

# **The decree on complicated infrastructure projects. How Flanders (tries) to deal with sensitive or contested infrastructure projects**

Governor Cathy Berx  
Province of Antwerp

AERTE Days Lyon  
31<sup>st</sup> of May 2018



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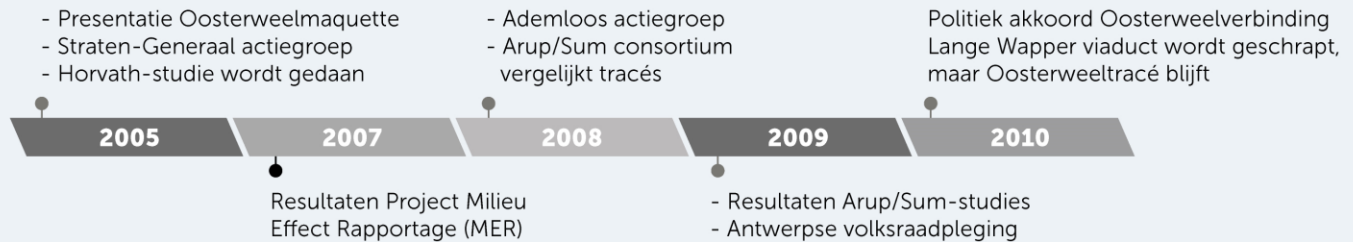


'Ring' off Antwerp. Congestions cause a traffic 'heart attack'

Een project in de  
luwte (1995-2005)

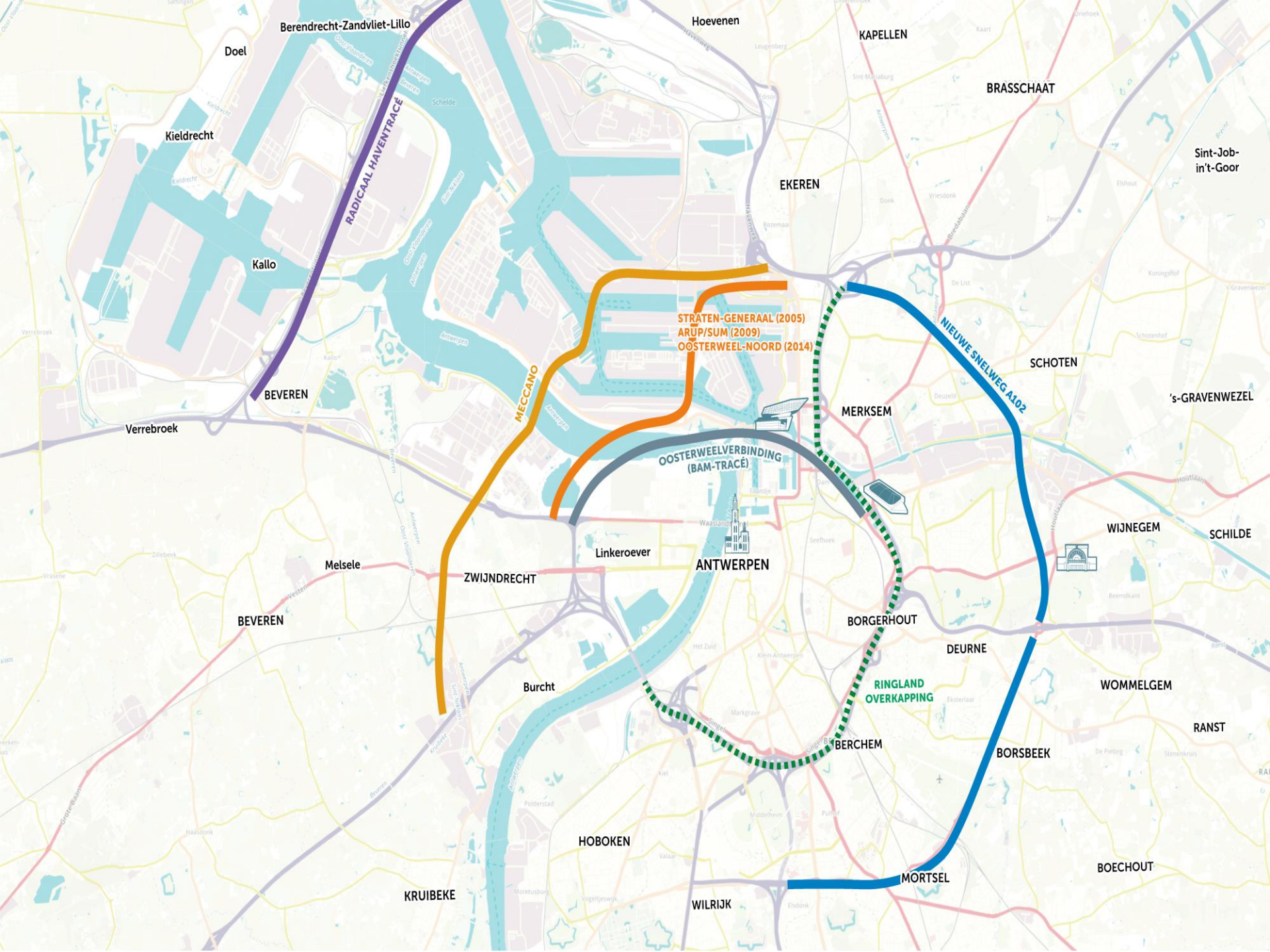


Van maquette tot  
schrappen Lange  
Wapper (2005-2010)



De Ringland-tango  
en het historisch ak-  
koord (2014-2017)





STRATEN-GENERAAL (2005)  
ARUP/SUM (2009)  
OOSTERWEEL-NOORD (2014)

OOSTERWEELVERBINDING  
(BAM-TRACE)

RINGLAND  
OVERKAPPING

NIEUWE SNELWEG A102

# Initial Plan proposal (2005)

The so called 'Oosterweel'-or 'BAM tracé' with a.o. **2 main highlights:**

1. A **tunnel under the river Scheldt**

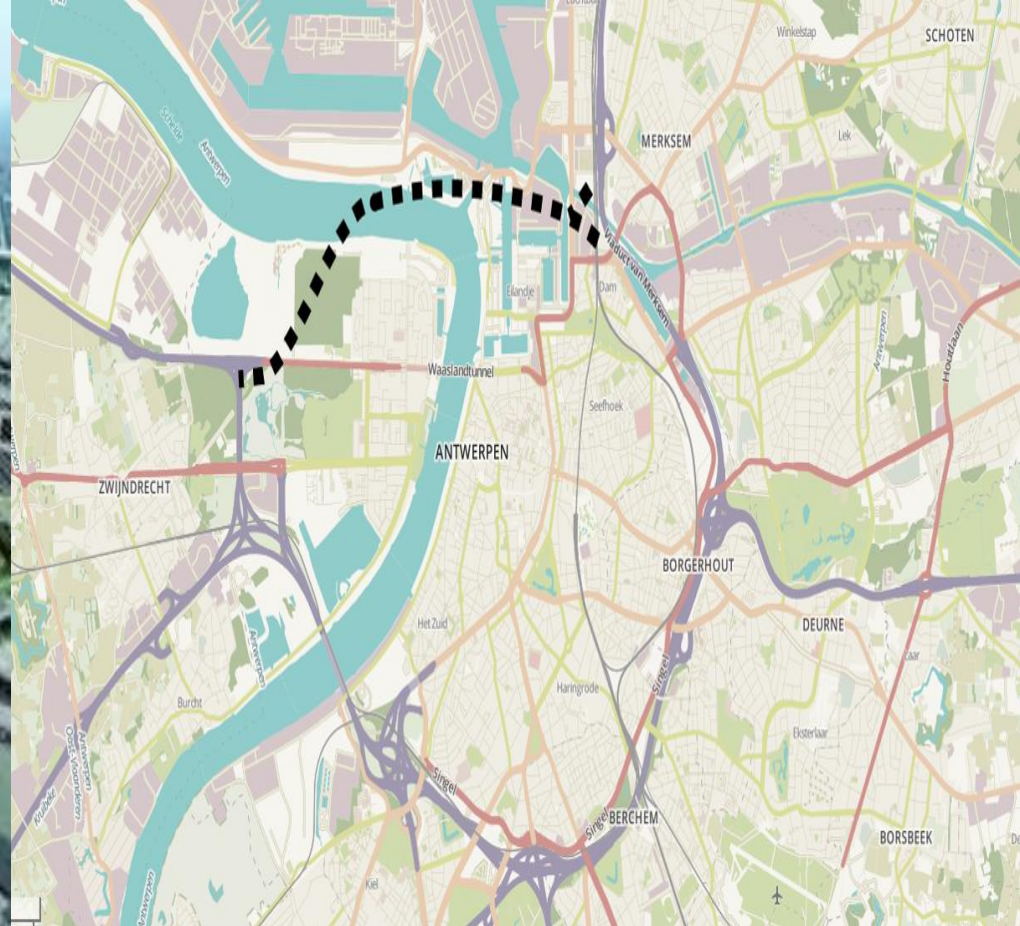
2. An open '**Lange Wapper-bridge**' across the docklands

→ The Oostweeltracé and so called junction → a **third intersection** to cross the river Scheldt **rounding up entirely the Antwerp Ring**

→ **Preliminary studies** such as EIA (Environmental Impact Analysis on the planlevel) already approved 'below the radar'.

→ Contract on the design sign off signed with a private consortium with a value of 3 bn EURO

# Initial proposal BAM



# Massive social protest

**Actiongroups (StRaten-Generaal, Ademloos and Ringland)** formulate alternatives and obtain massive social support

Their concerns:

- 1. City development:** Oosterweel is a scar that will ruin Antwerp and its future development
- 2. Air pollution:** people will suffocate, get sick and die an early death
- 3. Quality of life:** avoid traffic to close to the city. A city is built for people to enjoy life. They need open and green space, no extra traffic.

## ACTIONS

- 1. Successful canalization of social frustration**
- 2. A critical referendum/public consultation** round on the 18th of October 2009: 58% NO, 40% Yes
- 3. Procedures at the Council of State**

# Massive social protest





# Proposed alternatives



Reeds bij lancering Meccano in 2010:  
overkapping integraal onderdeel van plan

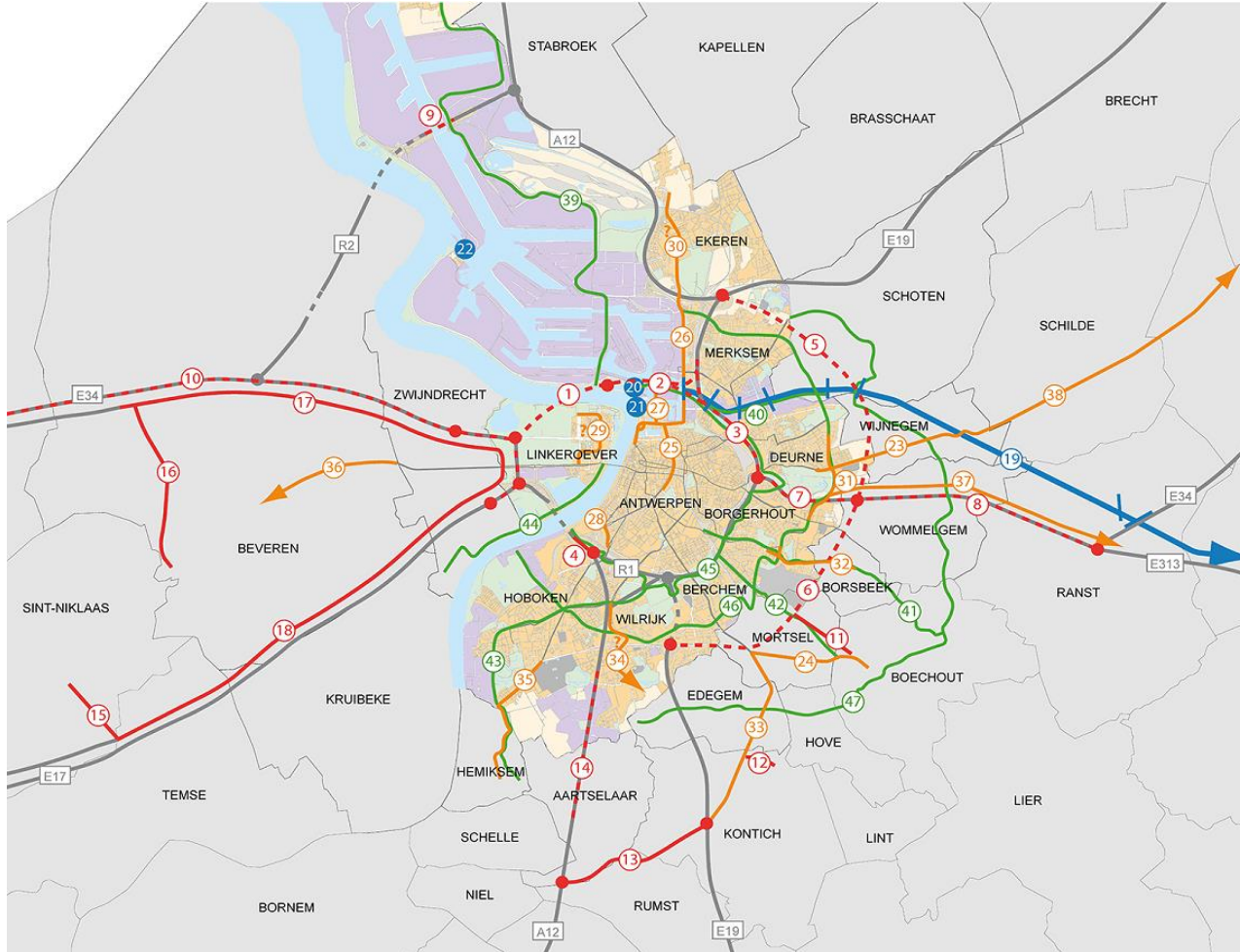
**EEN GROENE LONG VAN 146 HECTAREN?**



**HET MECCANDRACE: DROOM VAN EEN STAD!**



# Governmental reaction: (unilateral)adjusted plans. Master Plan Mobility 2020 for Antwerp (2010) reaffirmed in 2014: bridge skipped, extra infrastructure and focus on modal shift: public transport, bikelanes, waterway)



## Wegenwerken

- Sluiting van de R1 via Oosterweelverbinding met Scheldetunnel (1)
- Kanaaltunnels (2)
- Viaduct Merksem verdwijnt (3)
- Herinrichting spaghettiknoop (4)
- Aanleg A102 onder het maaiveld (5)
- Vertunnelling R11 (6)
- Herinrichting E313/E34 met
  - Spitsstrook tussen Antwerpen en Ranst (7)
  - Extra rijstrook tussen Ranst en Wommelgem (8)
- Verbeteringen R2-Thijsmanstunnel (9)
- Ombouw expressweg N49 tot snelweg (10)
- Heraanleg R4 te Gent (niet op kaart)
- Ingrepen in de zuidostrand
  - Verbinding N10-R11 (11)
  - Verbinding N171-N1 (12)
  - Verbinding N171 (13)
  - Verbetering aansluitingscomplexen N177-A12 (14)
- Ingrepen in het Waasland
  - Aanleg tangent E17-N70 (15)
  - Aanleg tangent N70-E34 (16)
  - Aanleg parallelweg langs E34 (17)
  - Aanleg parallelweg langs E17 (18)

## Vervoer over het water

- Aanpassen bruggen Albertkanaal Antwerpen-Meerhout (19)
- Renovatie Royerssluis (20)
- Renovatie Kattendijksluis (21)
- Renovatie Van Cauwelaertsuis (22)

## Extra openbaar vervoer

- Tramlijn Deurne - Wijnegem (23)
- Tramlijn Mortsel - Boechout (24)
- Tramlijn en heraanleg Leien en Operaplein (25)
- Tramlijn tot Ekeren (26)
- Tramlijn ontsluiting van het Eilandje (27)
- Tramlijn ontsluiting Nieuw Zuid (28)
- Tramlijn ontsluiting Linkeroever-Noord (29)
- Tramlijn tot Leuvenberg (30)
- Tramlijn Wommelgem (31)
- Tramlijn Borsbeek (32)
- Tramlijn Kontich (33)
- Tramlijn Wilrijk (34)
- Tramlijn Hemiksem (35)
- Tramlijn Beveren (36)
- Tramlijn Ranst (37)
- Lightrail Oostmalle (38)

## Extra fietspaden

- Havenroute (39)
- Albertkanaal (40)
- Berchem-Borsbeek-Vremde (41)
- Spoorlijn Lier-Antwerpen (42)
- Hoboken-Hemiksem (43)
- Beatrijslaan-Burcht (44)
- Ringfietspad (45)
- Districtenroute (46)
- Gordel randgemeenten (47)



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**In search of a solution to accelerate  
complex and sensitive  
infrastructure projects...  
The Commission Berx**

# Commission Berx (November 2009-February 2010)

## Why can't strategic infrastructure-projects of immense public interest hardly be realized in Flanders?

### A. Assignment:

1. Analyse the causes of the structural complexity and delay in the decision-making processes from start to realisation of public (and private) strategic infrastructure projects
2. Development specific proposals for the improvement of the decision-making processes and procedures from a broad perspective

### B. Defined/presumed problem:

1. Long duration and/or a lack of clear intermediate decision-making lead to:
  - a. Loss of quality
  - b. Rising costs
2. Systematic lack of and/or vulnerability of 'public support' and/or 'social consensus'
3. Lack of balance between public and private interests: should and how jurisdictional procedures be reformed, to restore that balance?



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# The Commission Berx: approach

## C. Working method:

1. Call for proper expectations
2. A balanced approach on several fronts
3. Analysis of some specific projects
4. Elaboration of a refined problem analysis
5. Examination of foreign reports and legislation
6. Proposals from administration and civil society organisations

## D. Structure of the report :

<b>Chapter I: Introduction</b>	<b>Chapter IV: Set quick wins short-term realisation</b>
<b>Chapter II:</b> Refined problem analysis	<b>Chapter V:</b> Wide range of recommendations
<b>Chapter III:</b> General observations	<b>Chapter VI:</b> Paradigm shift for law enforcement
<b>Chapter 7:</b> Summary conclusions	



# The Commission Berx: proposals for new process and procedure (1)

## Mental shift:

- **Participation and co-creation** from the **start until the realisation** and exploitation of (new) infrastructure

## A. Invest in an open, informal exploratory prephase

- Early (not definite) detection of all (possible) stakeholders
- Shared definition of the societal problem and/or opportunities (traffic heart attack ↔ quality of life, clean air, health and city development)
- Out of the box exploration of all solution alternatives without exclusives, taboos or 'determined favorites'
- Accept and embrace knowledge, insights...from civil society
- Remain honest and open and communicate in a veritable way



# The Commission Berx: proposals for new process and procedures (bis)

## B. Integrated formal procedure

- **Draft preference decision** concludes the informal phase
  - Plan Environment Impact Analysis
  - Formal public investigation
- **Preference decision**
  - Possibility of public consultation
  - Judicial control

# The Commission Berx: proposals for new administrative processes and procedures (bis)

- **Further elaboration of the project**
- **Integrated project Environmental Impact Analysis and special implementation plan**
- **Public consultation**
- Environmental permit (including expropriation permit, forest/nature compensation...)
  - Mitigation measures (noise barriers, buffers, ...)
  - Judicial control
- **Realisation**



# The Commission Berx: preconditions

## A. Performant project management:

- Mandated person with qualities in the area of **process management**
- Involvement of **professional forms of 'mediation'**

## B. Solution oriented inter- and intra administrative cooperation:

- No compartmentalisation
- Stimulate **endeavour to find a solution, creativity and collaboration** between public service staff
- **Abolition of binding opinions** and **other forms of unilateral decision-making power**
- **Integrated advice procedures and/or advices**
- Efficient and constructive collaboration between different levels of government

# The Commission Berx

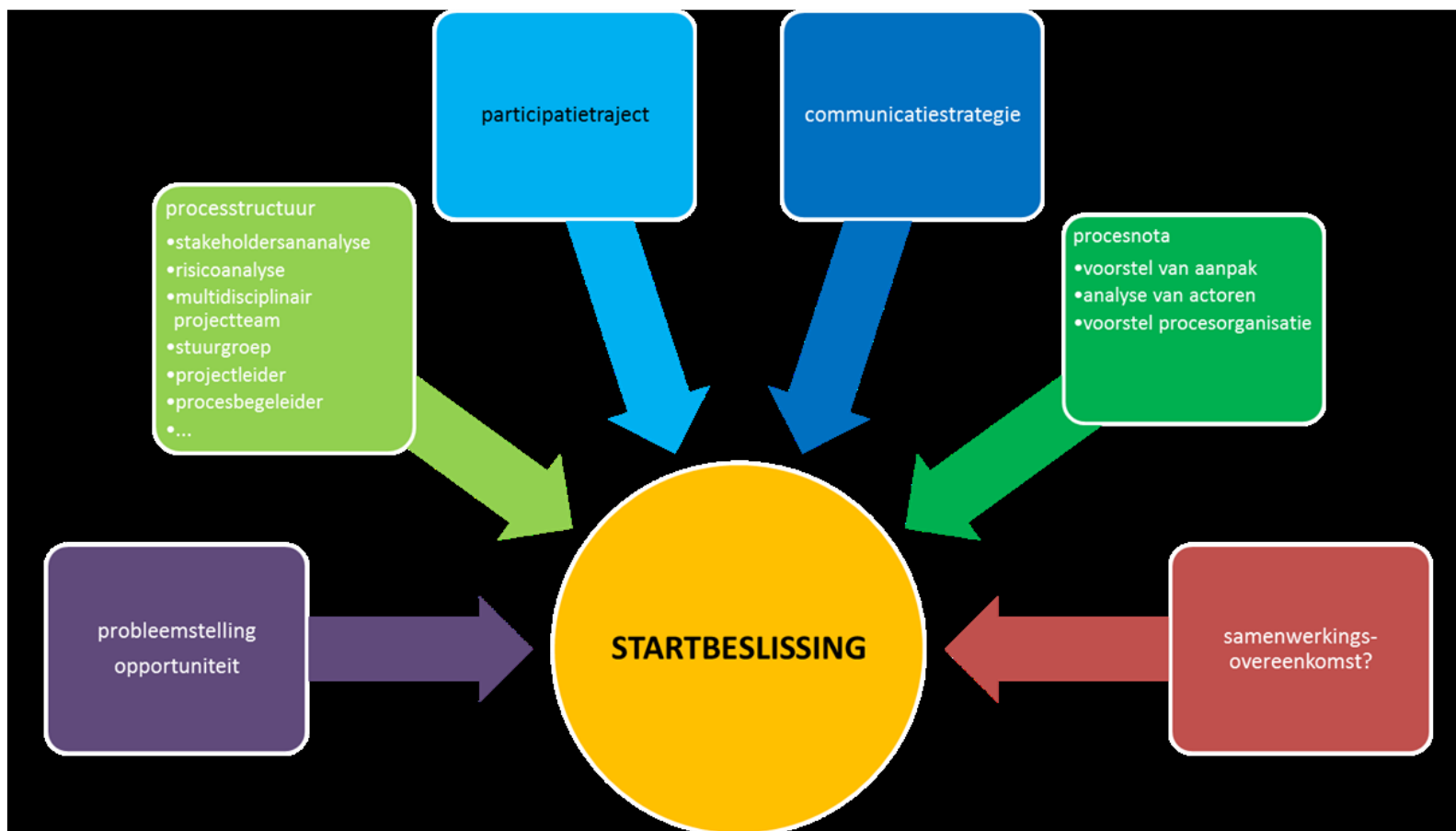
Paradigm shift for law enforcement

- A. Solution-oriented procedures for administrative judges
- B. Timely restoration of procedural and formal errors
- C. Extension 'ruling competences' for administrative judges

# Process complex projects



# Exploration phase



# Research phase

- Integrated, well-thought consideration of alternatives on strategic level:
  - Environmental research
  - Financial-economic
  - Spatial fitting-in with the landscape
  - Design research
  - And others
- **Preference decision**  
Establishment from chosen alternative at the strategic level
  - Possibility of appeal: Council of State
  - Legal consequences: f.e. building restriction

**Alternatives research report**

**Consultation**

**Integrated research**

**Synthetic report**

**Draft preference decision**

**Public inquiry**

**Preference decision**

**Announcement**

# Design phase

- ❑ Further concretisation to achievable project

Focus shifts from strategic to project level

- **Project decision**

Establishment from chosen alternative on implementation level

- Permits
- Authorisations
- Reclassification/ Change in the designated use
- Management and monitoring
- Action program
- ❑ Legal consequences
- ❑ Possibility of appeal: Council of State

**Project research report**

**Integrated research**

**Synthetic report**

**Draft project decision**

**Public inquiry**

**Project decision**

**Announcement**

# Implementation phase

- Project implementation and monitoring, evaluation of the predicted effects

I  
**Application of the principles of the  
Commission Berx to the complex  
infrastructure and mobility project in the  
Antwerp area...**



# Practical examples of the new working method suggested by the Commission Berx

The Masterplan 2020 mobility project in Antwerp area which foresees a.o. the construction of both:

- **New highway A102 (drilled tunnel)**
  - **Tunneling the R11 (the so called R11bis)**
- **Governor Berx was asked and designated as process facilitator on behalf of the Flemish government**
- A strong participative and interactive process was put in place
- **All possible stakeholders were involved in a very early stage**
- **R11bis** was dropped by the Flemish government: unacceptable impact, no proven added value, highly contested



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# Process structure of the A102/R11bis approach

**Step 1: Plan EIA:** investigating the consequences for the inhabitants, the environment, the space and mobility

**Step 2: September 2013: Public consultation round:** travelling info market in municipalities Mortsel, Merksem and Wijnegem in order to prepare the official consultation round

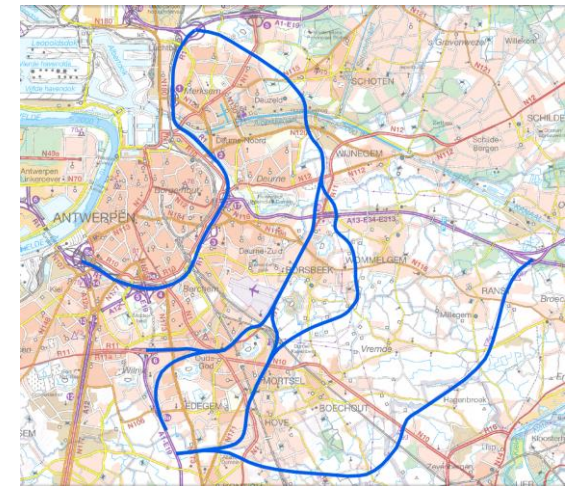
**Step 3: 15/1/2014-15/2/2014:** Notification file plans A102/R11bis: local authorities, organisations and associations: **600 involvement reactions were submitted to the EIA service.** Alternatives were listed and carefully studied

**Step 4: Layout of the planEIA:** first directives, 'funneling' report and examination of the proposed alternatives

**Step 5: Thorough draft mobility study by Transport and Mobility Leuven.** Main question: are the suggested alternatives sufficient to solve the structural congestion on the Antwerp Ring and to increase the viability in the eastern boarder of the city?

**Preliminary conclusions:** separation between local and long-distance traffic, priority to northern instead of southern connectivity of the Antwerp Ring.

<http://www.poortoost.be/project/aanleg-a102-en-r11bis>



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# The Decree on Complex Projects based upon the embedded conclusions and proposals of the Commission Berx

- **25th of April 2014:** the Decree on Complex Projects was called in life
- **Implementation date:** 1st of March 2015
- The decree stipulates **large and open participation and co-creation** as a requisite to provide the necessary permits for a complex project via one integrated project.
- <http://www.complexeprojecten.be/>



Figuur 4: Impressie van de vallei van de Kleine Nete ter hoogte van een gepland overstromingsgebied, onderdeel van de coördinatietoelichting voor de vallei.

Jaarverslag coördinatietoelichting gouverneur – 2013 – Antwerpen



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# Appointment of the intendant

- Call for a tunnel complex is as old as the protest against the Oosterweelproject and the plea for alternatives
- **16th of December 2015:** appointment of intendant Alexander D'Hooghe (MIT). Assignment → studying and implementing the 'hooding' of the entire Antwerp Ring

His concrete tasks?

- To **draft an ambition note and support structure** for the project
- To **develop a viability concept for the area around the Ring**
- To **draw up a set of specifications for design teams**
- To **set up a sounding board in order to create a solid support infrastructure**



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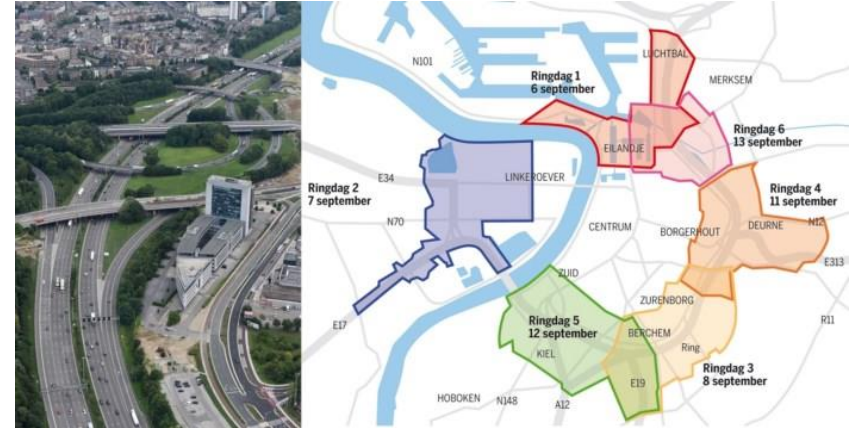
# The intendant: his results and selection of six international design teams

Publication of the ambition note after 10 months of consultation rounds with action groups and stakeholders

Selection of six international design teams:

1. Zone North
2. Zone West
3. Zone South East
4. Zone East
5. Zone South
6. Zone North East

<https://www.overdering.be/>



29 - 12/04/2021



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# The 'Toekomstverbond': a historic compromise for the Antwerp region

- Puts an **end to years of political impasse**
- A fresh proposal and solution for the mobility, viability and public health in the Antwerp region: the **radical Haventracé & Oosterweel light**
- Of **urban, regional, Flemish and national importance**
- Favours a **modal shift 50/50, a covering-up of the entire Antwerp Ring** and is a guarantee for long-term collaboration between action groups, authorities and stakeholders
- **End of the procedures on behalf of the action groups** (Ademloos, Ringland, StRaten-Generaal) at the Council of State
- **Delivery of numerous permits**
- **8th of February 2018: official launch of the Oosterweel works:** groundbreaking ceremony on the left bank of the Scheldt (Linkeroever)



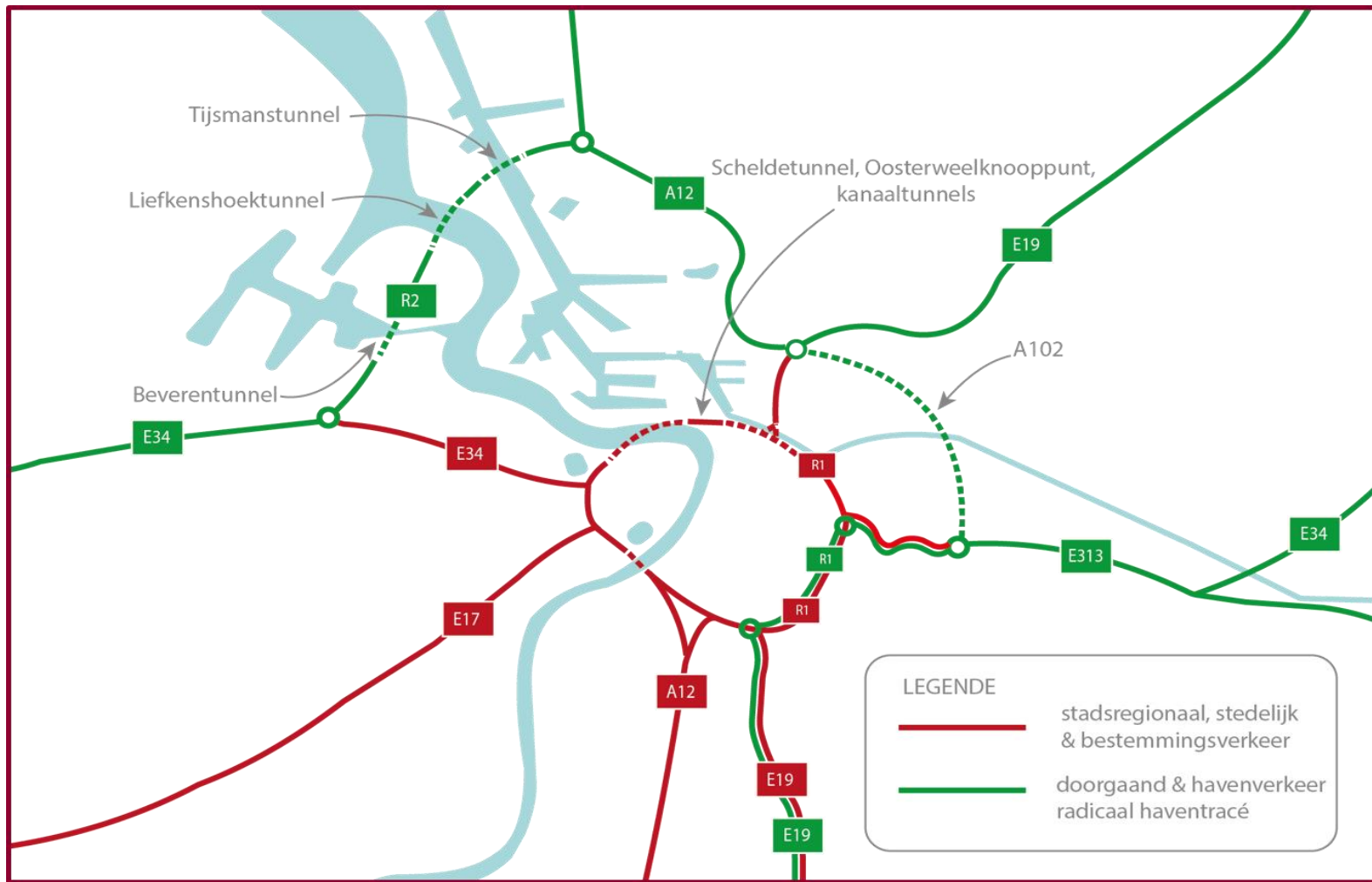
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# The 'Toekomstverbond': the radical Haventracé & Oosterweel light



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# Cooperation structure Routeplan 2030

Masterplan 2020



Routeplan 2030



Multi-annual, integrated, multimodal investment programs: Regional Council for Mobility, working community, Antwerp work platform



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# Creation of 4 workbanks

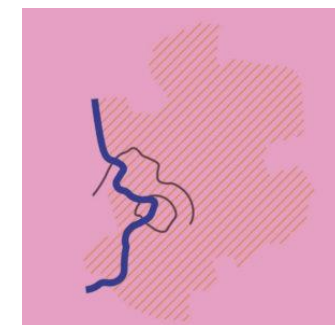
Implementation common goals 'Toekomstverbond' 2017 between citizens' movements and authorities:

1. Realisation of the **tunneling complex**
2. Realisation of the **modal shift**
3. **Rounding up the Ring with the Oosterweeljunction** (local traffic)
4. **Development of the radical Haventracé for harbor and long-distance traffic**

Each goal of the 'Toekomstverbond' receives its own workbank in order to exchange knowledge and expertise

Main pullers of the 4 workbanks:

1. Intendant Alexander D'Hooghe
2. Jan Van Rensbergen (BAM)
3. Jan van Rensbergen (BAM)
4. Cathy Berx (governor)



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# Approach workbank Haventracé

- Development of a **radical Haventracé E34 (West)– R2 – A12 – A102 – E34** (east) to lead long-distance traffic away from the city.
- **Traffic vision**, enriched with **spatial development to increase quality of life**: integration of the tracé and a link/interface with public transport, park & rides and bicycle highways, more greenspace.
- Firm focus on **health effects**
- **Former planning initiatives** from the Haventracé like the E34/E313 and the A102/(R11bis) **will be revised and updated.**
- The Workbank Haventracé started in January 2018.
- Members: Governor Cathy Berx (president), representatives of the Flemish Government, provinces, North-Brabant, local authorities, action- and community groups, Port of Antwerp, VITO, VMM, chamber of commerce, other experts,...
- Open question list to be broadly informed



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# Conclusions

- Oosterweel: much bigger than Antwerp
- Symbol for complicated, strategic infrastructure projects
- New insights on conflict escalation:

**Substantive conflict** (tracé (close or away from the city)/bridge or tunnel)



**Procedural conflict** (time-perspective, abuse of so called evidence)



**Relational conflict** (distrust and personal aversion, doubt on representation)

# Conclusions

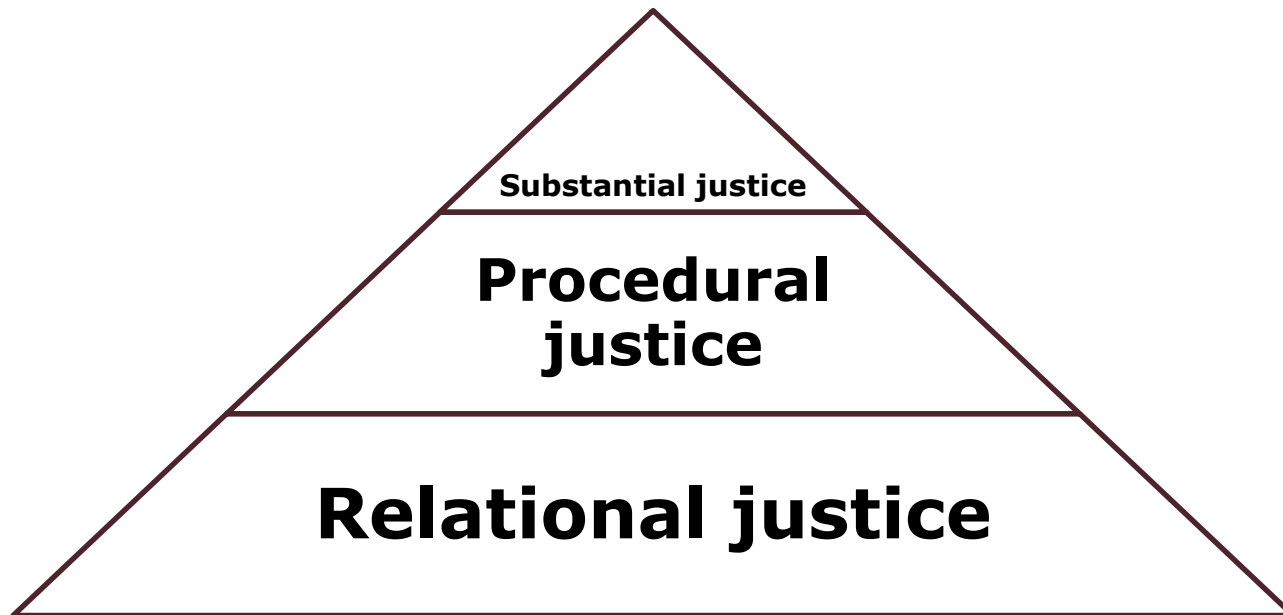
- **Reconsider** the notion of '**social support**' for complicated, strategic infrastructure projects.
- 'Social support' is a myth
- So called 'social support' is often a rhetorical instrument to legitimize unilateral governmental projects.
- Contemporary democracies count a lot of so called 'stand-by' publics that can become active or even virulent when their interests are at stake
- 'social support' can be very ephemeral
- 'social supports' can contradict each other

# Conclusions

- **Constructive conflicts** are **useful** (Chantal Mouffe): engagement, broader perspective, more insights, knowledge, better solutions
- Constructive conflicts deal with **fair distribution of the advantages and disadvantages** of big infrastructure-projects
- Essence of the debate: how to realize a robust project that reinforces quality of life, increases the quality of public space, guarantees smooth, sustainable and safe traffic

# Conclusions

- Better alternative for the concept of 'social support':
- Fairness of justice → the permanent effort to take into account the concerns of people seriously
- Three important dimensions of fairness/justice



# Conclusions

- Civil participation  $\neq$  flight of political responsibility
- Participation  $=$  getting back to the essence of politics: taking binding decisions on who gets what and when.
- More democratic democracy
- Appreciation for resistance helps to connect more people and stakeholders with public policy and decision-making
- Richer and stronger parliamentary democracy
- Resistance is oxygen for politics

**Questions or  
remarks?  
Thanks!**