




# Porthos ruling – initial assessment of implications and options for projects that only cause nitrogen deposition during construction phase – 4 November 2022

NB: This overview assumes that construction activities have not been completed

 Project status	 Effect of the ruling	 Options
<b>Preparation phase</b> Application permit for construction/ environmental impact/deviation from zoning plan has not yet been submitted	Application has to address nitrogen emissions and deposition for the construction phase	<b>Assess nitrogen effects</b> a. Screening ( <i>voortoets</i> ): if screening shows no significant effects no nature permit is required, or b. Habitats regulations assessment (appropriate assessment, <i>passende beoordeling</i> ) + nature permit
<b>Permitting procedure ongoing</b> Application permit for construction/ environmental impact/deviation from zoning plan has been submitted	Application has to be amended in so far as the nitrogen emissions and deposition during the construction phase have not been taken into account	<b>Prevent or reduce nitrogen effects</b> a. Electric vehicles and equipment, apply deNOx, other
<b>Draft permit published for consultation</b> Draft permit for construction/environmental impact/deviation from zoning plan has been published	Permit does not contain approval to emit nitrogen. Enforcement risk	<b>Assess and document</b> a. No nitrogen deposition (f.e. after making changes to the project): keep underlying documentation available b. In case of nitrogen deposition: if screening shows (with or without internal balancing ( <i>intern salderen</i> )) no significant effects, no nature permit is required: keep underlying documentation available
<b>Permit granted</b> Permit for construction/environmental impact/deviation from zoning plan has been granted, but not yet irrevocable	In case of objections against the permit, the outcome of the actions listed under 'options' have to be taken into account during the objections phase	<b>Assess and apply for nature permit</b> a. In case of nitrogen deposition: if appropriate assessment shows (with or without external balancing ( <i>extern salderen</i> ), if possible) no significant effects, a nature permit is required
<b>Appeal</b> Permit for construction/environmental impact/deviation from zoning plan has been granted, but appeal has been filed with the administrative courts	Permit will be annulled, unless repaired following actions listed under 'options'	
<b>Irrevocable permit</b>	Permit irrevocable. Recall situation of PAS-notifications in 2019: potential enforcement risk because permit does not contain approval to emit nitrogen	

⚠ This overview does not address the EU Habitats directive derogation option (ADC-toets) as this option will not offer a solution for projects in the (relatively) short term.

⚠ Dutch national and provincial governments are likely to prepare new policy / legal instruments that would require an update of this overview.