adopting decisions on projects of public interest in the physical environment, the prescribed procedures are applied. These include the *project procedure* leading to a *project decision* (Section 5.2 Ow). In many cases the *coordination scheme* in Section 3.5 Awb is also relevant.[5]. These procedures are designed to enable efficient decision-making for projects, without compromising the care and completeness of the process (including environmental impact assessment) and without limiting the opportunities for public participation. This is consistent with the objectives of the Regulation.[6] This section discusses the project decision, the project procedure, the coordination scheme and the preparatory procedures for the permit granting process.

3.2.1 Project decision

For projects of public interest in the physical environment, the project decision is often used. A project decision is an authorisation to carry out, operate or maintain such projects. It provides an effective procedure for complex projects for which a public authority is responsible, but it can also apply to private initiatives that contribute to public objectives in the physical environment.[7].

For certain projects, like the PCI-projects, the use of a project decision is legally required, such as for the construction of roads, railways and waterways of a certain scale, and for the construction, relocation or reinforcement of primary flood defences managed by the State[8]. For other projects, such as the strengthening of regional flood defences, nature and area development, and the realisation of energy infrastructure at regional level, a project decision may be applied voluntarily.

The following section discusses a number of key features of the project decision.

- *Competent authority*[9]
  A project decision may be adopted by the minister concerned − in the case of energy projects, this is usually the minister for Climate and green growth − in agreement with the minister for Housing and Spatial Planning (VRO) (national level), by the Provincial Executive (GS) (provincial level), or by the Executive Board (DB) of a water board. The Municipal Executive (B&W) cannot adopt a project decision, but it may apply the project procedure of Section 5.2 Ow to municipal projects (see Section 3.2.2).

- *Substantive requirements for a project decision*
  A project decision must at least include: a description of the project, the permanent or temporary measures and facilities relevant to the physical environment that are

[5] See also Article 16.7 and Article 5.45 Ow.
[6] See also Article 7 of Regulation (EU) 2022/869.
[7]House of Representatives, session year 2013−2014, 33 962, no. 3, pp. 174−175 and 184 (Explanatory Memorandum).
[8] See also Article 5.46 Ow, Article 6.1 of the Energy Act and Article 141a of the Mining Act.
[9] Article 5.44 Ow.

needed to realise the project, the measures aimed at reversing, mitigating or compensating the adverse effects of the project, a description of the implementing decisions it covers and the outcome of the public participation process. Section 4.2 describes these implementing decisions in more detail.

- *Integrated Project Decision*
  A project decision directly amends the municipal environmental plan (see Section 4.1) by introducing the rules needed to execute and operate the project[10]. Where expressly provided, a project decision may also incorporate the decisions required for project implementation (integrated). The competent authorities of the integrated decisions are granted a right to give their opinion.

  For PCIs, an integrated project decision constitutes an 'integrated scheme' within the meaning of Article 8(3)(a) of the Regulation.

- *Non-integrated project decision*
  An integrated project decision is not mandatory. The required implementing decisions may also be adopted separately by other competent authorities. For PCIs, the coordination scheme is applied to facilitate and streamline the permit granting process. More information on this is provided in Section 3.3.

  A non-integrated project decision corresponds to the 'coordinated scheme' or the 'cooperation scheme' referred to in Article 8(3)(b) and (c) of the Regulation.

3.2.2 Project procedure

To arrive at a project decision, the project procedure (Section 5.2 Ow) is followed. In summary, the procedure consists of the following steps:

[10] Article 5.52(1) Ow.

➢ Notification at the start of the project procedure

- *Notification of intent and participation plan*

The public, including interested stakeholders and other parties concerned, have to be informed about the project at an early stage. To this effect, the competent authority publishes a notification of its intent to explore how to realise a specific objective (task) in the physical environment. The notification has to be published before the project is developed in more detail. The notification also sets out whether or not a preferential decision will be taken within the project procedure for this project. This intention statement can be combined with the notification for participation.

- *Notification of the possibilities for participation*

The public must be informed at an early stage about the possibilities for participation at an early stage. The public will be informed on the project and is offered the possibility to propose (alternative) solutions for the task or objective. For PCI projects, at least one round of public consultation will be organised.

➢ Exploratory phase

- *Conducting the exploration*

This consists of collecting information and insights on the nature of the task (the problem that the project needs to solve), the relevant developments in the environment and the possible solutions to be explored. When relevant, the competent authority can ask for advice from experts on the solutions to be studied. During this exploratory phase, the competent authority makes a decision on whether solutions (alternatives) proposed by stakeholders should be further considered or not.

- *Preferential decision*

In the cases where a preferential decision is not prescribed by law, the competent authority can decide whether a preferential decision will be taken at the end of the exploratory phase or not. The preparation of the preferential decision follows the extensive procedure, also known as the Uniform Public Preparatory Procedure (UOV, section 3.4 Awb).

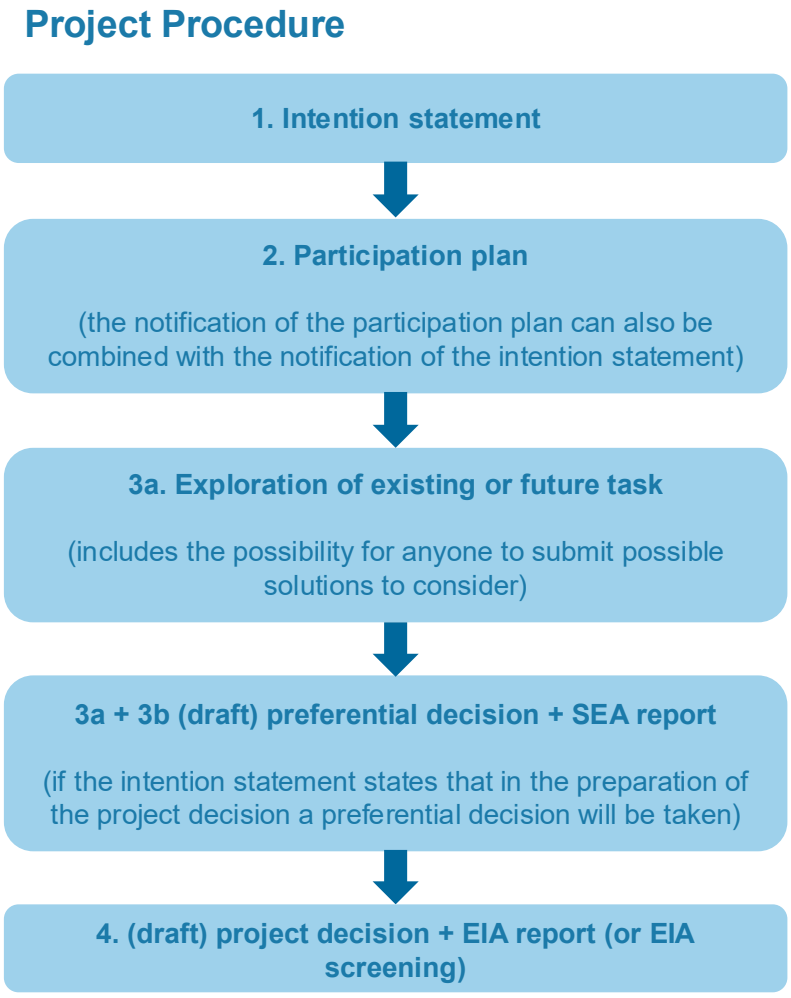
The preferential decision qualifies as a plan or program, and consequently often requires strategic environmental assessment. The preferential decision is not subject to appeal.

➢ Project detailing phase

Once the exploratory phase is completed, the project is developed further. The draft project decision is drawn up, as well as the necessary implementing decisions (including permits). This may require an impact assessment at project level (environmental impact assessment). The draft decisions are published, publicly reviewed, and then finalised.

The UOV of section 3.4 Awb also applies to the project decision (as well as the implementing decisions that are prepared under coordination with the project decision). A project decision is subject to appeal.

Project procedure shown as a diagram



[source: Ministry of Infrastructure and Water Management, MIRT/EIA guidance, Preparation, exploration and planning & studies, May 2023].

3.3 Coordination scheme (Section 3.5 Awb)

When adopting a project decision, it may be desirable or legally required to coordinate the implementing decisions under the coordination scheme in Section 16.2 Ow and Section 3.5 Awb. For project decisions relating to PCIs, the use of the coordination scheme is legally prescribed[11]. In this case, the secretary of state of Climate Policy and Green Growth acts as coordinating administrative authority.

Coordination scheme (Section 3.5 Awb)
Section 3.5 Awb concerns the coordination of related decisions. It establishes a single uniform procedure for the preparation, adoption and legal protection of decisions, under which one administrative authority acts as the coordinating competent authority. The coordinating administrative authority ensures the smooth progress of the process and monitors time limits. As a last resort, it may substitute the competent administrative authority in adopting a decision (substitution)[12]. Coordination thus facilitates the permit granting process by streamlining and aligning procedures, and by ensuring that public participation and legal proceedings take place simultaneously. This is in line with the objectives of the Regulation.

Flexibility: non-application, limited application or later application of the coordination scheme
The coordination scheme provides flexibility for the competent authority. If it is not reasonably expected that the coordination of one or more decisions will significantly accelerate progress and decision-making, or otherwise provide substantial benefits, the coordinating administrative authority may decide not to apply the scheme to such decisions, to apply it only in part, or to apply it at a later stage.[13] However, under the TEN-E Regulation, it is not possible to exclude decisions from the coordination process, and this article will therefore not apply to PCI projects.

3.4 Preparatory procedures and the permit granting process

The General Administrative Law Act (Awb) provides for two preparatory procedures: the Uniform Public Preparatory Procedure (UOV) and the standard preparatory procedure. Both preparatory procedures may be applicable to the decisions required in the context of PCI projects. These preparatory procedures are discussed below:

3.4.1 Uniform public preparatory procedure (UOV)

For project decisions relating to PCIs, the UOV of Section 3.4 Awb generally applies. This means that if the project decision is coordinated together with the implementing decisions, the implementation decisions will automatically also be subject to the UOV. The reason for this is because the project decision follows the UOV. Otherwise, if the UOV applies to one of the implementation decisions, it applies to all implementation decisions.

Under the UOV, the competent authority first adopts a draft decision on which anyone may submit views. After responding to these views and making any amendments (of a non-substantive nature) to the decision, the competent authority adopts the final decision.

[11] See also: Article 6.1(1)(e) Energy Act, Article 6.1(2) Energy Act, Article 141a(1)(d) Mining Act and Article 16.7 Ow.
[12] Article 5.45a Ow.
[13] Article 3:21(3) Awb.

Thereafter, a six-week period begins during which interested parties and those who have submitted comments may lodge an appeal against the decision. For project decisions and the implementing decisions coordinated with it, appeals can be brought in first and only instance before the Administrative Jurisdiction Division of the Council of State (ABRvS)[14].

The decision deadlines belonging to the UOV are laid down in Article 3.18 Awb.

3.4.2 Regular preparatory procedure

The regular procedure under Section 4.1 Aw) is the basis of the Ow. The decision-making period for this procedure is normally a maximum of 8 weeks. After that, an objection and (further) appeal is possible. For certain decisions, such as those implementing a project decision, direct appeal lies with the Administrative Jurisdiction Division of the Council of State[15].

The regular procedure may be relevant for PCI projects. This applies where the project decision is not coordinated with the implementation decisions and all the implementation decisions follow the regular preparatory procedure. This is because, if the standard preparatory procedure applies to all implementation decisions within the coordination, then all implementation decisions follow the standard procedure.

3.4.3 Permit granting process

For projects on land, the permit granting process follows the procedures associated with the project decision and Regulation (EU) 2022/869, as described in this Guide.

[14]See Article 8:6 Awb and Article 2 of Annex 2 to the Awb.
[15] See also the Administrative Jurisdiction Regulation (*Bevoegdheidsregeling bestuursrechtspraak*) in Annex 2 to the Awb.

4. Permits and other decisions

To enable PCIs, in addition to the project decision (the 'parent decision'), permits and other implementing decisions are required for the execution and maintenance of the project decision. This section describes these permits and decisions.

4.1 Environmental plan

Each municipality has one environmental plan (*omgevingsplan*) covering its territory. The environmental plan sets out rules on activities that affect or may affect the physical environment (Article 4.1(1) Ow). It also contains, for the entire territory of the municipality, the rules required for a balanced allocation of functions to locations (Article 4.2(1) Ow). In addition, the environmental plan may include rules regulating activities in the municipality, such as permit requirements, tailor-made rules, and rules on advice and approval.

Environmental plans, as well as other spatial planning rules, can be consulted via: https://omgevingswet.overheid.nl/regels-op-de-kaart/zoeken/locatie.

4.2 Environmental and planning permits

For the performance of activities in the physical environment, an environmental and planning permit (*omgevingsvergunning*) is required in most cases. Article 5.1 Ow contains a list of the activities in the physical environment for which an environmental and planning permit is required. Activities frequently relevant to the realisation of PCIs include, for example:

- an environmental and planning permit for an out-of-plan environmental plan activity (BOPA), intended to allow derogations from the rules of the environmental plan;
- an environmental and planning permit for an environmental plan activity (OPA), intended for activities that are subject to a permit requirement under the environmental plan. Examples include excavation work, tree felling and construction;
- a soil extraction activity;
- a Natura 2000 activity;
- a flora and fauna activity;
- a construction activity (spatial and/or technical);
- an environmentally harmful activity (*milieubelastende activiteit* - mba);
- a water activity;
- a restricted-areas activity.

4.3 Information and notification obligations

In addition to permit requirements, the Ow and related regulations also include information provision and notification obligations. Examples include:

- the provision of data and documents concerning the description of the activity, its location and boundaries, implementation dates, the name of the contractor, etc. (Chapter 3 Bal);

- the provision of data, documents and information obligations for environmentally harmful activities, such as soil surveys, safety reports, groundwater analyses, the decommissioning of a wind turbine, and the emission of Substances of Very High Concern, etc. (Chapters 2, 4 and 5 Bal).

4.4 Tailor-made requirements and tailor-made rules

Tailor-made requirements
A tailor-made requirement allows the competent authority, in individual cases, to derogate from general rules for activities. Such a requirement is possible if it has been provided for in the relevant general rules by the national government, the province, the municipality or the water board. Examples of tailor-made requirements relevant to PCIs include:

- requirements for activities within restricted areas associated with railways, roads, hydraulic works, airports, the North Sea, national monuments and world heritage sites (Chapter 6 et seq. Bal);
- requirements for discharge activities, mining activities, environmentally harmful activities, activities concerning woodland, nature and flora and fauna activities, soil extraction and water abstraction, etc. (Chapters 2−7, 11 and 17 Bal);
- requirements for the construction, use and demolition of structures (Chapters 3−7 Bal).

Tailor-made rules
A tailor-made rule is a local elaboration of a general rule adopted by the national government or a province. Decentralised authorities may only establish tailor-made rules if they are authorised to do so by a higher administrative authority.

4.5 Right to advise and right of approval

The Ow requires that, in certain situations, the competent authority must seek advice from another administrative authority or body before granting a permit or adopting a tailor-made requirement. In some cases, the consent of that advisory body is also required in order to take the decision. An institution only has the right to give advice or approval if it is not itself the competent authority for the activity in question. An administrative authority usually has such a right in situations where it would normally be the competent authority, but is not because of a statutory precedence provision. Administrative authorities with specialist knowledge also often have the right to give advice or approval. Activities for which advice or approval is mandatory include, for example:

- activities under the environmental regulation (*omgevingsverordening*);
- environmental plan activities
- activities relating to national monuments
- soil extraction activities
- Flora and fauna activities
- construction activities
- environmentally harmful activities (*milieubelastende activiteiten* - mba)
- water activities
- restricted-areas activities

5. Information on the content, structure and level of detail of documents to be submitted with applications

This chapter provides an overview of the information regarding the scope, structure and level of detail of the documents that must be submitted together with applications for decisions, including a checklist. This requirement follows from Annex VI(e) of the Regulation.

5.1 Substantive requirements for a project decision

As described in Section 2.2, substantive requirements apply to the project decision. The project decision must in any case include a description of the project, the permanent or temporary measures and facilities relevant to the physical environment that are necessary for the realisation of the project, and the measures aimed at eliminating, limiting or compensating for the adverse effects of the project. In addition, the project decision must contain a description of the implementing decisions it covers, as well as the outcome of the public participation process. The project promoter must therefore provide this information to the competent authority.

Also relevant are the rules that specifically apply to the project procedure and the project decision, as laid down in Chapter 5 of the Environment and Planning Decree (*Omgevingsbesluit* − Ob), Chapter 10 of the Environment and Planning Regulations (*Omgevingsregeling* − Or) and Chapter 9 of the Environmental Quality Decree (*Besluit kwaliteit leefomgeving* − Bkl). In addition, attention should be drawn to the instruction rules that apply to a project decision amending the environmental plan, as set out in Chapter 9 Bkl. After all, Article 9.1 Bkl provides that a large part of the instruction rules of Section 5.1 Bkl apply to a project decision. Chapter 9 also contains instruction rules on world heritage sites, the Dutch ecological network (*Natuurnetwerk Nederland*), and on derogations from rules in a waterboard bylaw (*waterschapsverordening*) or environmental regulation (*omgevingsverordening*). The project promoter and the competent authority must therefore take these rules into account in the preparation and decision-making process concerning the project decision.

The same applies if the implementing decisions are integrated into a project decision (which is optional). In such cases, the requirements, assessment criteria and instruction rules associated with those activities also apply to the project decision. The rules associated with the different activities may follow from the Environmental Activities Decree (*Besluit activiteiten leefomgeving* − Bal), the Environmental Quality Decree (*Besluit kwaliteit leefomgeving* − Bkl), the Environment and Planning Decree (*Omgevingsbesluit* − Ob) and the Environment and Planning Regulations (*Omgevingsregeling* − Or), as well as from regional and local regulations (see also below).

5.2 Environmental and planning permits and other decisions

Specific rules on the application for environmental and planning permits (*omgevingsvergunningen*), substantive assessment criteria, advisory opinions to be obtained, permit (and other) conditions, information and notification obligations, interrelations between decisions (coordination), and monitoring and enforcement are laid

down in the Ow, the Environment and Planning Decree (*Omgevingsbesluit* − Ob), the Environmental Quality Decree (*Besluit kwaliteit leefomgeving* − Bkl), the Environmental Activities Decree (*Besluit activiteiten leefomgeving* − Bal), and the Structures (Living Environment) Decree (*Besluit bouwwerken leefomgeving* − Bbl). Reference should also be made to the Environment and Planning Regulations (*Omgevingsregeling*), which contains technical and administrative rules. These include rules on the data and documents (such as research reports and justifications for the proposed activities) that must be submitted with permit applications, applicable measurement and calculation rules in the assessment of activities, financial provisions, and the provision of information to the public.

For many permits and other decisions required for PCIs, decentralised regulation is also relevant. Examples include rules on the regulation of activities in the physical environment adopted by municipalities in the environmental plan, by provinces in the environmental regulation, and by water boards in the water board bylaw (*waterschapsverordening*). These instruments may set out frameworks, conditions and obligations that apply specifically to the location where an activity will be carried out.

5.3 Assessment of environmental effects

In the preparation, adoption and decision-making process for decisions necessary for the realisation of PCIs − such as the project decision and the implementing decisions − the environment naturally plays an important role. Reference is first made to the permit requirements and assessment rules associated with environmentally harmful activities (mba) as laid down in the Bal. In addition, account must of course be taken of environmental assessment requirements. In the context of the project procedure this can include strategic environmental assessment (SEA) for the preferential decision and environmental impact assessment (EIA) at project level. It is also possible that an EIA screening needs to take place to determine if the project requires an EIA. Project promoters must take these procedures and substantive requirements into account in preparing PCIs. The following chapter deals in detail with the environmental assessment requirements.

5.4 Digital System for the Environment and Planning Act (DSO)

DSO
To operate under the Ow, the Netherlands uses the Digital System for the Environment and Planning Act (*Digitaal Stelsel Omgevingswet* − DSO). The IT systems of public authorities are connected to the DSO, which makes it possible to exchange documents and data via the Environment and Planning Portal (*Omgevingsloket*).

The Environment and Planning Portal
One of the components of the national DSO facility is the Environment and Planning Portal. This is a digital portal that enables project promotors and stakeholders to quickly determine which rules apply to the physical environment. It serves as the central access point where all relevant digital information is brought together. Through the Environment and Planning Portal, public authorities and initiators can:

- apply for permits, submit notifications and provide information;

- see which rules apply to a specific location. The basis for this functionality is provided by environmental documents stored in the DSO, such as strategies, regulations and plans for the physical environment, project decisions and programmes;
- in the future, the Portal will also provide information about the quality of the physical environment, for example concerning water or air quality and noise pollution.

Other components of the national DSO facility
In addition to the Environment and Planning Portal, the national DSO facility includes a number of other components. These ensure information is available in the right place in the Environment and Planning Portal:

- National facility for publication and availability (*Landelijke voorziening bekendmaken en beschikbaar stellen*, LVBB)
  The central facility for all government publications.
- Registration of Applicable Rules (*Registratie toepasbare regels*, RTR)
  The central facility for applicable rules in the Environment and Planning Portal.
- Ozon
  Ensures that information from environmental documents is searchable in the Environment and Planning Portal.
- Collaboration Functionality (*Samenwerkingsfunctionaliteit*, SWF)
  A tool that public authorities can use when collaborating under the Ow.
- Ow System Catalogue (*Stelselcatalogus Omgevingswet*)
  An online reference work containing concepts, definitions, code lists and information products relating to the Ow.
- General set of submission requirements in the Environment and Planning Portal
  These are general questions that initiators must answer when submitting an application or notification in the Environment and Planning Portal, such as information about their project. In doing so, they provide information about their project, their contact details, or about participation in the permit application process.

For more information about the DSO, the Environment and Planning Portal and other components of the national facility, please consult the Living Environment Information Point (IPLO): Digitaal Stelsel Omgevingswet (DSO) | Informatiepunt Leefomgeving

6. Environmental assessment

In order to prepare decision-making on a PCI, its environmental effects must be assessed, among other things. As required by Directive 2011/92/EU (the EIA Directive) and Directive 2001/42/EC (the SEA Directive), which have been implemented in the Netherlands through the Ow and the Environment and Planning Decree. Often an environmental impact assessment report must be prepared. If a preferential decision is included in project procedure, a strategic environmental assessment is often needed. In both SEA and EIA reasonable alternatives need to be considered. This ensures that environmental concerns are given due weight in the decision-making process.

It should be noted that the legislation provides for several different procedures in relation to environmental assessment, namely SEA screening, EIA screening, as well as procedures for undertaking an SEA or an EIA.

Based on the applicable legal framework, it must be determined for each project which procedure(s) apply. Relevant provisions can be found in Section 16.4 Ow, Chapter 11 and Annex V of the Environment and Planning Decree.

For further information, see also the websites of the Netherlands Commission for Environmental Assessment (NCEA) and the Living Environment Information Point (IPLO):
https://commissiemer.nl/english
https://iplo.nl/regelgeving/milieueffectenrapportage/

The following sections briefly discusses the environmental assessment (screening) procedures.

6.1 Environmental Assessment screening

EIA screening (for projects)
In an EIA screening (Article 16.43 Ow), the competent authority assesses whether the project is likely to have significant environmental effects. If significant environmental effects cannot be excluded, an (EIA must be carried out. If the likelihood of significant effects can be excluded, no EIA is required. Note that the regulation specifies when EIA screening applies.

SEA screening (for plans, programmes and the preferential decision)
In a SEA screening (Article 16.36(3) Ow), the competent authority assesses whether a plan or programme is likely to have significant environmental effects. The same applies here: if significant environmental effects cannot be excluded, an SEA will follow. If the likelihood of significant effects can be excluded, no SEA is necessary. Note that the regulation specifies when SEA screening applies.

Procedural steps in the environmental assessment screening

- The project promoter (or a public authority) must notify the competent authority in writing of the intention to carry out an activity subject to an EIA or SEA screening requirement. This may be done at the same time as the permit application, or earlier.

- The competent authority decides within six weeks whether an environmental assessment is required and issues an screening decision. The decision on the permit application is suspended until the screening decision has been made.
- The project promoter may lodge an objection and appeal against an environmental assessment screening decision if they are required to prepare an environmental report (EIA or SEA) but believe this to be unjustified. Third parties may not appeal against the screening decision itself, but they may challenge the underlying decision to which the screening is linked (the 'parent decision', in the context of PCIs this is generally the project decision).
- If an environmental assessment report (EIA or SEA) is required, the competent authority will reject the initial permit application. The project promoter must then submit a new application including the required environmental assessment report.

Substantive requirements for environmental assessment screening
IN making a screening decision, the competent authority assesses the information provided in the project promoter's notification, taking into account the criteria set out in Annex III of the EU EIA Directive, or Annex II of the EU SEA directive.

Justification of reasons and safeguards: characteristics and measures
The competent authority must substantiate a screening decision with reference to the criteria in the relevant EU directives. If the competent authority decides that the project or plan will not have significant environmental effects, and the project promoter has included specific characteristics or measures in its notification, the competent authority must specify[16]:

- the characteristics and measures of the project or plan as described;
- the point in time by which those measures must be implemented.

To ensure compliance, the implementation of these measures is included as a condition in the parent decision.

6.2 SEA and EIA procedure

SEA (for plans)

An SEA report is a type of environmental assessment report prepared for a plan or programme to be adopted. There are two requirements for the SEA obligation:

- it must concern a plan or programme the adoption of which is regulated by law or regulation (Article 16.36(1) Ow). The Ow specifies that an environmental strategy, a programme an plan for the physical environment and a preferential decision meet these requirements. For other instruments, this must be determined on a case-by-case basis;
- Furthermore, the plan or programme must set the framework for decisions on projects subject to EIA (screening) requirements, or it must require an appropriate assessment under nature conservation law.

[16] Article 11.11(3) of the Environment and Planning Decree (*Omgevingsbesluit*).

A plan or programme is considered to set a framework if it contains criteria or modalities for the approval or implementation of projects by the competent authority, which must ultimately grant consent for the project. This may include criteria concerning location, size or method of execution. A framework must be sufficiently concrete and, to some extent, binding for a later decision. That subsequent decision must itself be subject to an EIA or EIA screening requirement. Annex V of the Environment and Planning Decree sets out which projects are subject to EIA or EIA screening. However, even if a plan or programme sets a framework for projects not included in Annex V, an SEA may still be required (Article 16.36(4) Ow). The competent authority assesses whether significant environmental effects are likely. The content of a plan or programme therefore partly determines whether there is an environmental assessment requirement. Strategies en plan for the physical environment, programmes and preferential decisions will often meet this requirement.

EIA (for projects)
An EIA is a procedure leading to the preparation of an EIA report by the project promoter during the exploratory phase of a project. Unlike an SEA, which concerns environmental effects at a more abstract (strategic) level, the EIA report examines and describes the environmental effects at the level of the individual project (more concrete). Whether a decision on a project is subject to the requirement to carry out a EIA is determined by Annex V to the Environment and Planning Decree. The first column of the annex lists the types of projects concerned. Column four specifies, in conjunction with Article 11.6(3) of the Environment and Planning Decree, the decisions for which the EIA requirements apply. These include decisions such as:

- an environmental and planning permit
- a project decision
- the local plan for the physical environment (in some cases)

Steps in the EIA and SEA procedures
The following explains how these procedures usually takes place, the main difference between SEA and EIA are indicated.

1. *Notification of intent (not always mandatory)*
   A notification of intent is only mandatory in the case of a project decision or an local plan for the physical environment. Such a notification is not formally part of any environmental assessment procedure, but of the procedure for the decision itself. It must describe how participation will be organised. It is logical to set out in this notification how the environmental assessment requirements will be addressed in the project procedure.

2. *Determining the scope and level of detail of an assessment*
   For an SEA, the competent authority is required to determine the scope and level of detail. In case of an EIA, it is not required. However, the project promoter may request advice from the competent authority on the scope and level of detail of the EIA report to be drawn up. It is useful in both cases to prepare a Memorandum on Scope and Level of Detail (*notitie reikwijdte en detailniveau,* NRD). This memorandum may describe the project, the relevant alternatives and the environmental effects to be considered.

3. *Advice on the scope and level of detail of an assessment*
   The competent authority consults relevant advisers and administrative bodies

when it considers the scope and level of detail for an environmental assessment e. The competent authority may also request advice from the independent Netherlands Commission for Environmental Assessment (NCEA) on the scope and level of detail. When the NCEA provides advice, it sets up a working group and issues a public advisory report.

4. *SEA or EIA report*
    a. The project promoter prepares an SEA or EIA report. In case of an EIA , if the competent authority has given advice on the scope and level of detail, the EIA report must also be based on that advice. An SEA must follow the scope and level of detail as determined by the competent authority.

5. *Application for a decision*
Within the context of the project procedure, the SEA supports the preferential decision, while the EIA report forms an annex to the application for a decision, such as a permit or a project decision. If the application for such decisions is submitted without the EIA report, it will not be processed. The applicant will then be given the opportunity to supplement the application within a specified period.

6. *Public review*
The competent authority makes the draft decision and the SEA or EIA report available for public review.

7. *Public review and, where applicable, advice*
Anyone may submit their views on an SEA or EIA report and the application/draft decision. At the request of the competent authority the NCEA will review the SEA report. This is required as part of the SEA procedure. For EIA such a review is optional, at the discretion of the competent authority.

    a. Review is also possible if the NCEA has not advised at the scoping stage.

8. *Final decision*
The competent authority adopts a decision. It must indicate how account has been taken of the environmental assessment and, where applicable, the advice of the (NCEA. At the project level, decision must also describe the significant environmental effects and the measures to avoid them. In addition, any monitoring measures and procedures are established.

9. *Publication of the decision*
The decision is published in accordance with the procedure for the decision concerned. It is also communicated to those who have submitted views. Advisers are notified if their advice has not been followed.

10. *Monitoring*
In its project decision, the competent authority specifies whether monitoring is required and for which environmental effects, and how the monitoring must be carried out. Monitoring is performed by the project promoter. The monitoring results are forwarded to the competent authority. The competent authority may take additional measures where necessary to limit adverse environmental effects.

[source: *www.commissiemer.nl/english*]

Transboundary environmental effects

Plans, programmes and projects subject to SEA or EIA may have significant environmental effects in another country. If this is the case, the competent authority in the Netherlands must inform that country accordingly. Conversely, an administrative authority in the Netherlands may also be informed by another country about possible significant environmental effects in the Netherlands. This obligation, and other obligations applying in the case of transboundary environmental effects, derive from the Espoo Convention and the Protocol on Strategic Environmental Assessment (SEA Protocol).

*The Environment and Planning Act (*Omgevingswet*) and the Environment and Planning Decree (*Omgevingsbesluit*) contain instructions applicable to environmental assessment procedures for plans or projects where decision-making takes place in the Netherlands but which may have an effect across the border. How this works in practice is described on the website of the Living Environment Information Point (IPLO): Environmental effects in another country | Living Environment Information Point.*

[source: https://iplo.nl/regelgeving/instrumenten/milieueffectrapportage/milieueffecten-ander-land/]

6.3 Overview of the steps in the project procedure and environmental assessment procedures

Project procedure, including a preferential decision

Section 3.4 of the General Administrative Law Act shall apply to the preparation and adoption of the project decision (Art. 16.71 Ow) and the preferential decision (Art. 16.70 Ow).

Phase	Activity	Relevant regulatory articles	Responsibilities
	Proponent submits an application for a project decision	-	Proponent
Exploratory phase	Intention statement and participation plan published	Art. 5.47 and 5.48 Ow Art. 5.2 and 5.3 Ob	Proponent provides information, Competent Authority (CA)[1] publishes
	Public review (A six-week period for reactions to be submitted) • Includes possibility for stakeholders to propose project solutions (alternatives), and request independent advice on a proposed solution	Art. 5.48 lid 2 en 3 Ow	All actors
	Draft scoping document for the strategic environmental assessment (SEA)	Art. 16.38 Ow	Proponent provides assessment, CA reviews
	Public review of the scoping document (A six-week period for reactions to be submitted)	-	All
	Advice on the draft scoping document provided by: • The Netherlands Commission for Environmental Assessment (NCEA) • Relevant administrative bodies and authorities	Art. 16.38 and 16.39 Ow Art. 11.2 Ob	Designated advisory bodies
	Formally establishing the scope of the SEA	-	CA
	Undertaking and documenting the strategic environmental assessment	Art. 16.34 and 16.40-16.42 Ow Art. 11.3-11.6 Ob	Proponent provides information, CA publishes
	Undertaking and documenting the Integrated Impact Assessment (IIA) • The IIA is not required under the Ow, but generally requested by the Ministry to consolidate all relevant decision information. The SEA report is often included in the IIA, either partially or in its entirety.	-	Proponent and CA
	Draft preferential decision is published	Art. 5.49 Ow Art. 5.5 Ob	CA
	Public review of the draft decision and SEA report (A six-week period for public submissions)	Art. 16.23, 16.40 lid 1 and 16.70 Ow	All
	Advice on the SEA report provided by the NCEA	Art. 16.39 Ow Art. 11.2 Ob	NCEA
	Preferential decision adopted	Art. 5.49 Ow Art. 5.5 Ob	CA
	Preferential decision published	Art. 16.70 Ow	CA
Project detailing phase	Preparatory decision (establishing temporary rules to protect the chosen route or site from other spatial developments incompatible with the project)	Art. 4.16 Ow Art. 10.1 Ob	CA
	Optional: advice on the scope of the environmental impact assessment	Art. 16.46 Ow	Proponent and CA
	environmental impact assessment (EIA) report	Art. 16.43 and 16.52 Ow Art. 11.6 and 11.16-11.19 Ob	Proponent provides information, CA publishes
	Draft project decision published	Art. 5.51 Ow Art. 5.6 Ob	CA
	Public review of the draft decision and EIA report (A six-week period for public submissions)	Art. 16.23 and 16.71 Ow	All
	Advice on the EIA report provided by the NCEA	Art. 16.47 Ow Art. 11.14 Ob	NCEA
	Adoption of the project decision	Art. 16.71 and 16.78 Ow	CA

Project procedure | Environmental assessment procedure | participation

[1] The competent authority is the Ministry of Climate and Green Growth. The involvement of the Ministry of Housing and Spatial Planning may vary depending on the stage/project.

6.4 Substantive assessment of environmental effects

The following provides further details on the EIA procedure and the substantive expectations for the EIA report. Note that the expectations for the content of an SEA will differ, commensurate with the nature of the preferential decision which tends to address routing and location options at a more abstract level.

EIA study
In the EIA report, the effects of the proposed activities and alternatives on the environment are described. The alternatives and variants may give rise to different effects during the construction, operational and/or decommissioning phases. The effects of PCIs on the various environmental themes are generally examined in the EIA. The scope of the study area will, of course, differ depending on the theme under investigation. The study area is determined by the maximum range of the expected effects for a given theme. Preparation of the EIA report will usually involve a series of sub-studies for the themes to be investigated. Below is an overview of the themes examined within the EIA procedure[17]:

External safety
For external safety − for example in relation to pipelines − the EIA will test compliance with the rules on external safety for pipelines. These rules provide for assessment of both individual risk and group risk. A quantitative risk assessment may need to be prepared for this purpose.

Geohydrology, soil, soil contamination and water
A specific project may involve groundwater abstraction with effects on the groundwater system and possible subsidence of the soil. In addition, there may be impacts on the groundwater and surface water system, as well as potential effects on groundwater and environmental protection areas.

Landscape, geomorphology and cultural heritage
From the perspective of landscape, the EIA examines which types of areas are intersected by the route of the planned infrastructure. As regards geomorphological aspects, the study identifies which geologically, geomorphologically and pedologically valuable areas and geomorphological monuments are crossed by the route of the planned infrastructure. For cultural heritage, cultural-historical structures and elements are mapped. The construction of infrastructure may have both temporary and permanent effects on the aspects of landscape and cultural heritage.

Landscape
The construction of infrastructure may temporarily and/or permanently affect the visual and spatial structure. In the EIA report, based on the current visual-spatial qualities of the different landscape types and their vulnerability to intervention, it is assessed whether the principal visual-spatial structure will be affected by the construction of the new infrastructure.

Geomorphology
The construction of infrastructure may affect geomorphological values in the soil, such as levees, old river courses, etc. The EIA report provides an overview of geomorphologically valuable areas, including GEA objects (geologically and geomorphologically valuable objects), as well as characteristic landscape forms (based on a geomorphological map).

[17] Article 11.16(1)(d) of the Environment and Planning Decree (*Omgevingsbesluit*) provides an overview of the environmental themes to be described in the context of a project EIA report.

Cultural heritage

The EIA report also addresses any permanent effects of the new infrastructure on culturally and historically valuable areas, structures, patterns and elements. Where there is adverse impact, this may be expressed in terms of the hectares of affected areas of cultural heritage value, and in both quantitative and qualitative terms for the impact on patterns and elements.

Nature

Particularly in larger and/or more intensive projects, there is a risk of disturbance to nature. Accordingly, the possible adverse effects on protected natural areas, flora and fauna, and woodland must be investigated. Possible effects on other protected areas, such as Natura 2000 areas and the Nature Network Netherlands (NNN), robust ecological links and ecological corridors, must also be taken into account.

The EIA report will include an inventory of nature areas. Surveys (including field surveys) will also be carried out to establish the presence of protected plant and animal species on or near the proposed projects.
By describing these effects, the main consequences in relation to the nature conservation rules are made transparent. The consequences of temporary or permanent disturbance of habitats of key protected species are assessed against legal or policy-related protection frameworks. For NNN areas, it is assessed whether the quality and/or functioning of those areas would be impaired. Consideration is given to how any adverse impact can be avoided as far as possible, or whether there is an obligation to compensate.

Archaeology

Mapping of archaeological aspects often begins with desk research. A distinction is generally made between known archaeological values and expectations. Known archaeological values include archaeological sites and finds.

On the basis of desk research, field surveys are carried out where further investigation is warranted. If the survey shows that valuable archaeological sites are present within the route, the project promoter must, in accordance with national and provincial archaeology policy, investigate possibilities for preservation in situ. If relevant, this could include drilling beneath a site, or, if drilling is not possible, adapting the route.

Noise, vibration and air

Projects, including their construction, may give rise to noise, vibration and impacts on air quality, for example from transport and the use of machinery and installations.

Health

Possible effects of projects, including their construction, on human health must be identified and, where considered necessary, studied in more detail. This may include, for example, zones of magnetic fields.

Surroundings (e.g. living and working environment, recreation, agriculture and fisheries)

The construction of projects results in land take. The EIA report provides an overview of the main functions of the immediate project environment. This includes residential and working areas, agricultural functions, recreational facilities and intersecting infrastructure.

Where relevant, effects on land use are quantified, for example by indicating changes in hectares. For the effect description, it is checked whether, and to what extent, there is permanent land take from residential, working, agricultural and recreational areas. Temporary effects are described qualitatively, or, for agriculture, expressed in hectares.

Electromagnetic fields

Magnetic fields arise around certain types of energy infrastructure, namely high-voltage power lines. Extensive scientific research has been carried out on this subject. There are no statutory exposure limits for magnetic fields, but there is European and national policy. Based on scientific research, international bodies have recommended limits for magnetic field strength. These limits are applied in the Netherlands and are not exceeded in existing situations.

For new projects, including new high-voltage connections, the precautionary principle applies. On the basis of the current state of science, the advice is to avoid, as far as reasonably possible, creating new situations in which children (0–15 years) would spend long periods in areas near overhead high-voltage lines where the annual average magnetic field exceeds 0.4 microtesla. When selecting routes, sensitive land uses are avoided as far as reasonably possible.

In determining the effects, a magnetic field zone is used that has been calculated on the basis of a number of assumptions in accordance with the RIVM Guidance (http://www.rivm.nl/Onderwerpen/H/Hoogspanningslijnen/Handreiking) for calculating the specific 0.4 microtesla zone in the vicinity of overhead high-voltage power lines.

6.5 Integrated impact assessment (IIA)

For projects that fall within the scope of the Energy Main Structure Programme (*Programma Energiehoofdstructuur*, PEH)[18], an analysis is often carried out, by the project promotor, in addition to the environmental assessment procedure that goes beyond environmental aspects alone. This analysis takes the form of an Integrated Impact Assessment (IIA). In the IIA, in addition to environmental and spatial effects, attention is also paid to energy system efficiency, costs and benefits, feasibility and achievement of objectives. This is an internal working method of the Ministry of EZK, and is not a statutory instrument. The IIA functions as input for taking a decision regarding the preferential decision.

For more information on the IIA, see: www.rvo.nl/onderwerpen/bureau-energieprojecten.

[18] https://www.rijksoverheid.nl/documenten/rapporten/2024/03/04/programma-energiehoofdstructuur

7. Practical implementation of the PCI permit granting process

The following describes the implementation of the permit granting process in relation to the Regulation.

7.1 Procedural steps and documents

- Informing the public
  As part of the public consultation process, stakeholders are informed about the project at an early stage[19]. The parties who must be informed are listed in Annex IV, point 3(a) of the Regulation. It may therefore be the case that additional measures are required, in addition to publication in the Government Gazette and local newspapers, to ensure that all interested parties have been informed in accordance with the TEN-E Regulation.

- Notification of a PCI
  To mark the start of the permit granting process, project promoters notify the project in writing to the national competent authority of each Member State. This notification includes a reasonably detailed overview of the project[20].

- Acceptance of the notification
  Within three months of receipt of the notification, the national competent authority, also on behalf of other relevant authorities, must notify in writing whether it accepts the notification or refuses it on the grounds that the project lacks sufficient maturity to initiate the permit granting process. The date of signature of the acceptance of the notification constitutes the start date of the permit granting process.

- Participation plan
  An important principle under the Regulation and within the project procedure is that local residents, stakeholders and other interested parties are informed about the project at an early stage[21]. Within three months of the start of the permit granting process, project promoters must prepare a participation plan and submit it to the minister. This plan must in any case cover the following aspects[22]:

  - stakeholders to be consulted;
  - the planned measures, including proposed general locations and dates of planned meetings;
  - the timeline;
  - the staff resources allocated for the various tasks.

- Public consultation
  Before the application file is submitted to the Ministry of EZK, at least one public consultation must be organised and the stakeholders, associations, organisations and

[19] Article 9(4), Regulation (EU) 2022/869.
[20] Article 10(3), Regulation (EU) 2022/869.
[21] Article 9(4), Regulation (EU) 2022/869.
[22] See Annex VI, Regulation (EU) 2022/869.

groups affected by the project must be invited to this consultation.[23] This public consultation may take place before or during the pre-application phase, as long as it takes place before the application form is submitted.

The public consultation must meet the minimum requirements laid down in Annex VI, point 5 of the Regulation. The Regulation also lays down requirements for the public consultation notice: the subjects to be addressed must be clearly described, and comments and objections may only be submitted as from the consultation.[24]

Cross-border projects / effects[25]
In the case of cross-border projects involving two or more Member States, public consultations are held in each of the Member States concerned within a maximum of two months from the date on which the first public consultation is launched. If projects are likely to have a significant cross-border impact in one or more neighbouring Member States, relevant information must be made available to the national competent authorities of those neighbouring Member States. In the notification process, the national competent authorities of the neighbouring Member States concerned indicate whether they wish to participate in the public consultation procedures.

Reporting
The project promoter prepares a report explaining how the views expressed in the public consultations been taken into account, showing which changes have been made to the location, the route and the design of the project, or explaining why such views have not been taken into account. The report also covers the results of activities aimed at involving the public before the submission of the application file, including activities undertaken before the permit granting process began. The reports are submitted together with the application file to the national competent authority. The project decision describes how account has been taken of the results.

- Information brochure

Before the public review of the draft preferential decision, an information brochure of no more than 15 pages must be published[26]. The brochure contains the following:

- description of the project and its purpose;
- provisional timetable of the development phases;
- national network development plan (NDP, a reference to it is sufficient);
- the alternative routes/locations studied;
- potential effects of the project.
- In practice, this will often constitute in a summary of the draft preferential decision, the environmental assessment report and, where applicable, the Integrated Impact Assessment (IIA), .
- This information brochure must also be published on the project promoter's website, as must the report on the public consultations[27];
- Cross-border effects of a project must be described in the information brochure referred to in Annex VI, point 5 of the Regulation.

[23] Article 9(4), Regulation (EU) 2022/869.
[24] Annex VI, point 3 of Regulation (EU) 2022/869.
[25] See: www.iplo.nl/regelgeving/instrumenten/milieueffectenrapportage/milieueffecten-ander-land/
[26] Annex VI, point 5 of Regulation (EU) 2022/869.
[27] Article 9(4), Regulation (EU) 2022/869.

- Project website

  Before the start of the permit granting process, the project promoter must have a project website linked to the European Commission's transparency platform[28]. The transparency platform is a website that provides information on all PCIs[29]. It is the responsibility of the project promoter to ensure that the website complies with the Regulation. Project promoters must also publish relevant information through other suitable public information channels.

  The content of the project website must be translated into the languages of the countries involved in the project or affected by significant cross-border effects of the project, as referred to in Annex IV, point 1 of the Regulation.

7.2 Time limits

The permitting process under the Regulation consists of two procedures with associated time limits[30]:

a) the pre-application procedure, covering the period between the start of the permit granting process and the acceptance of the submitted application file by the national competent authority, to be completed within an indicative period of 24 months, and

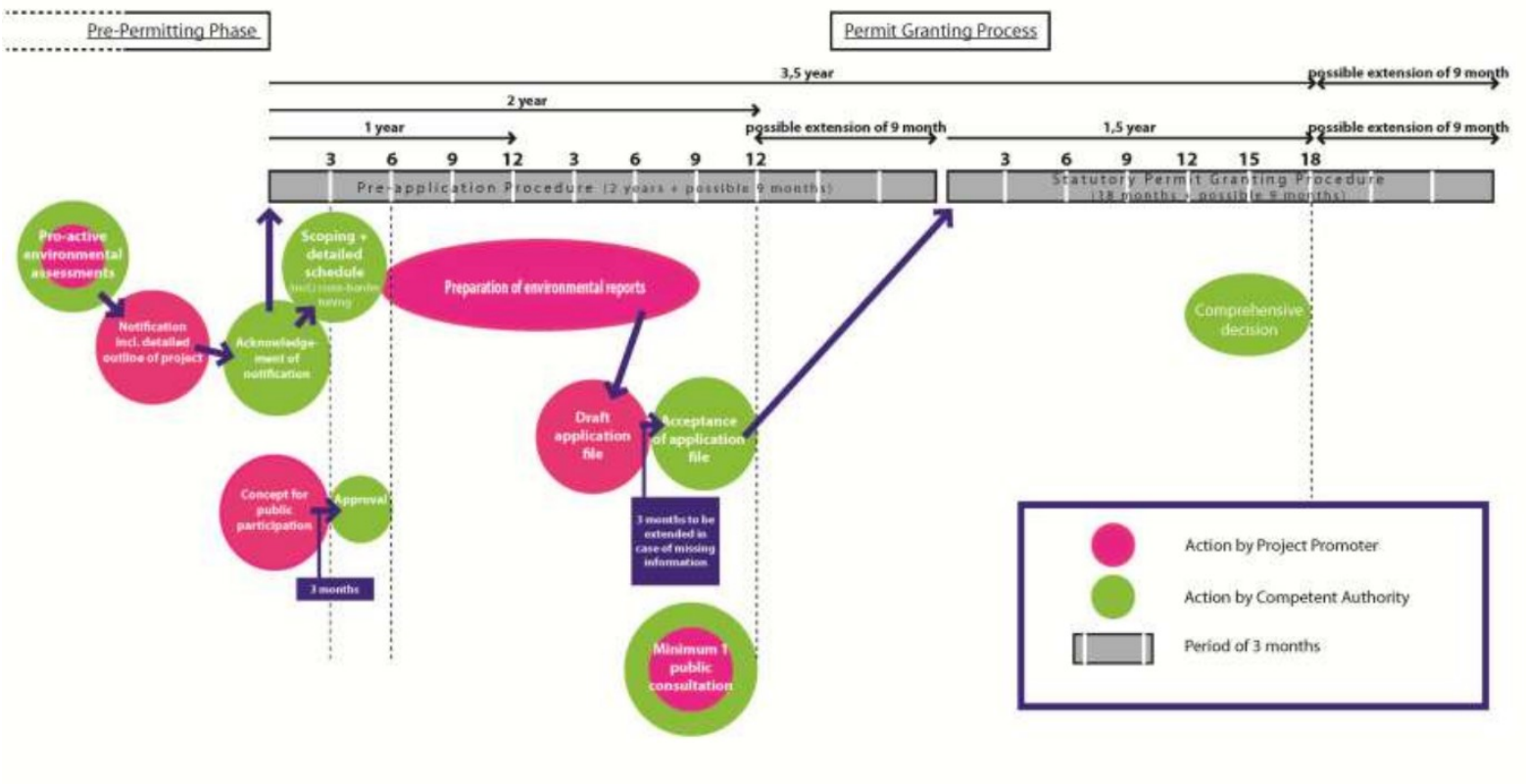
b) the statutory permit granting procedure, namely the period from the date of acceptance of the submitted application file until the adoption of the comprehensive decision, which may not exceed 18 months.

Extension of time limits

The national competent authority may extend the combined duration of both procedures by no more than *nine months*, except in exceptional circumstances[31].

[28] Article 9(7) and Annex VI, point 6 of Regulation (EU) 2022/869.
[29] PCI-PMI Transparency Platform (europa.eu).
[30] See Article 10 of Regulation (EU) 2022/869.
[31] Article 10(2), Regulation (EU) 2022/869.

7.3 Schematic overview of the permit granting process for PCIs



Source: [Guidance for streamlining of environmental assessment procedures for energy infrastructure projects of common interest (PCIs) - European Commission]

8. Transparency, public participation and legal protection

The Regulation contains guidelines on transparency and public participation (Article 9 and Annex VI). This chapter explains how and when stakeholders and other interested parties are involved in a PCI in the Netherlands and how they are given the opportunity to participate. The guiding principle is that relevant parties − such as national, regional and local authorities, landowners and residents living near the project, the general public, and associations, organisations or groups thereof − are involved at an early stage of the project.

8.1 Transparency and public participation – notification stage

In the notification phase, the project promoter prepares a draft plan for public participation. The notification phase covers the period between the start of the permit granting process and the acceptance of the application file by the competent authority. In relation to the project procedure, this is the phase before the notification of the intention to carry out an exploratory study.

The draft plan for public participation must in any case provide information on:
- the stakeholders to be consulted;
- the planned measures, including proposed general locations and dates of planned meetings;
- the timeline;
- the staff resources allocated.

The draft for public participation is submitted to the Ministry of EZK, who may request amendments within three months. In practice, the draft plan for public participation resembles with the Intention and Participationplan (in Dutch: Kennisgeving en Participatieplan). This document is published for all projects that follow the project procedure, like the PCI-projects.

8.2 Transparency and public participation – application stage

After acceptance of the notification of a PCI, the secretary of state of Climate Policy and Green Growth publishes a notice of its intention to start a PCI and how the public can be involved in this project.

Where an environmental assessment report is required
In most cases, an EIA report will need to be prepared for a project. For some projects a preferential decision may be needed earlier in the procedure, and an SEA report will be prepared for that decision. The publication of any assessment documents, and that there will be an opportunity to submit comments (to whom, how and within what time limit) is included in the PCI notification. If there are likely significant adverse environmental effects in another country, relevant parties in that country also need to be notified.

The EIA and SEA reports are made available for public review for six weeks. Anyone may submit their views to the secretary of state of Climate Policy and Green Growth. Information meetings are usually held in support of the public participation on the notification and the draft NRD.

Public consultation
Before the permit applications are submitted, a public consultation is organised as referred to in Article 9(4) of the Regulation. This public consultation is organised by the Ministry of Economic Affairs and Climate, together with the project promoter and the other competent authorities. For the public consultation, an information brochure on the project is prepared.

The consultation is announced through the regular national and regional media and on the project website. Details of the locations and dates of information meetings are provided. The stakeholders concerned are invited in writing. At these information meetings, anyone may express their views on the project.

The project promoter prepares a report providing an overview of the activities carried out for the purposes of transparency and public participation, and their results. This report is submitted with the permit applications.

8.3 Transparency and public participation – permit granting stage

After submission of the permit applications, the permits are prepared by the competent authorities. The secretary of state of Climate Policy and Green Growth coordinates the permitting process in principle and sets a deadline for the preparation of the draft permits.

If the uniform public preparatory procedure (UOV) applies to the project decision and coordinated implementing decisions, the draft decisions are made available for public inspection simultaneously for six weeks. During this period, anyone may submit their comments to the secretary of state of Climate Policy and Green Growth.
Notice of the public review is published in the Government Gazette (*Staatscourant*) and on the central government website. Notification is also given to landowners or other right holders if the draft decisions impact their position.

After the comments received have been considered, the final decisions are adopted. If any changes are made to the final decision, in comparison to the draft decisions, this is indicated. Notice of the decision(s) is given in the Government Gazette and on the central government website.

8.4 Digital information facilities for projects

For each PCI, a website is opened by the project promoter. This website is linked to the European Commission's website. In addition, the Ministry of Economic Affairs and Climate provides a website for PCI projects:

https://www.rvo.nl/onderwerpen/bureau-energieprojecten

The project website must provide at least the following information[32]:

a) the information brochure referred to in Annex VI, point 5 of the Regulation;
b) a non-technical summary, updated periodically, of no more than 50 pages, giving an overview of the current state of the project and, in the case of an update, a summary of the changes compared with previous versions;

[32] See Annex IV, point 6 of Regulation (EU) 2022/869.

c) the schedule for the project and for the public consultations, with a clear indication of the dates and locations of public consultations and hearings, and the proposed topics likely to be relevant for those hearings;
d) contact details for obtaining the full set of application documents;
e) contact details for submitting comments and objections during the public consultations.

8.5 Legal remedies

Objection, appeal and further appeal (summary)
Once the final decision is published interested parties − and non-interested parties who have submitted comments under a uniform public preparation procedure − may lodge an appeal if they so wish, within six weeks. For project decisions relating to PCIs and for coordinated implementing decisions, appeals may be lodged directly, in first and only instance, with the Administrative Jurisdiction Division of the Council of State (*Afdeling Bestuursrechtspraak van de Raad van State*).

For implementing decisions that are not integrated in the project decision, that fall outside coordination and to which the regular procedure applies rather than the extended procedure (see Sections 3.3 and 3.4), no draft decisions are first adopted; instead, the final decisions are taken directly. Interested parties may lodge an objection against such decisions. In the objection phase, the administrative authority reconsiders the primary decision, after which a decision on the objection is issued. This may be followed by an appeal to the court (administrative law division) and, where applicable, a further appeal.

For more information on coordination and the preparation procedures, see Sections 3.3 and 3.4 of this Guide and consult the websites of the IPLO:

https://iplo.nl/regelgeving/overzicht-procedures/korte-uitgebreide-voorbereidingsprocedure/

https://iplo.nl/regelgeving/overzicht-procedures/coordinatieregeling/

9. Reporting

Implementation plan

Project promoters must draw up an implementation plan for PCIs, including a timetable for:

a) feasibility and design studies, including with respect to climate adaptation, compliance with environmental law and the 'do no significant harm' principle;
b) approval by the national regulatory authority or any other relevant authority;
c) construction and commissioning;
d) the permitting process as referred to in Article 10(6)(b) of the Regulation.

Annual reports

No later than 31 December of each year following the year in which a project is included in the Union list, project promoters must submit an annual report for each project falling within the energy infrastructure categories of Annex II to the Regulation to the national competent authority responsible for the permit granting process. The report must contain information on:

a) progress made in the development, construction and commissioning of the project, in particular with regard to the permit granting process and the consultation procedure, as well as compliance with environmental law, the principle that the project must 'do no significant harm' to the environment, and the measures taken for climate change adaptation;
b) where applicable, delays compared with the implementation plan, the reasons for those delays, and details of other difficulties;
c) where relevant, a revised plan to make up for delays.

Submission of the report to the EU

No later than 28 February of each year following the year in which the project promoter must submit the report, the national competent authorities must submit the report to the Agency for the Cooperation of Energy Regulators (ACER) and to the relevant group (as referred to in Article 3(1) of the Regulation), supplemented with information on progress and, where applicable, delays in the implementation of projects on the Union list on their territory in relation to the permit granting processes. The reasons for such delays must also be stated. The contribution of the competent authorities to the report must be clearly identified as such and drafted without modifying the text submitted by the project promoters.

10. Contact details

Below are the names and contact details of the main competent authority, other authorities involved and the principal stakeholders.

Central government

*Ministry of Economic Affairs and Climate (*Dutch: Ministerie van Economische Zaken en Klimaat - EZK)
Bezuidenhoutseweg 73
2594 AC The Hague
Postal address: PO Box 20401
2500 EK The Hague
Telephone: +31(0)70 379 89 11http://www.rijksoverheid.nl/ministeries/ez
https://www.government.nl/ministries/ministry-of-economic-affairs-and-climate

*Ministry of Infrastructure and Water Management (*Dutch: Ministerie van Infrastructuur en Waterstaat - MinIenW)
Rijnstraat 8
2515 XP The Hague
Postal address: PO Box 20901
2500 EX The Hague
Telephone: +31(0)70 456 00 00
https://www.government.nl/ministries/ministry-of-infrastructure-and-water-management

Netherlands Enterprise Agency (Dutch: Rijksdienst voor Ondernemend Nederland - RVO)
Spatial Planning and Permitting Team (Dutch: team Ruimtelijke processen en vergunningen)
Telephone: +31(0)88 042 47 47
Email: bureauenergieprojecten@minezk.nl
https://www.rvo.nl/onderwerpen/bureau-energieprojecten

Provinces

Association of Provinces of the Netherlands (Dutch: Interprovinciaal Overleg) (the partnership of the twelve provinces)
Herengracht 23
2511 EG Den Haag
Telephone: +31(0)70 888 12 12
Email: communicatie@ipo.nl
http://www.ipo.nl/

Municipalities

Association of Netherlands Municipalities (Dutch: Vereniging van Nederlandse Gemeenten) (the partnership of municipalities).
Nassaulaan 12
2514 JS The Hague
Postal address: PO Box 30435
2500 GK The Hague
Telephone: +31(0)70 373 83 93
Email: mailto:informatiecentrum@vng.nlinfo@vng.nl
http://www.vng.nl

Water boards

Dutch Water Authorities (Dutch: Unie van Waterschappen, UVW) (the partnership of water boards)

Koningskade 40
2596 AA The Hague
Postal address: PO Box 93218
2509 AE The Hague
Telephone: +31(0)70 351 97 51
Email:mailto:info@uvw.nl info@dutchwaterauthorities.com http://www.uvw.nl/
https://dutchwaterauthorities.com/

Environmental services

Omgevingsdienst NL
Horapark 4
6717 LZ Ede
Email: communicatie@omgevingsdienst.nl
https://www.omgevingsdienst.nl

Other professional services

Netherlands Commission for Environmental Assessment (NCEA) (Dutch: Commissie voor de milieueffectraportage)
Arthur van Schendelstraat 760
3511 MK Utrecht
Telephone: +31(0)30 234 76 60
Email: mailto:kennisplatform@eia.nlncea@eia.nl
http://www.commissiemer.nl/https://www.eia.nl/en/

Cultural Heritage Agency (RCE) (Dutch: Rijksdienst voor het Cultureel Erfgoed)
Smallepad 5
3811 MG Amersfoort
Postal address: PO Box 1600
3800 BP Amersfoort
Telephone: +31(0)33 421 74 56
Fax: +31(0)33 421 77 99
https://www.cultureelerfgoed.nl/https://english.cultureelerfgoed.nl/

Project promoters of PCIs in the Netherlands

Nederlandse Gasunie N.V.
Concourslaan 17
9727 KC Groningen
Postal address: PO Box 19
9700 MA Groningen
Telephone: +31(0)50 521 91 11
Email: info@gasunie.nl
https://www.gasunie.nl/en

TenneT
Utrechtseweg 310 (building M01)
6812 AR Arnhem
Postal address: PO Box 718
6800 AS Arnhem
Telephone +31(0)800 836 63 88 and +31 26 373 11 11
Email: servicecenter@tennet.eu
https://www.tennet.eu/nl-en/home

TotalEnergies Nederland

Prinses Catharina-Amaliastraat 5
2496 XD The Hague
Postal address: PO Box 294
2501 BC The Hague
Telephone: +31(0)70 318 0480
www.totalenergies.nl

Shell Netherlands
Carel van Bylandtlaan 30
2596 HR The Hague
Postal address: PO Box 444
2501 CK The Hague
Telephone: +31(0)70 377 9111
www.shell.nl

EBN State Energy Company of the Netherlands (Dutch: Energiebeheer Nederland - EBN)
Daalsesingel 1
3511 SV Utrecht
Telephone: +31(0)30 233 9000
https://www.ebn.nl/en/

Other potentially involved parties

- Local residents
- Action groups (local and otherwise)
- Representatives of collective interests, such as:

Greenpeace Netherlands
Paul van Vlissingenstraat 10-E
1096 BK Amsterdam
Postal address: PO Box 3946
1001 AS Amsterdam
Telephone: +31 (0)800 4223344
http://www.greenpeace.nl

Society for the Preservation of Nature Monuments in the Netherlands (Dutch: Vereniging tot Behoud van Natuurmonumenten in Nederland/Natuurmonumenten)
Sationsplein 1
3818 LE Amersfoort
Postal address: PO box 2166
3800 CD Amersfoort
Telephone: +31 (0)33 479 7111
https://www.natuurmonumenten.nl

Friends of the Earth Netherlands (Dutch: Milieudefensie)
Willem Fenegastraat 19-23
1096 BL Amsterdam
Postal address: PO Box 19100
1000 GD Amsterdam
Telephone: +31(0)20 662620
https://milieudefensie.nl

Wadden Association (Dutch: Waddenvereniging)
Noorderhaven 60, Harlingen
Postal Address: PO box 90

8860 AB Harlingen
Telephone: +31(0)517 493693
Email: info@waddenvereniging.nl
https://www.waddenvereniging.nl

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