
GUIDELINES FOR THE MANAGEMENT OF PUBLIC TRANSPORT INVESTMENT PROJECTS DELIVERED THROUGH PUBLIC PRIVATE PARTNERSHIPS

1 SEPTEMBER 2010

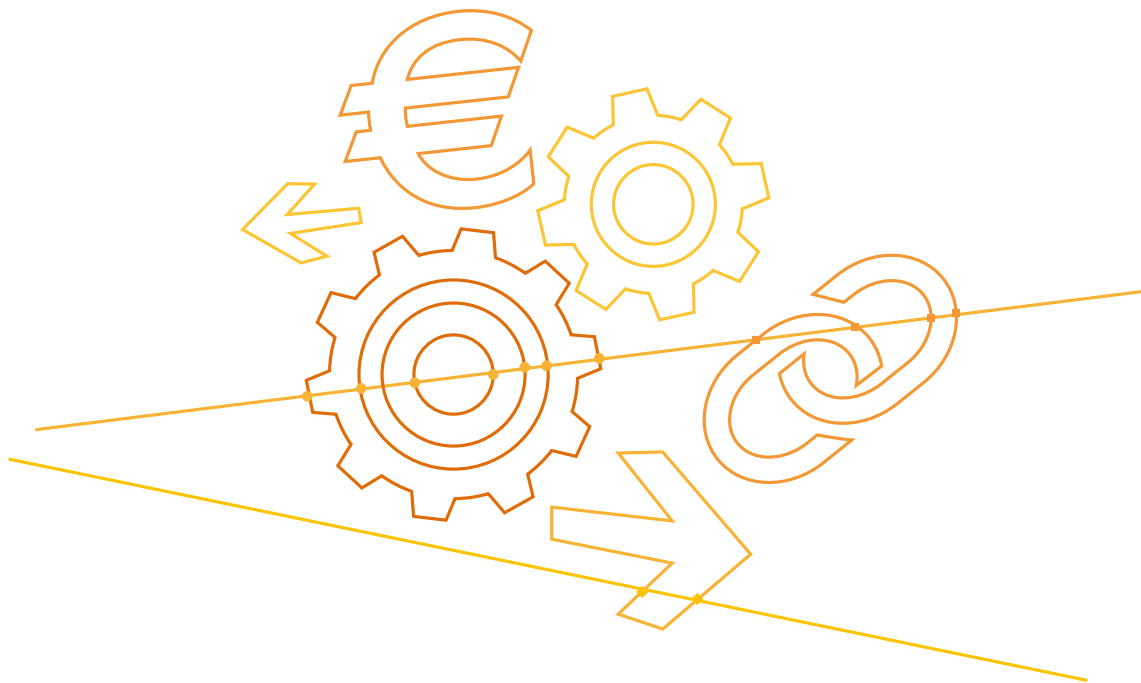


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Foreword

The National Transport Authority (the NTA) is a statutory body established by the Minister for Transport on 1st December 2009. At a national level, the NTA has responsibility for securing the provision of public passenger land transport services. This includes the provision of subvented bus and rail services. The NTA also has responsibility for the development of an integrated transport system within the Greater Dublin Area (the GDA).

The principal functions of the NTA with respect to the GDA are:

- Preparation and regular review of a transportation strategy;
- Adoption of an integrated implementation plan and a strategic traffic management plan;
- Financing the construction of public transport infrastructure;
- Promoting an integrated public transport network;
- Implementing integrated ticketing, fares and information schemes;
- Regulating fares and encouraging increased public transport use.

As part of its function of financing the construction of public transport infrastructure in the GDA, the NTA is accountable to the Government, the Sanctioning Authority, for major projects to be procured as Public Private Partnerships (PPPs). These include projects identified as part of the Transport 21 Capital Investment Framework: Dublin Metro North, Dublin Metro West and Luas Line F, for which the Railway Procurement Agency is Sponsoring Agency; and the DART Underground project, for which the CIÉ Group is Sponsoring Agency. Further projects could be identified as part of the NTA's 'Towards 2030' vision that might also be delivered through PPPs.

In order to fulfil its statutory obligation to secure the provision of public transport infrastructure on a value for money basis, the NTA requires that the Sponsoring Agencies follow clear processes as set out in these Guidelines. They are intended to ensure that projects are well managed, that the NTA is informed on all key matters relating to projects as they progress, and that at each key milestone in project development, the NTA is consulted and sufficiently informed to make sound decisions, as may be appropriate, on the authorisation of the next stage of work.

These Guidelines cover public transport investment projects to be delivered through PPPs for which the NTA is accountable and are applicable from 1st September 2010. All elements of PPP projects, whether procured through the PPP contract or conventionally procured, come under these PPP Guidelines. The guidelines are based on the NTA's *Guidelines for the Management of Public Transport Investment Projects delivered by Conventional Procurement*. (In Chapters 4 to 10, the differences between these PPP Guidelines and those for conventional projects are limited and the new text inserted for PPP projects has therefore been shown in boxes to make the additional requirements easy to access. In Chapters 1 to 3, the changes are more extensive and have been integrated into the text.)

I wish to thank the Railway Procurement Agency and Irish Rail for their assistance and contributions and I also wish to acknowledge the consultants, Booz & Co, who prepared these Guidelines for the NTA.

Gerry Murphy
Chief Executive

1. Introduction

1.1 Purpose

The National Transport Authority (the NTA) is accountable for all public transport investment projects in the Greater Dublin Area (the GDA). These NTA PPP Guidelines provide a framework for, and a phased approach to the development, management and delivery of such projects which are to be delivered through Public Private Partnerships (PPPs) as opposed to via conventional procurement.

The Guidelines are structured so as to achieve an appropriate consistency of approach across projects undertaken by the relevant Sponsoring Agencies, including the Railway Procurement Agency (the RPA), the CIÉ Group and its operating companies, in particular Irish Rail (the NTA's 'Partner organisations' or 'Partners'), and to provide the NTA with the degree of visibility and certainty that is appropriate for an authority that is accountable for the Sponsoring Agencies' uses of funds.

The Guidelines divide the evolution and progression of all initiated projects into eight Phases (including a pre-project Phase 0). These phases are shown in Figure 1.1 below along with the key value for money (VfM) and affordability tests that are required for PPP projects by the relevant Department of Finance guidelines for PPP projects.

Each phase is presented in a step-by-step manner but with provision made for flexibility in the ordering of phases with the agreement of the NTA, where appropriate.

The Guidelines set out the NTA's requirements for regular reporting by its Partners. Crucially, the Partners are required to keep the NTA advised of all material changes in scope, budget and schedule and, at the earliest opportunity, notify the NTA of any major risk events occurring which could potentially impact on delivery of the scope to budget and schedule. As detailed in Chapter 2 below, reporting will primarily take the form of regular meetings (monthly or as necessary) arranged by NTA and the Partner organisations. Relevant reports will be prepared for discussion / decision as necessary.

Important milestones and other project events requiring action by the Partner organisations or approval by the NTA are also indicated in the Guidelines. This will enable the Partners and the NTA to plan each phase of a project in terms of time and internal resources and costs. A brief description of the phases and their review and approval 'Gates' is provided in Chapter 3 of these Guidelines.

Figure 1.1: Phases of the NTA PPP Project Life Cycle



The Guidelines also detail the approvals 'Gate' process which the NTA applies. The introduction of Gateways at the end of each phase of a project is to ensure that a project is fully ready to proceed to the next phase. Certain of the Gates also act as NTA Hold Points requiring sanction before major funding commitments are entered into. When fast tracking of projects (parallel running of project phases) is required, as has often been the case in the past, a process for agreeing that is laid down in the Guidelines (see Section 4.5 below).

Other than where the Guidelines specify requirements explicitly, the Partner organisations are expected to continue to apply their own project management processes. However, the Partners should be able to demonstrate that the processes set out in these Guidelines have been followed. No deviation from these Guidelines should be made without the approval of the NTA. It should be noted that these Guidelines do not aim to be a full statement of the duties and statutory obligations of the Partner organisations for their projects. Responsibility for ensuring that schemes are progressed in accordance with applicable legislation, standards and other applicable guidelines remains with the Partners and their project teams.

1.2 Applicability

These Guidelines apply to all PPP projects for which the NTA is accountable. All elements of PPP projects, whether procured through the PPP contract or conventionally procured, come under these PPP Guidelines.

1.3 Definitions/Terminology

A list of key abbreviations, definitions and terminology is provided to ensure that the wording of these Guidelines is clear and unambiguous. This can be found in Appendix 1.

1.4 Interaction With Other Guidance

The NTA PPP Guidelines are to be read in conjunction with Departmental guidelines including:

→ Department of Finance:

- *Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector, February 2005 ('the DoF Capital Appraisal Guidelines');*
- *Guidelines for the Provision of Infrastructure and Capital Investments through Public Private Partnerships: Procedures for the Assessment, Approval, Audit and Procurement of Projects, July 2006 ('the DoF Main PPP Guidelines');*
- *Technical Guidance Note: Assessment of Projects for Procurement as PPPs, November 2006;*

- *Technical Note on the compilation of a Public Sector Benchmark for a Public Private Partnership Project, January 2007 ('the DoF PSB Guidelines');*
- *Value for Money and the Public Private Partnership Procurement Process, October 2007 ('the DoF PPP VfM Guidelines');*
- *Capital Works Management Framework, July 2009 ('DoF CWMF'). This applies to all conventionally procured (non-PPP contract) elements of PPP projects for which the NTA is accountable.*

→ Department of Transport:

- *Post Project Review Methodology for Transport Projects, February 2009.*
- *Guidelines on a Common Appraisal Framework for Transport Projects and Programmes, June 2009 ('the DoT Common Appraisal Guidelines').*

These PPP Guidelines are based on the NTA's *Guidelines for the Management of Public Transport Investment Projects delivered by Conventional Procurement* (the NTA Conventional Project Guidelines) dated 1st July 2010.

The NTA will issue further guidance in due course on particular aspects of project development and implementation, including on cost estimation, management and reporting.

1.5 The PPP Model Applied to Public Transport Investment Projects

1.5.1 Model Type Assumed (but Not Prescribed)

There are a number of types of PPPs in use across the different parts of the public sector and referred to in the DoF Main PPP Guidelines. The model upon which these NTA PPP Guidelines is based is Design, Build, Finance and Maintain (DBFM), the model generally being applied in PPP projects under the Transport 21 Capital Investment Framework. However, it is not NTA's intention to exclude consideration by Sponsoring Agencies of other PPP models that meet relevant public policy objectives.

The DBFM model assumed in these Guidelines includes finance largely by the private sector, remunerated by deferred annual unitary (or 'Availability') payments from the Exchequer, generally without the transfer of revenue or demand risk to the private sector. In respect of operations there is some variation between RPA- and CIÉ Group-sponsored PPP projects:

- The RPA's Metro North and West (and potentially Luas Line F) projects include the provision of rolling stock as well as maintenance of the entire system including the control room as part of the DBFM with a separate Operator responsible for the provision of drivers and for revenue collection, fare evasion and customer services ; whereas

→ CIÉ Group’s model for the DART Underground project (at the time of Guideline preparation) includes system maintenance within the PPP contract but leaves the provision of rolling stock and operations generally with Irish Rail, with a priced option for station operation by the PPP contractor.

For the purposes of these Guidelines, which concentrate on the period up to the entry of the new assets into passenger service and the start of Availability payments, the differences between the RPA and CIÉ Group DBFM models are relatively insignificant, but the Guidelines are intended to be capable of application to all PPP projects despite these differences.

1.5.2 Publicly Funded Elements

In some cases, PPP projects covered by these Guidelines can include a funding contribution from the Exchequer. Such funding can be towards specific work elements (e.g. land purchase, enabling works) delivered by the Sponsoring Agency outside the PPP contract, or may be in the form of direct contributions to the PPP contractor’s costs during the construction period. The arrangements for all such payments come under the scope of these PPP Guidelines. Where infrastructure work elements are delivered by the Sponsoring Agency outside the PPP contract the GCCC forms of contract should be employed in accordance with DoF CWMF requirements, using either Traditional Employer-led Design or Design-and-Build contracts. Such elements can also be delivered via multiple contracts mixed with works undertaken by direct works organisations in house. Where rolling stock and other supply contracts are required, Partner organisations should follow their own established procurement processes. The procurement of all such publicly funded elements of PPP projects may be the subject of implementation audits arranged by the NTA as appropriate.

1.5.3 VfM Principles to be Applied to PPP Projects

The NTA has a statutory objective to secure the provision of public transport infrastructure on a value for money basis¹. This is of very particular concern for PPP projects and these Guidelines cross refer to the four mandatory VfM tests that are set out in the DoF Main PPP Guidelines. Applying these tests provides Sponsoring Agencies with an important tool to safeguard them and NTA against implementing projects which represent poor value for money. However, going beyond the requirements set out by the DoF, and seeking to achieve ‘best value’ presents genuine challenges.

The aim to achieve best value for the purposes of these Guidelines can be defined as taking steps to secure the most economic, efficient and effective use of funds that can reasonably be achieved, and undertaking peer

reviews² to ensure that such steps are being pursued, while acknowledging that the fulfilment of this aim is not something that can be measured objectively.

In conventionally procured projects and elements of PPP projects where the DoF’s CWMF contracts define standard risk allocations, it is the Sponsoring Agencies’ responsibility to ensure that potential risks are well explored in advance of tendering such that they can be priced correctly by bidders. In the case of the parts of PPP projects included in the PPP contract, the NTA places considerable emphasis on the Sponsoring Agencies’ approaches to handling risk in an optimal manner, as misallocated, insufficiently explored or misunderstood risks will inevitably increase costs, potentially including the financing costs, and therefore reduce value both absolutely and potentially also when compared against the PSB. The PPP model adopted, including the exact responsibilities to be carried by, and the risks transferred to, the PPP contractor will need to be considered in light of this.

1.5.4 Attention Required to Risk Profile

This sub-section sets out some illustrations of the types of matters to be considered by the Partner organisations in responding to the NTA’s VfM objectives.

The NTA requires its Partner organisations to pay particular attention to determining the ‘most appropriate’ risk profile. It is critical that, as projects are developed, a maturing definition of the risk profile is achieved, together with a profound understanding of the implications of that profile.

Partners, having developed a clear definition of what service is to be delivered, will be expected to examine each of the enablers for that service and consider the consequences of failure or disruption in those enablers. As the definition of projects and the services to be provided is developed, a consistent focus becomes whose risk will it be if that enabler is not achieved, or if it is interrupted, including the boundary conditions. The potential consequences of this for VfM are highlighted by reference to three examples:

→ **Contract Price:** For a PPP this will be heavily driven by the underlying construction costs and the cost of capital. The lenders (and the equity) can be expected to put a premium on risk, especially if it is something out of the contractor’s control. Consequently, better defining the contractor’s risk profile – transferring responsibility for those risks the PPP contractor can manage whilst carving out (retaining) only those that it cannot – can translate directly into a reduction of

2 Where peer review is referred to in these Guidelines it is intended that it be independent of the team undertaking the work. Consideration should be given to using external peer review where the Partner organisation does not retain sufficient inhouse expertise in specialist areas to allow fully independent peer review or where the project elements under review are unusually critical to the success of a project.

1 In exercising its functions the Authority shall seek to achieve the following objectives— (f) value for money (Dublin Transport Authority Act, 2008)

basis points on the funding as well as in the underlying costs of construction or of maintenance.

- **Negotiation:** During contract negotiations the Partner organisations' negotiators can be expected to need a deep appreciation of each risk and the ability, by identifying sub risks, to avoid head to head arguments on risks at a generic level; deep understanding of a risk should enable the Partner organisation to narrow the scope of any carve outs to those that give best value, and give it the ability to craft a contract that will be workable in practice.
- **Physical manifestation:** The risk allocation can be expected to drive what is actually built - possibly with greater clarity than a specification. For a PPP, characterised by service delivery, if achieving specified availability and performance levels is central to the contractor's payment stream, then systems critical to achieving that can be expected to be duplicated (e.g. with hot standbys and ample redundancy). This can be notwithstanding capital and other cost impacts. Conversely, defining both what must be built and setting performance demands, can lead to high risk premiums and loss of bankability. Consideration should also be given to interoperability requirements, the required hand-back condition of the assets and what happens in the event of early termination of the contract.

The NTA will therefore expect Partner organisations, in structuring and developing the PPP contract, to ensure that potential risks are identified and explored in sufficient depth in advance of finalising the risk profile such that they can be properly disaggregated, evaluated and allocated³ - aiming at an outcome at Commercial Close that gets as close as possible to providing optimal value (supporting the NTA's VfM objective as discussed in Section 1.5.3 above), rather than merely achieving a pass of the mandatory VfM tests set out in the DoF PPP guidance.

1.6 Governance, Roles and Responsibilities

1.6.1 Overview

The Department of Finance's Capital Works Management Framework (DoF CWMF), which underpins the NTA's Conventional Project Guidelines, applies to the conventionally procured elements of PPP projects. The principles set out in DoF CWMF *Guidance Note GN 1.1 - Project Management* are also applicable to the PPP-funded elements of PPP projects. That document notes that sound governance requires an appropriate framework to be put in place. Such a framework provides the conditions to allow good relationships to exist between all the parties to the project, including:

- The project's management team;

³ As a starting assumption in developing risk allocation it is recommended that all risks lie initially with the contractor, and then, as they are evaluated, specific risks can be taken back as client risks (a sea of obligations with islands of exceptions) – so there is only one list that must be considered.

- The team's advisors including (on more recent projects, the NDFA as lead financial advisor);
- The Sponsoring Agency (one of the NTA's Partner organisations);
- The Process Auditor (to be appointed in accordance with the DoF Main PPP Guidance);
- The Sanctioning Authority (the NTA, unless the role is retained by the Department of Transport or the Government);
- Key stakeholders – including other public bodies, affected individuals (including employees and their trade unions as required by the *Government's Framework for PPPs*⁴, who are required to be consulted and businesses and, importantly, taxpayers and future users – the travelling public.

Sound governance also leads to sound processes within the management structure of a project, provides a structure through which the objectives of a project are set, and the means of attaining those objectives and monitoring performance. The NTA is concerned with ensuring that these guiding principles are in place for the execution of all projects within its remit.

Insofar as the Partner organisation undertakes detailed planning and delivery responsibility on PPP projects, they are responsible for compliance with legal, environmental and safety requirements and procedures in respect of obtaining powers (e.g. via a Railway Order), compulsory land acquisition, environmental impact assessments, railway safety cases, temporary provisions to handle construction impacts, etc.

1.6.2 Project Roles and Responsibilities

A number of generic roles apply in the execution of any project and must be fulfilled in all NTA sanctioned projects undertaken by a Partner organisation. The detailed application may differ slightly in each PPP project organisation according to the Partner's own project management guidelines and governance procedures. However, where this occurs the Partner organisation shall ensure roles and responsibilities are well defined, with lines of authority and accountability clearly identified, and consult with the NTA on the organisational structure before it is finalised.

Figure 1.2 shows the structure of public transport investment projects in a Partner organisation. At every level of the structure there is an integration activity required to bring together:

- Work packages contributing to the delivery of a project;
- Projects contributing to the delivery of an identified programme; and

⁴ See p.8 of the DoF Main PPP Guidelines

- Programmes which, together with each other, and with the Partner organisation's existing assets, deliver the business's future operational capacity to generate revenues and other, possibly subvented, benefits for the travelling public, both users and non-users.

In the case of PPP projects being included in a Partner organisation's investment programme, the structure can be broadly unchanged, the PPP contract representing a project or programme in its own right, but within the context of the wider business and web of other projects and programmes that the Sponsoring Agency is directly responsible for.

This is most obviously the case with the DART Underground PPP project which has extensive interfaces with Irish Rail's conventionally procured programme of DART upgrades and rolling stock procurements, with the RPA's Metro North PPP project - and, in due course, with Irish Rail operations.

In the case of RPA's PPP projects, while these may more generally stand alone, Metro North, for instance, will also have interfaces with other PPPs such as Metro West project and CIÉ Group's DART Underground project, and with conventionally procured projects such as Luas Line BX/D.

On large projects such as PPPs, the Partner organisation shall appoint a **Programme Director** who takes overall responsibility for the PPP and non-PPP projects upon which the delivery of the outputs assumed in the business case depends. He or she acts as the Partner organisation's single point of contact for all matters related to a particular programme. The Programme Director will have a number of Project Managers who directly report to him/her on the delivery of individual elements of the PPP Project and the wider Programme. The Programme Director will be responsible for overall direction and performance of his/her programme of projects and ensuring that they are integrated satisfactorily to deliver the objectives of the programme.

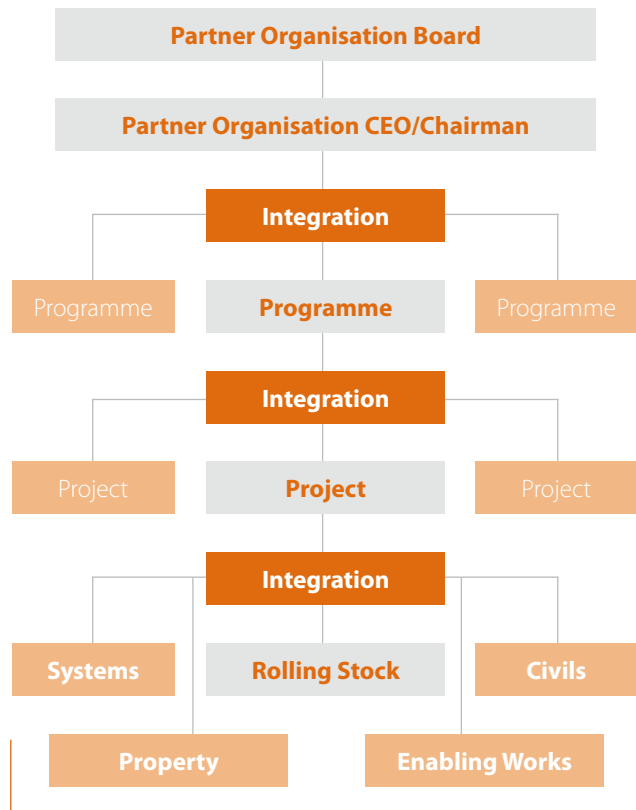
In setting up a PPP project, it is essential that inter-dependencies with other projects are identified at the earliest possible stage and the interfaces are managed. The Partner organisation shall ensure that the role of the Programme Director is resourced adequately for the scale of the interface management and integration tasks to be undertaken. The Partner organisation will outline how the interfaces between projects will be managed by the appointment of the required Programme Director and through a Projects Interfaces Committee where applicable.

The Partner organisation will designate their key point of contact for the NTA on each programme/project who will generally be the Programme Director or Project Manager.

The post of Programme Director shall be a senior management position responsible for leading, directing and managing the work of the in-house and advisory teams,

allocating and utilizing resources in an efficient manner and maintaining a co-operative, motivated and successful team.

Figure 1.2: Project or Programme Organisational Structure



A typical railway project will include some or all of these packages, some of which may be entirely or partially in-house or contracted

The Programme Director's responsibilities, which will be selectively delegated to Project Managers as appropriate for the projects under his/her responsibility, will include but not be limited to:

- Ensuring projects are effectively delivered to fulfil business case expectations in terms of outputs, capacities and asset quality/asset life;
- Proactively managing delivery of the project, meeting annual targets, and overall time and cost targets assumed in the business case and original brief;
- Developing and maintaining a Project Execution Plan as described in these Guidelines;
- Overseeing overall progress and the use of resources, initiating corrective action where necessary;
- Overseeing the appointment of financial, technical and legal, etc. advisors, as required;
- Monitoring project progress and performance;
- Managing Project deliverables in line with the Project Execution Plan and checking all documentation produced for publication for compliance with Partner

and NTA policies, guidelines and requirements in advance of submission to the NTA or external parties;

- Producing and submitting all deliverables in accordance with Partner and NTA requirements;
- Liaising with and providing status reports within the Partner organisation and to the NTA as Sanctioning Authority and ensuring the project meets their objectives;
- Liaising and consulting with Stakeholders as necessary to refine the Project and build the necessary support for its implementation;
- Obtaining all Partner organisation and NTA approvals necessary to progress the scheme, such as approvals to proceed to the next phase, etc.;
- Obtaining all Statutory approvals necessary to progress the scheme (e.g. Railway Order);
- Ensuring compliance with public procurement requirements;
- Taking the lead in managing relationships including internal and external team members, stakeholders and sponsors/steering group;
- Identifying, tracking and resolving issues;
- Identifying and assessing risks, developing mitigation/contingency plans, and executing them appropriately to effectively manage risks.

In the case of PPP projects, the Programme Director shall be responsible for:

- Ensuring that all the requirements of the DoF Main PPP Guidelines, the DoF PSB Guidelines and the DoF PPP VfM Guidelines have been identified and are implemented, including timely preparations for the four formal VfM and affordability tests that are required alongside certain of the NTA Hold Points identified in these Guidelines;
- Ensuring that the project team has adequate expertise in PPP procurement and implementation, takes maximum advantage of its specialist advisors' expertise, and minimises risk to the process by leveraging lessons learned from other agencies within Ireland and elsewhere that have undertaken PPP projects;
- Ensuring that the requirements of the DoF CWMF, including the use of the GCCC forms of contract, are applied to all conventionally procured infrastructure works elements of the project; and
- Ensuring that an appropriate level of peer review is applied to all project documentation supporting key decisions.

The Partner organisation shall also designate a person or persons responsible for ensuring that Partner funding needs are communicated and agreed and that financial aspects of the project are conducted in a timely manner in accordance with NTA's requirements. The designated person or persons may handle the cost management and funding issues of several projects on behalf of the Partner in the relationship with the NTA.

1.6.3 The NTA and the Sanctioning Authority

For public transport projects funded via the NTA within the Greater Dublin Area, the NTA normally fulfils the role of Sanctioning Authority, subject to certain exceptions where the role is retained by the Department of Transport or by the Government.

The NTA's functions shall include, but not be limited to, the following:

- Evaluating Business Cases and Development Proposals for conformity with the NTA's strategic plans for the development of an integrated transport system which contributes to environmental sustainability and social cohesion and promotes economic progress, the NTA's value for money objectives discussed in Section 1.5.2 above, and the relevant guidance detailed in Section 1.4 above;
- Giving projects approval to proceed (within specified budgets, standards and time limits, etc.);
- In giving such approval, ensuring in association with the Partner organisations that projects are structured, organised and governed by the relevant Partner in a manner appropriate to the challenges they represent and such that the NTA's objectives can be attained;
- Keeping fully informed on the progress of projects and providing guidance to the Partner organisation regarding its requirements in the event of issues of significance to the NTA arising, as appropriate;
- Deciding if a project specific Steering Group is necessary and, if so, clearly defining and communicating to all parties at the start of the project, its role, composition, level of delegated authority, responsibilities, and structure;
- Considering major scope change⁵ requests from the Partner organisation;
- Taking part in Gate reviews and giving authority to proceed to the next Gate as appropriate;
- Liaising with the Department of Transport as necessary to obtain Government sanction when required.

The Gate process is described in Chapter 3 of this Guidelines document and detailed for each project phase in subsequent Chapters.

⁵ For what is considered a major scope change see Section 7.4 and Appendix 1.

For public transport investment projects which are being undertaken within the GDA for which the NTA is not the Sanctioning Authority, that role being retained for instance by the Government, the NTA may act on behalf of the Government under terms to be communicated to the Partner organisation.

1.6.4 The Sponsoring Agency

The Sponsoring Agency is described in the DoF guidance as the organisation that requires the project to be undertaken. In the case of public transport investment projects within the GDA, that will usually be the NTA's relevant Partner organisation. The Partner will undertake the following functions in consultation with the NTA as appropriate:

- Initial planning, appraisal and preparation of the business case;
- Gaining from the NTA Approval in Principle for the original proposal (at Gate 0) and for any material changes (at subsequent Gates or through the other regular engagement processes set out in Chapter 2 below);
- Overall planning, management and governance of the Project in accordance with the terms of the NTA's Approval in Principle and subsequent Gate approvals;
- Nominating and appointing a Programme Director and adequately resourcing his team;
- Sanctioning the appointment of the advisory team;
- Obtaining all necessary powers to purchase land for the Project, undertake the Project and put the new asset into operation;
- Sanctioning the appointment of the PPP Contractor;
- Assuming the role of procuring authority and contracting entity for the PPP Contract and for other non-PPP contracts which are procured conventionally; also assuming the role of contractor where a Partner organisation has a direct works unit undertaking parts of such non-PPP elements (in which case that unit should be managed at arms length from the project team);
- Undertaking the integration role (between the PPP Contract and other work elements, projects or programmes that together deliver the business case outputs) or appointing external suppliers to undertake that role;
- Ensuring that the asset being acquired fully meets the original business need as expressed in the business case;
- Acting as the acceptance authority for the Partner organisation's operational/maintenance business, where any assets are to be handed over to the Partner for that purpose;

- Ensuring all safety and other acceptances are obtained or appointing others to undertake that role;
- Ensuring that the new asset is successfully brought into operation within the approved time and budget, such that value for money objectives are met.

For PPP projects, the Sponsoring Agency is responsible for fulfilling all of the requirements of the DoF Main PPP Guidelines and the DoF PPP VfM Guidelines, including timely preparation of the four formal VfM and affordability tests that are required alongside certain of the NTA Hold Points identified in these Guidelines.

1.6.5 Stakeholders

Effective stakeholder management is critical to the effective development, specification and delivery of all projects. The Partner organisations will be expected to place great importance in the development of healthy and pro-active relationships with stakeholders at the relevant stages of the project life cycle. A stakeholder management plan is to be prepared for each Project by the Partner organisation and the NTA is to be consulted on its contents.

1.6.6 Steering Group

On large or complex Schemes, including all PPP projects, the Partner organisation will be expected by the NTA to appoint a suitably qualified Steering Group (which might also be referred to as a monitoring and advisory committee/project board) to which the Programme Director shall report. The Steering Group may not be required at all project phases, but for PPP projects should be put in place by the start of Phase 3 and continue in place until at least Financial Close.

The terms of reference for, and initial membership of, the Steering Group are to be consulted upon with the NTA, and the NTA may make Phase 1 or Phase 2 Gate approval subject to the Partner organisation inviting NTA representation on to the Steering Group.

The Steering Group shall report to the Partner organisations' Board.

(N.B. Copies of all progress reports relating to projects funded by the NTA shall be sent for information to the NTA before or at the same time as to the Partners' Boards and the NTA will expect to be kept informed on a 'no surprises' basis through regular communication channels of major project matters going to the Partners' Boards).

1.6.7 Process Auditor

In accordance with the DoF Main PPP Guidelines, a Process Auditor must be appointed as soon as a decision is made to proceed with a project on a PPP basis, and at the latest by the time of the formal VfM Test 1 and PPP Procurement Assessment are completed in Phase 3. The NTA will require to be informed of such appointment and kept up to date

with any changes of personnel. The Process Auditor will undertake the role in accordance with DoF guidance (*Guidelines for the Reporting Arrangements, Role and Function of a Process Auditor in a Public Private Partnership Project, June 2004*, or any later version).

1.6.8 Financial Advisor

The National Development Finance Agency (NDFA) was established to advise State Authorities on the optimal financing of investment projects in order to maximise VfM for the Exchequer. This includes advising on the financial aspects and risk evaluation of the procurement of rail projects through PPPs.

NDFA will provide advice to RPA and CIÉ Group on the financial component of invitations to tender and assessing such tenders from a financial perspective. In the case of Metro North, the start of which preceded the establishment of the NDFA, the project will continue to receive independently procured financial advice.

1.7 The Structure of these Guidelines

To minimise any potential confusion these PPP Guidelines follow the structure of the NTA Conventional Project Guidelines upon which they are based.

In Chapters 4 to 10, the differences between these Guidelines and those for conventional projects are limited and the new text inserted for PPP projects has therefore been shown in boxes to make the additional requirements easy to access. In Chapters 1 to 3, the changes are more extensive and have been integrated into the text.

2. Engagement Structures

2.1 Methods Of Engagement

This Chapter details the regular engagement that the NTA requires to have with Partner organisations undertaking projects which the NTA is funding. There are several methods of engagement:

- Regular (generally monthly) financial and progress reporting to the NTA;
- Regular (generally monthly) monitoring meetings held between the NTA and the Partner organisations;
- The Gate review process;
- Ad hoc papers on issues that arise between Gates, submitted by the Partner organisations to the NTA in order to determine a suitable approach/gain authority for that;
- Ad hoc meetings between the NTA and the Partner organisations to review such submissions.

The reporting of projects will be consolidated where practicable into the regular monitoring meetings. However, the NTA and Partner Agency may decide to hold additional meetings on a project specific basis. The specific engagement associated with the Gate process is referred to in Chapter 3.

In line with the requirements of the DoF CWMF Guidelines, Partner organisations need to ensure that formal and informal communication channels are established as an early project management task. The NTA will seek to engage with the Partner organisations responsible for delivering the Schemes it funds in the most efficient manner for all concerned.

2.2 Project Relationships

The engagement structure needs to assist in building effective relationships and thus enable project reporting, funding and authorisation processes to be successfully deployed. Figure 2.1 below provides an overview of the project relationships applicable between the Partner organisation and the NTA.

Although a PPP project (especially in Luas or Metro modes) may be essentially stand alone, it may (especially in DART) also form part of a wider programme of other projects which could include a number of separate contract packages. Some packages may be undertaken in-house by the Partner organisation. The Partner's role will include integrating the PPP and non-PPP elements making up a Scheme, whether an entirely new asset, a new route or a new system or sub-system – thus going well beyond the management of a PPP contractor. Such an integration role can be contracted out, either to the PPP contractor, separately or to one of the package contractors, but in that event the NTA's Partners still need to assure themselves that this role is being undertaken satisfactorily. This is

particularly the case where there are major interfaces with existing operational infrastructure or other programmes.

Figure 2.1 shows the Partner's organisation in the left hand column (as given already in Figure 1.2), and the NTA's engagement in the right hand column. This illustrates the NTA's requirement to be able to engage flexibly with the Partner organisation's project structure at any level. The NTA will normally engage with the Partner through receipt of regular progress reports and through monthly monitoring meetings at CEO and leadership team/Programme Director level. However, the NTA will, through its representatives, also engage for defined purposes at other levels and, in particular, at the Project level. The NTA will, through its regular interactions, give prior notice of this and make the necessary arrangements at Programme Director level. Engagement with the Partner organisations at the package level will generally only occur under special circumstances when prior notice will also be given and necessary arrangements made.

2.3 Project Reporting Requirements

As stated in the DoF CWMF Guidelines, as early as possible in a Project, preferably just after approval-in-principle, the Sponsoring Agency (the Partner organisation) should agree with the Sanctioning Authority (the NTA) on the frequency and details of reports that it will make to the Sanctioning Authority. In addition, the Partner organisation needs to ensure that its internal reporting lines are clear and as short as possible, and that the content, style and timing of its reports are designed to suit the nature of the Project and, ideally, the needs both of the Partner organisation and the NTA. As a general principle, the NTA expects to receive the same reporting material as supplied to the Partner organisations' own Boards but with NTA-specific summaries. The monthly report and meeting should identify the key areas dealt with by the Partner organisations' Boards.

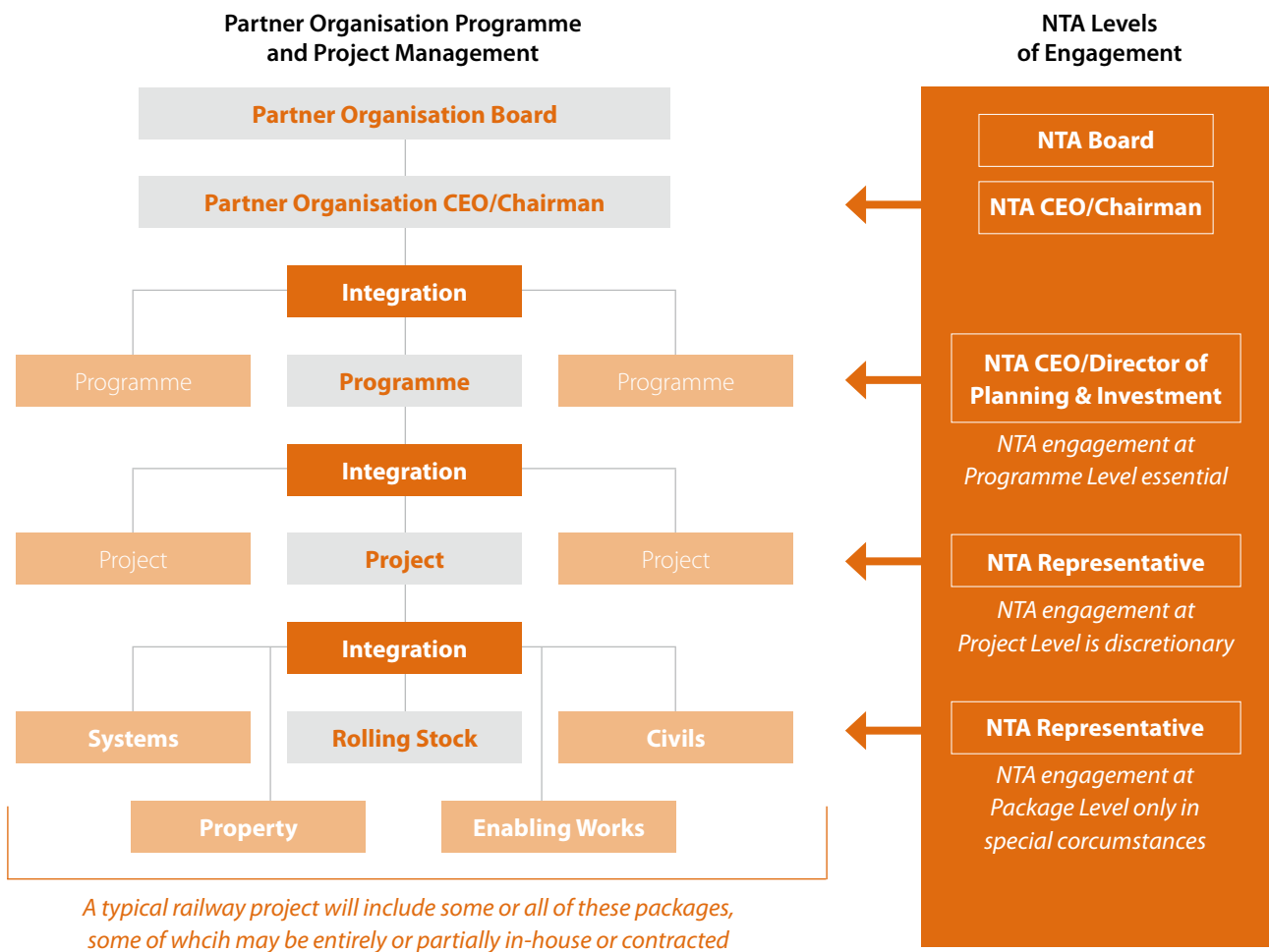
2.3.1 Financial Reporting

The NTA requires two types of financial reporting from the Partner organisations:

- Funding or Grant Claim requests related to cash flow arrangements on individual projects related to financial periods and/or contract milestone dates;
- The progress reports submitted to the monitoring meeting, including details on project costs – this is referred to in the section below.

In accordance with the agreed interval required for the submission of Funding or Grant Claim requests (generally monthly), the Partner organisation shall supply claims and back up information related to actual expenditure (by month and cumulative) sufficient for the NTA to be able to efficiently carry out its duties in relation to the funding settlement process.

Figure 2.1: NTA and Partner Organisation Relationships



2.3.2 Progress Reporting

The regular progress report shall be based on the Partner organisation’s Project report to its own Board but tailored to the projects funded by the NTA and containing as a minimum the following information:

- An executive summary containing reported written narrative and numerical data for Schedule, Budget, Risk;
- Major activities for the reporting period with issues flagged and decisions required over the next three months;
- A project level summary of Reported Budget Expenditure; amount to date, amount approved, forecast to completion and any variances – with a short written narrative summary indicating “Red Amber Green” status of the project against budget and schedule;
- The identification of risk and contingency as separate items to the project estimate;
- An appendix containing the individual Project reports prepared for the Board.

In addition, the Partner organisations shall prepare and maintain a portfolio of NTA projects as a Plan which shall be reviewed at each monitoring meeting. The Plan shall be in a summary format and provide the following information for each project in the NTA programmes:

- The current NTA phase of each project (and the Partner organisation’s own phase description, if different);
- The dates of Gate reviews and any hold points;
- Major milestone dates – based on the project phasing detailed in these Guidelines;
- The status of the project in terms of a “Red Amber Green” classification and brief key issues narrative to reflect progress against budget and schedule.

The Partner organisation shall prepare its report of the projects in each programme and submit it to the NTA at least two working days before the regular monitoring meeting referred to below.

Once these Guidelines have been implemented and the effectiveness of these reporting arrangements has been determined, the NTA may seek to revise the reporting templates to permit a more seamless integration with the Partner organisations' own management reporting systems.

2.4 Regular Monitoring Meetings

Regular monitoring meetings are to be held (generally monthly) between the NTA and each Partner organisation. The purpose of these meetings is to review, for all the projects within the NTA project portfolio, progress against plan, expenditure against budget, any risks or issues affecting scope, cost or schedule and any upcoming milestones, etc.

In addition, they are the forum to address major issues for the Partner's overall investment programme and review future plans.

The written narrative reports may be supplemented by oral presentation by the Partner organisations' representatives at the monitoring meetings. The NTA may from time to time request the attendance of specialist Partner organisation inputs at these meetings when the need for additional information arises.

The NTA will provide the secretariat for these meetings and will issue agendas and formal notes of the meetings for agreement with the Partner organisations.

In preparation for the formal monthly monitoring meetings, the NTA may require preparatory project-specific meetings be held between the NTA's representatives (including their independent advisors) and the Partner organisation's project representatives. These meetings will examine progress in depth using methods of enquiry determined by the NTA to suit the circumstances while aiming to avoid unnecessary additional work on the part of the Partner organisation's project team.

2.5 The Gate Review Process

The Gate review process is separate from the regular progress reporting and meetings but forms an important part of the overall engagement process. PPP projects include a number of very specific steps described in the DoF Main PPP Guidelines and the DoF PPP VfM Guidelines. These specific requirements for PPP projects are captured in the Gate review process and its associated reporting requirements which are covered in Chapter 3 of these Guidelines.

2.6 Ad Hoc Papers

Either the NTA or the Partner organisation may request, on an ad hoc basis, that an issue that arises between Gates be examined jointly. In that event, the NTA may seek that papers be prepared and submitted by the Partner organisations to the NTA in order for it, in discussion with the Partner, to determine a suitable approach to solving the issue. The Partners may also submit such papers to the NTA unasked, in order to seek authority from the NTA to pursue a particular course of action.

2.7 Ad Hoc Meetings

The regular monitoring meetings may, as required at specific stages of the project life cycle, be supplemented by additional meetings between the NTA and the Partner organisations. Such meetings may be called to review ad hoc papers submitted as indicated in Section 2.6 above.

3. The Gate Process

3.1 The Overall Process

The NTA is introducing a review at the end of each Project Phase which leads to a Gate or decision point. The Gate review process is in addition to the routine reporting and monitoring meeting arrangements described in the previous Chapter.

The purpose of each Gate is to ensure that a project has met certain requirements before it is allowed to proceed to the next phase of the project. The requirements are specific to each project but relate to the maturity reached by the project in relation to the NTA's expectations for the phase under review. These include the level of certainty achieved in relation to cost, quality and time as well as value/benefits, all of which are matters of priority for the NTA in its funding of projects. By approving a Gate, the NTA is indicating that it is satisfied that a project is fit to proceed to the next phase.

The Gate reviews follow a standard approach which allows the NTA, along with the Partner organisation responsible for a project's delivery to assess its progress. The onus will lie with the responsible Partner for undertaking the review and, through the submission of documentary evidence, demonstrating that the required level of project maturity has been reached. The NTA will examine the findings reached by the Partner and the evidence submitted in order to come to a conclusion as to whether the Gate has been passed.

In the following chapters, the lifecycle of a Project is described by phase, each phase concluding with a Gate as indicated in Table 3.1.

As can be seen from Table 3.1, the Gate reviews for PPP projects also encompass the four VfM tests laid down in the DoF Main PPP Guidelines, the third and fourth of which are best undertaken in two stages. This means that in Phase 5, which encompasses the whole of the procurement up to Financial Close, several separate formal Gate reviews are required as the procurement progresses.

If fast tracking (see Section 4.5) is agreed as part of the Phase 0 Gate review, the arrangement of these Phases and Gates should be reviewed and revised in agreement with NTA. The NTA's Approval in Principle will set out any such project specific arrangements, as appropriate.

The Partner organisations are requested to work closely with the NTA in the run-up to a Gate review to minimise approval times. The NTA will give a decision as quickly as possible and will aim to do so within four weeks of receipt of a request for approval to a Gate Review. Ensuring that internal Partner organisation and NTA approvals are run in parallel will be a means to avoid any delays. Also it will ensure that, in circumstances where the NTA also requires internal technical advice, the NTA's internal advisors are mobilised and ready to report in a timely fashion.

Table 3.1: Summary of Phases, Gates and Hold Points in an NTA PPP Project

Project Phase	Title	Gates, Sub-Gates and VfM Tests	NTA Hold point
Phase 0	Programme Overview and Requirement Definition	Approval in Principle	0 - Decision to commence Project
Phase 1	Scheme Concept and Feasibility	Gate 1	1 - Decide to initiate
Phase 2	Option Selection	Gate 2	2 - Confirmation of Preferred Option
Phase 3	Outline Design	Gate 3 (incl. VfM Test 1)	3 - Confirmation of Preferred PPP approach Decision to submit for Statutory Processes
Phase 4	Statutory Processes	Gate 4	4 - Decide to tender
Phase 5	Further Design, Advanced Works & Procurement through to Financial Close	Gate 5A – pre ITN issue (incl. VfM Test 2)	5 - PSB Comparison and Decision to Issue ITN
		Gate 5B – Initial Tender Report (incl. VfM Test 3A)	6 - Decision to go to BaFO stage (if applicable)
		Gate 5C – BaFO Tender Report (incl. VfM Test 3B)	7 - Decision to appoint Preferred Bidder
		Gate 5D – Commercial Close (incl. VfM Test 4A)	8 - Decision to award PPP Contract
		Gate 5E – Financial Close (incl. VfM Test 4B)	9 - Remaining Project Confirmations / Decisions
Phase 6	Construction and Implementation	Gate 6	10 - Final account Review
Phase 7	Close-out and Review	Post Project Review	N/A

3.2 Lines of Enquiry for Gate Reviews

For PPP projects, all Gates up to Gate 10 are NTA Hold Points. The Partner organisation will notify the NTA that it is ready for a Gate review having satisfied itself that the Project has reached a level of maturity that it considers sufficient for moving to the next phase. In response, the NTA will, through a combination of analysis and informal discussion with the Partner organisation, set out its 'lines of enquiry' for the review to indicate the themes to be pursued during the process. These will reflect the Project's scale, risk and complexity and specific requirements appropriate to the Phase under review. The NTA's lines of enquiry will be communicated to the Partner organisation's designated representative in order for them to begin preparing relevant papers for the review.

3.3 Gate Reviews

The Partner organisation is to hold an internal review of the deliverables for the Phase and prepare a Gate Review report considering the NTA's Lines of Enquiry. When that has been prepared, the NTA and the Partner organisation's representatives will hold a review meeting. The Partner organisation will provide a briefing and table copies for the NTA of the project deliverable documents and the Partner's Gate Review report.

The deliverable documents to be provided are listed in Table 3.2.

The Gate Review report shall include but not be limited to:

- Current progress;
- Response to the NTA's Lines of Enquiry for the Gate;
- Key project issues and risks and how they can be mitigated;
- The Partner's reasoned recommendation (e.g. for the Gate to be passed).

Following the meeting, the NTA will examine the Gate Review report along with the project deliverables submitted, and may at its discretion request to hold interviews with Project staff and stakeholders as well as holding clarification session(s) with Partner organisation representatives.

After completing its examination and once any clarifications have been provided by the Partner, the NTA's representative(s) will meet with the Partner organisation's representative(s) to advise whether the Gate has been passed and the project may proceed to the next phase, or whether it has not passed and a particular course of action should be pursued as a result. If the project has passed, the NTA may nevertheless specify requirements to be addressed in the next Phase as a condition of the Gate being passed. At the meeting the NTA will share with the Partner a draft of its proposed Gate review outcome notification which will be sent formally following the meeting. This will usually include release of funding for the subsequent Project Phase.

Table 3.2: Deliverables Required at each Project Gate

Project Phase	Phase Description	Project Gate	Summary of Deliverables Required at end of Phase (to be tabled at Gate Review)*
0	Programme Overview and Requirement Definition	Approval in Principle	<ul style="list-style-type: none"> → Project dossier of all work to date on the Scheme; → Pre-feasibility report and requirements documents/Project Brief; → Preliminary Funding Review → Project Execution plan and Phase 1 budget
1	Scheme Concept and Feasibility	Gate 1 (NTA Hold Point 1)	<ul style="list-style-type: none"> → The initial Functional Specification; → The feasibility level Project Schedule; → The Project Execution Plan; → The Scheme Feasibility Report, including Preliminary Business Case development; → Updated project funding review; → The Scheme Feasibility Working Cost estimate; → The brief for Phase 2 and accompanying budget plan.
2	Option Selection	Gate 2 (NTA Hold Point 2)	<ul style="list-style-type: none"> → Updates on Phase 1 Deliverables as appropriate; → Consultation Plan; → The Option Selection Report; → Paper on preliminary PPP structuring proposals; → Project appraisal report (project and option definition, option selection and appraisal); → Updated project funding review in light of PPP structuring; → The brief for Phase 3 and accompanying budget plan.

Project Phase	Phase Description	Project Gate	Summary of Deliverables Required at end of Phase (to be tabled at Gate Review)*
3	Outline Design	Gate 3 (NTA Hold Point 3)	<ul style="list-style-type: none"> → A design report incorporating the results of design working papers and peer review of the Scheme; → A procurement strategy report for the Scheme incorporating an Output Definition and Performance Metrics paper; → The Scheme cost estimate report, with accompanying risk assessment, value management and peer review reports; → Preliminary draft of Shadow Bid; → The Detailed Business Case report; → Preliminary Railway Order application documentation; → Formal VfM Test 1 and PPP Procurement Assessment; → The brief for Phase 4 and accompanying budget plan.
4	Statutory Processes	Gate 4 (NTA Hold Point 4)	<ul style="list-style-type: none"> → The finalised Statutory Approvals /Railway Order submission documentation; → The granted consents (Statutory Approvals /Railway Order) and their terms; → A review of any impacts those may have on the Scheme going forward; → The updated Scheme cost estimate and updated Detailed Business Case, along with confirmation of the Scheme procurement strategy; → If appropriate and agreed with the NTA, contracts ready to be signed for land acquisition and advance enabling works or supply contracts⁶; → A clear plan for undertaking Phase 5 (PEP updated) and associated budget plan.
5	Further Design, Advanced Works & Procurement thro' to Financial Close	Gate 5A (NTA Hold Point 5)	<ul style="list-style-type: none"> → The Legal Strategy → The Output Specification; → Draft Project Agreement for PPP contract; → Finalised Shadow Bid, Public Sector Benchmark (PSB); → Formal VfM and Affordability Test 2 on foot of quantifications in PSB; → Draft tender documents (ITN or similar).
		Gate 5B (NTA Hold Point 6)	<ul style="list-style-type: none"> → Report on initial tenders; → Interim VfM and Affordability Test 3A; → Draft BaFO documentation (if applicable).
		Gate 5C (NTA Hold Point 7)	<ul style="list-style-type: none"> → Report on (BaFO stage) tenders; → The post-Tender Total Scheme Budget; → Formal VfM and Affordability Test 3B; → The post-Tender Project Appraisal and Final Business Case documentation.
		Gate 5D (NTA Hold Point 8)	<ul style="list-style-type: none"> → Commercial Close version of PPP Contract ready for award, including range of commercial parameters within which Financial Close should be achieved; → Interim VfM and Affordability Test 4A; → The brief for Phase 6 and the accompanying PEP and budget plan.
		Gate 5E (NTA Hold Point 9)	<ul style="list-style-type: none"> → Final commercial parameters at Financial Close; → Formal VfM and Affordability Test 4B. → Other (e.g. non-PPP) elements requiring review or approval
6	Construction and Implementation	Gate 6 (NTA Hold Point 10)	<ul style="list-style-type: none"> → Final Account report
7	Close-out and Review	Gate 7	<ul style="list-style-type: none"> → Post Completion Review report → Post Project Review report

* Note that relevant confidentiality protocols are to be followed when access to cost information is sought or provided.

⁶ This is the earliest stage at which this might be done, but for a PPP project, this is likely to be deferred to Gate 5B or later.

3.4 Relationship with the Project Appraisal Process

The DoF Guidelines require a Preliminary Appraisal to assess whether the project has sufficient merit to justify a full, detailed appraisal; a Detailed Appraisal to provide a basis for a decision on whether to drop or re-scope a project, or to approve it in principle; and a Post Project Review. The Detailed Appraisal is usually validated post-tender and forms the basis for the Final Business Case upon which the decision to implement is made. Programmes also require appraisal. The process is illustrated in Figure 3.1 below.

In terms of the NTA Project Life Cycle Phases, the Preliminary Appraisal, documented in the Preliminary Business Case, is a Phase 1 requirement. The Detailed Appraisal, documented in the Detailed Business Case⁷ and its Post Tender Validation, documented in the Final Business Case, are Phase 3 and 5 requirements respectively. The Post Project Review is a task for Phase 7.

In addition to the Department of Finance requirements, the NTA recommend that the Agency updates its programme and/or project appraisal at each project Gate. The DoT Common Appraisal Guidelines provide a framework for bringing together quantitative and qualitative benefits and costs which can be used throughout the project lifecycle.

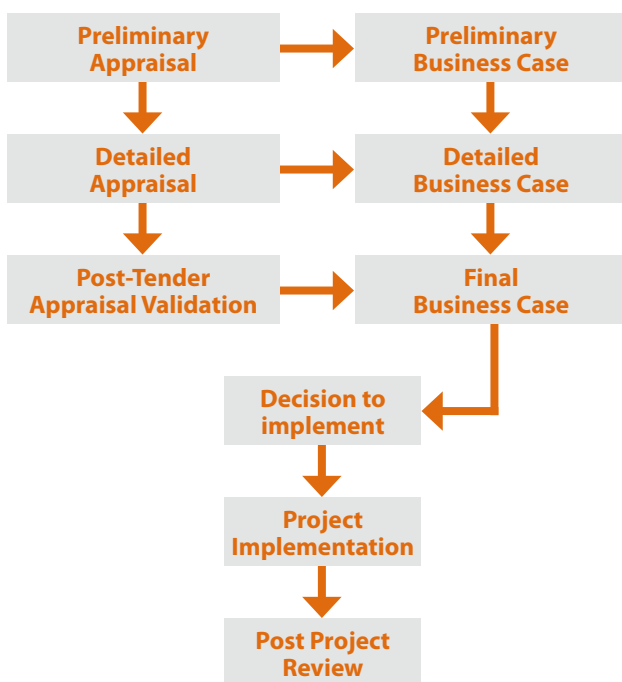
For PPP projects particular attention will need to be given to the appraisal requirements of Section 1.7 of the DoF Main PPP Guidelines, including the specific requirements set out in 1.12 (policy considerations), Section 1.13 (affordability), and Section 1.14 (value for money). The latter has to be considered both for the project as a whole (at the programme level) in accordance with the DoT Common Appraisal Guidelines, but also at the level of the PPP contract itself, including comparison with the Public Sector Benchmark (the PSB).

3.5 Expected Gate Outputs

Each Gate will have an expected outputs in terms of findings from the review, follow up actions and priorities for the Partner organisation to follow for the next Phase. The outputs expected at each Gate are indicated in the following chapters of these Guidelines.

The NTA's Gate approvals may define any key quality/output features and characteristics of the project that NTA seeks to achieve, future variation from which will be treated as a scope change. Further reference to what NTA will consider represent scope change is included in Section 7.4.

Figure 3:1 Overview of the Project Appraisal Process (from DoT Common Appraisal Guidelines)



⁷ In practice, the Partner organisations and the Department of Transport have previously used the term Outline Business Case to refer to the Detailed Business Case, or an initial draft of the Detailed Business Case.

4. Phase 0: Programme Overview and Requirement Definition

4.1 Purpose Of Phase 0

This Phase relates to the preliminary work required to initiate a Project. The purpose of this Phase is to ensure that the NTA and its Partner organisation sponsoring the Project are fully aligned on the business need to initiate the project, at the current time and in accordance with current strategic plans. This phase may be characterized by preliminary studies to establish an agreement in principle that a project should be developed in a certain way, to certain ends.

Many current public transport investment projects have been defined in broad terms as part of the National Development Plan or under the Transport 21 Capital Investment Framework. Further projects are being identified by the NTA as part of its 'Towards 2030' strategy planning initiative. Projects may also arise, subject to approval, as a result of requests from the Partner organisations for investment in specific infrastructure enhancements or major renewals. The NTA will undertake the initial assessment, with the support of the appropriate Partner organisation, and the initial filtering of projects. The NTA will advise the Partner organisation when it wishes to initiate a particular project for NTA funding.

This pre-Project Phase allows for the better definition of projects already identified for funding that the NTA wishes to move forward to implementation. Phase 0 enables each Project to be placed in the context of the wider investment programme such that its inter-dependencies and interfaces, opportunities and constraints, are fully identified. It is intended to firm up an initial assessment of the business requirement before major expenditure is committed in the establishment of a project team. It provides the locus for achieving full alignment between the NTA and its Partners in order that the development of the project may proceed in an agreed manner.

For major projects, where agreed with the NTA, the initial project filtering process will include a preliminary funding review that considers PPP funding as an option and, where such option looks potentially viable, a preliminary qualitative VfM assessment.

4.2 Key Phase 0 Activities

4.2.1 Assemble Information into Project Dossier

This Phase commences with a start-up meeting at which the NTA and its Partner organisation will pool all prior information and previous studies and appraisal work undertaken on the project in question. The NTA's definition of the objectives and function the project is to serve as part of its strategic transport plan for the GDA will be tabled. The inter-dependencies with other projects and interfaces which the project will need to allow for and/or contribute

to, and the constraints and opportunity the project would afford are also to be explored and captured in the notes of the meeting.

Following the meeting the Partner organisation will assemble the collected knowledge into an information dossier for the use of both parties. They will at the same time consider whether there are any major gaps in the dossier which require further pre-feasibility appraisal work as part of this Phase. Such further work, to be agreed with the NTA, shall be limited to that required to inform an Approval in Principle application to, and decision by, the NTA. The knowledge gained shall be added to the information dossier.

4.2.2 Prepare Pre-feasibility Report and Requirements Statement

The Partner organisation will be responsible for distilling from the information dossier a pre-feasibility report and a requirements statement in the form of a Project Brief (as per DoF CWMF Guideline GN 1.2) as a key input to Phase 1 of the Project. The Partner may also respond with its initial assessment of major issues related to scope and potential risks that may need to be mitigated.

4.2.3 Preliminary Funding Review

For major projects, where agreed with the NTA, the initial project filtering process undertaken at this Pre-project Phase will include a preliminary review of the availability of funding (affordability) and the option of following a PPP approach will be considered. If a PPP option appears to be potentially viable, whereas no specific VfM or affordability tests are laid down for this phase, a preliminary qualitative assessment should still be made using the criteria set out for VfM Test 1 in the DoF Main PPP Guidelines, applied at a high level.

The Partner organisation should discuss the funding route with the NTA prior to seeking Approval in Principle to proceed to Phase 1.

4.2.4 Prepare Project Execution Plan and Funding Plan for Phase 1

The Partner will prepare a preliminary Project Execution Plan for Phase 1, including a preliminary resources plan so that, if required, any funding needs can be determined by the Partner and provisional funding arrangements can be agreed with the NTA.

4.3 Phase 0 Deliverables

The outputs from this phase of the Project are as follows:

- ➔ Project dossier containing all work undertaken to date on the Scheme;
- ➔ Pre-feasibility report and Project Brief;

- Report on preliminary funding review/high level qualitative VfM assessment on PPP option;
- Project Execution Plan and provisional Phase 1 budget.

4.4 Approval-In-Principle

The required outcome of this Phase is that the NTA and the Partner share a preliminary understanding of the expected outcomes, timescales, costs and benefits of the Project, subject to more detailed concept development and feasibility work at the next Phase. The Partner organisation should also have a well developed plan for executing Phase 1 of the Project.

Key questions to be addressed by the NTA before granting Approval in Principle include:

- “Why do we want to do this now?”
- “Have we done sufficient preliminary analysis before embarking on this project?”
- “Are we sure that this project addresses strategic plans and business needs?”
- “What would happen if this project was not developed?”

If satisfied on the basis of the preparatory work, the NTA will be able to give its formal Approval-in-Principle that Phase 1 of the Project should commence.

Where a PPP funding option is considered, any Approval in Principle given by NTA at the conclusion of this Phase will confirm an interim assumption to be made on the procurement route for the purposes of initial project development in Phase 1. Projects found not to be suitable for procurement as PPPs but given Approval in Principle to be taken forward by conventional procurement will come under the NTA Conventional Project Guidelines. Projects found to be potentially suitable for development as PPPs and given Approval in Principle to be taken forward as such will continue into the next phases under these PPP Guidelines until a final choice is made on the procurement route.

4.5 Fast-Tracking

In the past, several Transport 21 capital investment framework projects have been fast tracked because of the need to meet published Transport 21 timescales. In an environment in which funding is heavily constrained, the NTA may need projects to progress through the consents process without advance knowledge of when procurement will be authorised; that might need to await funding becoming available. As a result, these Guidelines have been written on the assumption that each Phase should be quite discrete and able to be progressed independently of any other Phase. Nevertheless, there may still be times when projects, due

to time constraints, need to be fast-tracked, and Phases overlapped. There may also be situations where a Partner organisation wishes to undertake work on different phases in parallel in order to optimise use of its own resources. Any decision to fast-track a project for either reason should generally be made in Phase 0, and NTA consent for that will be required. It is essential that careful thought is given to the processes that are appropriate for this approach before a Partner organisation embarks on fast-tracking a Scheme. The NTA and Partner organisation shall also determine what special monitoring arrangements are required when it is agreed to fast-track a Project. This may require the appointment by the Partner of a dedicated fast-track Project Co-ordinator as suggested by DoF guidance.

Fast tracking does not mean that the discipline of analysis for the various phases is not carried out. It means a paralleling of processes with NTA Hold Points applied in an appropriate manner to the fast –tracked procedure.

For PPP projects, for which the procurement process is inevitably of extended duration, it is likely that fast tracking will be considered by the Sponsoring Agency and may, if (inter alia) the necessary funding is available, be agreed by the NTA. In that event, the arrangements for combining or running Phases in parallel and for the rearrangement of the Gate reviews will typically be as indicated in Appendix 2, although other arrangements may also be put forward and agreed by the NTA on a project by project basis.

In considering fast tracking and in rescheduling the work of each Phase to suit that, attention should be paid to the timing of investigations and other preparations required to understand the risks associated with the PPP contract and the project as a whole. These investigations and preparations should be timed to enable the PPP bidders to be sufficiently informed and able to undertake due diligence at the appropriate time, as well as informing the statutory consents process (e.g. archaeological investigations). The relevant preparations include those required for advance enabling or supply works and for work elements not proposed to be included within the PPP contract.

5. Phase 1: Scheme Concept and Feasibility

5.1 Purpose of Phase 1

The purpose of Phase 1 is to confirm the need, develop the concept, and investigate the feasibility of undertaking a project in order to determine how it is to be scoped and delivered. The Project Management structure with supporting processes including the appointment of initial project resources should also be instigated.

In summary, this phase should include the following activities by the Partner organisation to ensure the Project is developed in a timely and efficient manner:

- Appoint a Programme Director or Project Manager and core resources;
- Outline the Scheme management structure (including role & responsibilities and initial stakeholder management plans);
- Confirm initial funding requirements;
- Agree reporting requirements;
- Develop a Functional Specification and set out the project schedule and objectives to progress the Scheme;
- Establish and maintain a Project Execution Plan (including initial Issues and Risk Management plans and an indicative procurement strategy);
- Undertake feasibility studies, including preparation of cost estimates; and
- Undertake a preliminary Project Appraisal.

Where a project has been found to be potentially suitable for procurement as a PPP in Phase 0, the preliminary funding review will be updated using the latest information available about the project

5.2 Key Phase 1 Activities

5.2.1 Overview

With Phase 1 commencing on a project, the NTA and Partner organisation are only committed to this phase of development, and have not made the decision to commit the significant resources required for its full development. This phase is necessary to confirm technical and economic feasibility, establish the limits of the scope, the order of cost and the extent of benefits that can be obtained. This feasibility work will enable the Partner organisation and the NTA to decide whether to proceed further with the development of the Scheme.

In assessing the need for a particular Scheme, the NTA, as strategic transport planning authority for the GDA and Sanctioning Authority, will have regard to the integration of the Scheme with other modes of public transport. The Partner organisation should liaise with the NTA in relation to

meeting the DoT *Common Appraisal Guidelines* requirement that the Sponsoring Agency will examine other forms of transport as possible alternatives to the Scheme and agree the scope of this examination and the extent to which the NTA can support the Partner in this work.

On some Schemes, depending upon the extent of previous work undertaken, the Partner organisation may be required to further establish the project need and define its scope by means of a Feasibility Study.

The Partner organisation should work with the NTA to determine the approximate Scope limits of the proposed Scheme. This will identify the physical parameters of the scheme (e.g. a route) and key features of the Scheme.

It will be necessary for the Partner organisation to continuously monitor the Scope of a Scheme throughout all phases of development via formal reporting mechanisms using its own project processes and procedures. The NTA will require to be kept informed of progress and the potential for significant changes to scope as soon as possible. Both the NTA and the Partner organisation will be concerned with the control of the Scope in terms of Cost, Time and Quality.

5.2.2 Scheme Management Structure

The Partner organisation shall appoint its own Project Manager and internal reporting organisation. The designated point of contact with the NTA is assumed to be the Project Manager, unless agreed otherwise.

The Partner organisation shall provide the NTA with details of the Project Team organisation, which shall clearly state details of:

- Names and job titles;
- A matrix of roles, responsibilities and accountabilities of the project team organisation;
- An initial list of key players, stakeholders who need to be informed of the project and supporting service providers who are involved with it.

The Partner organisation shall ensure that this information is kept updated. This document will form an important basis of project plans, stakeholder communications and consultation plans to be further developed in later phases.

5.2.3 Confirmation of Phase 1 Funding

Once the project management structure has been identified, the Partner organisation and the NTA will confirm the commitment to funding for this Phase. At this stage, a project name and project reference number will be made available so that all expenditure can be tracked in the Partner organisation's management reporting system and monitored by the NTA.

5.2.4 Project Reporting

Once the Phase 1 funding arrangements have been agreed with the NTA, the Partner organisation shall be responsible for completing monthly expenditure reports in order that Scheme Grant allocation can be drawn down in a timely manner.

The Partner organisation shall also be responsible for establishing regular progress reporting to the NTA so that it is kept informed of project progress and, as required, a meetings schedule (detailed in Chapter 2 Engagement Structures).

5.2.5 Functional Specification and Project Schedule

At this stage the NTA also requires the Partner organisation to develop a functional specification in response to the Project Brief. The functional specification will set out not only *what* a system is supposed to accomplish but also *how* it is proposed that will be achieved. This will go into greater detail on elements of the project, particularly any systems, that are non-standard or that need to interface with other elements or systems of the existing or planned transport infrastructure. The functional specification is a valuable document telling the story of how the requirements set out in the Project Brief can be met and ensuring that any difficult issues are faced up to from the earliest stages of a project.

The Partner organisation shall prepare a Project Schedule for the Scheme in line with the objectives contained within the Project Brief. The Schedule shall confirm project targets and key deliverables for each project phase. The Schedule will also confirm key dates and milestones for:

- The start and finish of each phase of the project;
- Key enabling activities to support deliverables;
- If necessary, variations to the sequencing of project phases, if the NTA agrees that not all phases of development need to be followed or a project can be fast tracked;
- The initial determination of Project Gates and review points (following NTA input);
- Key funding or hold points (e.g. contract award).

The Partner organisation shall prepare and agree the Project Schedule with regard to the NTA's strategic investment plan requirements. The Project Schedule will need to be updated on a regular basis and forms part of the Project Brief and Project Execution Plan. The Project Schedule shall be prepared in detail and in a format that is approved by the NTA.

5.2.6 Project Execution Plan

The purpose of the Project Execution Plan (PEP) is to provide a core project management document which can monitor the Scope of the Scheme with regard to

expenditure and compliance to standards and policy. The Partner organisation shall comply with the DoF CWMF Guideline GN 1.1 which defines a typical PEP as covering;

- A project description;
- Project cost plan and cost management procedures;
- Programme management;
- Performance management plan;
- Safety and environmental issues;
- Risks and sensitivity analysis;
- Roles, responsibilities and authorities;
- Contracting and procurement;
- Administration systems and procedures;
- Project control and assurance;
- Project evaluation.

The Project Execution Plan shall be developed and maintained by the Partner organisation and subject to review by the NTA as appropriate. The NTA will be particularly interested in the management and governance arrangements and the indicative procurement strategy that is proposed.

5.2.7 Feasibility Study and Working Cost Estimate

The Partner organisation shall commission feasibility studies as required to establish the quantitative and cost aspects of the project and confirming the financial and economic appraisal of the Scheme. This information needs to be in a sufficient level of detail to enable a final and reasoned decision to be made on whether or not to proceed. To inform this decision, a Feasibility Working Cost (FWC) shall be prepared for the Scheme, taking account of the stage of development the Scheme has reached. The FWC shall be compliant with DoF CWMF Guidance Notes GN 1.1 and GN 1.3.

5.2.8 Preliminary Project Appraisal

A preliminary project appraisal will be undertaken, in accordance with the DoF Guidelines and the DoT *Common Appraisal Guidelines*. The aim is to assess whether the project merits a more detailed appraisal. It will be reported in the form of a Preliminary Business Case. (Where for Transport 21 projects this appraisal is deemed already to have been completed by the fact of their inclusion in the T21 programme, such data that contributed to the assembly of the T21 programme will already have been captured in the Phase 0 project dossier. If that is the case then the relevant data can be cross referenced and updated.)

If a project has been identified in Phase 0 as having the potential to be procured as a PPP then the preliminary project appraisal will review further the project's suitability for a PPP procurement approach (the project funding review). No formal VfM or affordability tests are required in Phase 1, but the preliminary qualitative assessment undertaken at Phase 0 should be revisited using the latest information available from the feasibility study. The results should be discussed with NTA as part of the Phase 1 Gate review process.

5.2.9 Phase 2 Brief and Plan

The Partner organisation shall prepare a brief for the tasks to be undertaken in Phase 2 and a costed plan for that phase.

5.3 Phase 1 Deliverables

The key project deliverables from Phase 1 are:

- The initial Functional Specification;
- The feasibility level Project Schedule;
- The Project Execution Plan;
- The Scheme Feasibility Report;
- The Preliminary Business Case;
- An updated project funding review;
- The Scheme Feasibility Working Cost estimate;
- The brief for Phase 2 and accompanying budget plan.

5.4 The Gate 1 Review

5.4.1 Overview

The Gate 1 review will be conducted as set out in Chapter 3. Gate 1 and its associated Hold Point has particular significance as it signals whether the NTA is prepared to commit to fund the project beyond this initial phase. The Gate 1 review is intended to have the following outcomes:

- Approval of the project scoping and feasibility stage (pre –route/option phase);
- A clear statement of the outputs the project is expected to deliver;
- A clear understanding and agreement that the project is feasible, well scoped and the key outline risks and issues are identified;
- An initial understanding of the cost of the project;
- An agreed budget for the next phase.

5.4.2 Lines of Enquiry for the Gate 1 Review

The lines of the enquiry that will be developed by the NTA for the Gate 1 Review through a combination of analysis and discussion with the Project Team will include the following themes related to the feasibility of the Project:

- "Are we clear about major project constraints and risks?"
- "Are we sure that this project still addresses strategic plans and business needs, and is the appraisal still looking sufficiently positive?"
- "Are we satisfied that the project has been developed to the level to be expected for this phase of its development?"
- "Is the scope well defined?"
- "Are we satisfied that the project management and governance arrangements put in place are sufficiently robust?"
- "Are we content that the indicative procurement strategy proposed is appropriate?"

5.4.3 The Gate 1 Review Process

As indicated in Chapter 3 of these Guidelines, the NTA will meet with the Partner to be briefed and provided with copies of:

- The project deliverables as indicated in Section 5.3;
- The Partner organisation's internal Gate Review Report;
- Plans for Phase 2 (the PEP and budget).

The NTA will examine the submitted material. Additional meetings may be required or clarifications requested. Once sufficient clarity is obtained, the NTA and Partner organisation will then meet to discuss the NTA's Gate Review decision. If the Gate is declared as passed, the project will proceed to the next phase.

5.4.4 Expected Gate 1 Outputs

If the Gate 1 review has been successfully passed through, and the NTA Hold Point has been released, the following outputs are expected:

- Acceptance of the Phase 1 project deliverables;
- Agreement of the PEP for the next phase;
- Confirmation of any conditions applying to the next phase, including limitations on the Partner's authority (e.g. to change scope or key milestones);
- Release of further funding for the Phase 2;
- Update to key project documentation such as the project brief and cost information.

Phase 1 will then be regarded as concluded by the NTA and authority to proceed to Phase 2 will be formally granted.

In giving any go-ahead to proceed to Phase 2, the NTA will confirm at the conclusion of the Gate review whether the option of the PPP procurement route should be considered further in that phase.

6. Phase 2: Option Selection

6.1 Purpose Of Phase 2

All public transport investment projects involve making choices, whether between alternative modes, technologies, routes, stop locations, or other features of a Scheme. It is essential that selected options meet transportation demand and business need, can gain statutory approval and, as far as possible, align with stakeholder requirements. The purpose of Phase 2 is to assess the more significant options for the various features that make up the Scheme and, through applying a robust and systematic selection process, to determine a preferred solution which will fulfil the Project Brief.

This phase requires the Partner organisation to undertake option development and initial appraisal of options compared to a baseline. Regardless of the type of scheme, the baseline will either be a 'Do Nothing' or a 'Do Minimum' scenario. That then forms the basis against which the 'Do Something' options are assessed. The Partners should select and define the Base Case and Options in accordance with the DoT's *Common Appraisal Guidelines*, and any additional guidelines issued by the NTA. Notably, Partners should consider if there are management, rather than investment, options to achieve the same outcome, or whether the outcome can be achieved incrementally. Integration issues may need to be considered, either between packages at the project level, between projects at a programme level, or with other organisations.

If a project has been reconfirmed in Phase 1 as having the potential to be procured as a PPP then the Phase 2 Project Appraisal will further review the project's suitability for a PPP procurement approach and develop preliminary structuring proposals.

6.2 Key Phase 2 Activities

6.2.1 Overview

The main activities of this phase are to:

- Identify the baseline case;
- Complete sufficient preliminary investigations (traffic, ground, topographical, archaeological, etc surveys and environmental scoping) to inform this Phase;
- Develop options and identify key constraints relevant to them;
- Identify requirements for stakeholder and, possibly, public consultation related to the planning of shortlisted options;
- Assess the options against the baseline to select a preferred option;
- Develop preliminary PPP structuring proposals;
- Undertake an appraisal of the preferred option;

→ Update the preliminary (Phase 1) funding review/ qualitative assessment of the potential for procurement as a PPP;

→ Prepare a brief for Phase 3 and accompanying budget plan.

6.2.2 Use of Partner Organisation Processes

Where NTA funding is provided, the NTA will expect that the level of project set up is appropriate to the scale of the required activity. To that end it may seek details similar to those required of the Partner organisation for Phase 1 (see Section 5.2.2).

The NTA will also wish to be assured that the options identification and sifting process complies with the DoT *Common Appraisal Guidelines* and any further guidelines issued by the NTA relating to project appraisal.

In developing the options for evaluation the Partner organisation shall ensure that value management processes are being applied and that the results of this (both potential cost savings and value enhancements) are reflected in the comparison of options for selection.

6.2.3 Public Consultation

On projects involving, for example, route selection, there may be a requirement for public consultation as part of the option assessment process. The Partners should notify the NTA, and submit a Consultation Plan covering public, statutory and stakeholder consultation strategies, before making any form of public announcement in relation to options. The NTA will retain the option of contributing feedback as part of the consultation process and will expect to be briefed on the outcome.

6.2.4 Statutory Consultation and Stakeholder Liaison

When there is a requirement for the Partner organisation to notify or consult statutory bodies, business or community organisations or members of the public affected (e.g. landowners, including regarding statutory processes and timescales), the NTA will require advance information of this and will retain the option of contributing feedback as part of the consultation process and will expect to be briefed on the outcome. The Partners shall include the project statutory consultation and stakeholder liaison plans in the Consultation Plan.

6.2.5 Development of Preliminary PPP Structuring

The selection of preferred options in the case of PPPs cannot be done in isolation to the definition of a risk profile. Options must take into account not only the alternate modes, technologies, etc. but also different definitions of service and different profiles of risk. At Phase 2 this can be at high level and qualitative. Whilst Phase 2 need only address the options at high level, the detail must still be sufficient to allow reasonably robust

definition of the project scope. In essence, the details of who will supply what under what risk will define the contract. Options of DBFM, DBFOM, and sub-options of DBFOM depending upon the extent of operations, will be considered on the basis of scope and risk. The scope of the service to be provided must at this point be at least broadly defined. The NTA will expect to see an early view of what it will be funding.

The packaging of the project must also be considered; will it all be in the PPP or will other aspects be carved out? The classic case is only to separate out those aspects of the project that have limited impact on the delivery of Availability by the PPP contractor, whereas those aspects that have a significant impact on the PPP contractor's availability and performance payments are put under his responsibility within the PPP contract.

In order to build confidence in the emerging proposals for structuring the project, the Partner organisation should consider undertaking informal market soundings in this phase.

The NTA will expect this preliminary PPP structuring work to provide:

- Preliminary proposals for scope allocation to various contract packages including for operation and maintenance;
- A preliminary definition of the PPP contractor's responsibilities;
- A preliminary definition of the boundary between the PPP contractor's scope and that of other contract packages and the Sponsoring Agency's existing assets and operations
- The identification of major risks and preliminary proposals for their allocated (the proposed risk profile); and
- A preliminary definition of the PPP contractor's performance to be delivered.

6.2.6 Project Appraisal Requirements

Phase 2 marks the start of the detailed project appraisal. The project base case and option selection, definition, comparative evaluation and initial appraisal of the preferred scheme are critical activities underpinning the ultimate detailed business case for the preferred Scheme. Consequently, the Partner organisation will ensure that a Phase 2 Project Appraisal Report is prepared which documents those activities and demonstrates that there continues to be merit in the project. This report will also form a key part of the Detailed Business Case to be developed in Phase 3.

No formal VfM or affordability tests are required in Phase 2, but the preliminary qualitative assessment of the potential for the project to be procured as a PPP which was undertaken at Phase 1 (the project funding review) will be further reviewed and updated on foot of the preliminary PPP structuring proposals and the latest information available about the project.

6.3 Phase 2 Deliverables

The key project deliverables from Phase 2 are:

- Updates on Phase 1 Deliverables as appropriate;
- Consultation Plan
- The Option Selection Report;
- Paper on preliminary PPP structuring proposals;
- Project Appraisal Report (project and option definition, option selection and appraisal);
- The updated project funding review on foot of the PPP structuring proposals;
- The brief for Phase 3 and accompanying budget plan.

6.4 The Gate 2 Review

6.4.1 Overview

Gate 2, which (unlike for conventional projects) is an NTA Hold Point for PPP projects, is important in that it commits the Partner organisation to a preferred option. The NTA needs to be satisfied that the preferred option is the best option to meet the Project Brief as well as economic, environmental and policy requirements. In addition for PPP projects Gate 2 will be when the analysis to define the proposed PPP contract strategy is first reviewed, and the NTA will wish to be assured that sufficient analysis has been undertaken to support the choices made at this phase.

The Gate 2 review is intended to have the following outcomes:

- Approval of the preferred option as the best option;
- Confirmation that the Project Appraisal process has been rigorous and supports the selection;
- Confirmation that the PPP structuring proposed forms a suitable basis for further development;
- Confirmation that a clear plan exists for the progression into phase 3.

6.4.2 Lines of Enquiry for the Gate 2 Review

The lines of the enquiry developed by the Partner organisation for the Gate Review should aim to address a number of key questions. The Partner organisation shall satisfy itself that the Project has reached a sufficient level of development, prior to the start of the Gate Review 2,

in relation to the following themes related to the Options phase of the Project:

- “Are we satisfied that the preferred option is the best option?”
- “Is the Project Appraisal sufficiently developed for this Phase?”
- “Are we satisfied that Do Nothing or Do Minimum is correctly ruled in or out?”
- “Are we clear about treatment of major constraints and risks?”
- “Are we sure that this project still addresses strategic plans and business needs?”
- “Is the preliminary PPP structure and risk profile likely to give best value?”
- “Is there evidence of a clear, well developed strategy and plan to proceed to the next phase?”

6.4.3 The Gate 2 Review Process

As indicated in Chapter 3 of these Guidelines, the NTA will meet with the Partner to be briefed and provided with copies of:

- The Phase 2 deliverables as indicated in Section 6.3;
- The Partner organisation’s internal Gate Review Report;
- Plans for Phase 3 (the PEP and budget).

The NTA will examine the submitted material. Additional meetings may be required or clarifications requested. Once sufficient clarity is obtained, the NTA and Partner organisation will then meet to discuss the NTA’s Gate Review decision. If the Gate is declared as passed, the project will proceed to the next phase.

6.4.4 Expected Gate 2 Outputs

If the Gate 2 review has been successfully passed through, the following outputs are expected:

- Validation of the Phase 2 project deliverables;
- Endorsement of the preferred option;
- Endorsement of the preliminary PPP Structuring proposals;
- Update to key project documentation e.g. project brief and project appraisal;
- Advanced preparation for Phase 3 project deliverables e.g. identification of early design requirements and budget agreement.

The NTA will also release agreed funding for Phase 3.

7. Phase 3: Outline Design

7.1 Purpose of Phase 3

The purpose of Phase 3 is twofold:

- Firstly, this is when the Partner organisation develops an outline design, following the selection of a preferred option, to a stage where there is sufficient detail to establish land-take requirements (if applicable), broad environmental impacts (including archaeology and built heritage) and a Scheme cost estimate.
- Secondly, having completed the outline design and Scheme cost estimate, the Partner then is able to develop the Detailed Business Case ready for submission to the NTA and approval at Gate 3 which is an NTA Hold Point.

To inform this Phase's design work it is axiomatic that sufficient preliminary work should also be undertaken on the preparation of the Environmental Impact Statement and the Railway Order application. This will allow for the natural iterations that are required in developing the design.

For projects identified as having the potential to be procured as a PPP and where NTA has endorsed a preliminary PPP structure in Phase 2, there are further purposes in Phase 3:

- To accompany the outline design and underpin the business case, an Output Definition and Performance Metrics paper is to be prepared as a guide to the proposed content and key features of the Output Specification and Performance Regime which will form part of the ITN in Phase 5;
- The first formal VfM Test and PPP Procurement Assessment laid down in the DoF Main PPP Guidelines will be undertaken by the Partner organisation.

Any NTA approval to move to Phase 4, given as an outcome of the Phase 3 Gate review, will include confirmation of the procurement route to be applied.

7.2 Key Phase 3 Activities

7.2.1 Overview

The main activities of this Phase are to:

- Establish what consents are applicable to the Scheme in question, and what activities are required in order to achieve those consents; hold pre-application consultations (e.g. with An Bord Pleanála or as appropriate);
- Complete any outstanding mapping, surveys, archaeological assessments and ground investigation works or such other investigations as may be required

to obtain detailed base data for the design or specification of the type of Scheme in question;

- Undertake the outline design or, for systems, develop technical requirements specifications, of all elements of the public transport system (including, for instance, permanent way, stops and stations, other fixed infrastructure such as depots and sidings, stabling yards, control buildings, electrification, signalling and control systems and rolling stock);

- For PPP projects, an Output Definition and Performance Metrics paper will be prepared for the PPP elements.

- This implies that the Partner organisation will at this point (unless letting a single contract is possible and preferable) also propose a detailed contracting and procurement strategy, setting out the work packages into which the Scheme will be split so that the design and specification work can be split in a similar manner;

- Where preliminary PPP structuring proposals have been prepared at Phase 2 and endorsed at the Gate review, the above will apply to both conventionally procured elements and to the PPP element, the structuring of which will need to be further developed;

- This further implies that the Partner will at this stage consider the implications for its own resourcing in acting as integrator of the Scheme, or prepare plans to sub-let that task;

- For PPPs the integration required will be between the PPP and other conventionally procured elements. Specialist resources for the running of the emerging PPP programme will also need to be considered by the Partner organisation.

Having completed the outline design, further activities follow:

- Determine the extent of land required (to be referenced in Phase 4, for later compulsory purchase);
- Identify the advance enabling works or supply contracts required and other advance preparations;
- Confirm the scope and undertake at least preliminary environmental and other assessments required for the statutory processes (steps which, if required, may be finalised in Phase 4);
- Prepare the Scheme cost estimate (including land costs);
- Update the Phase 2 appraisal and prepare the Detailed Business Case;
- Undertake the first formal VfM test and PPP Procurement Assessment; and
- Plan the remaining activities of Phase 4, and a budget plan.

7.2.2 Use of Partner Organisation Processes

The NTA does not intend to particularly examine the Partner organisation's detailed project arrangements for this Phase, but will expect that the level of project set up is appropriate to the scale of the required activity. To that end it may seek details similar to those required of the Partner organisation for Phase 1 (see Section 5.2.2).

7.2.3 NTA to be Notified of Activities

When mapping, survey, archaeological and ground investigative work is undertaken, the Partner organisation shall keep the NTA informed on the progress of intrusive activities affecting landowners and the public. The Partner organisation shall ensure that the NTA is consulted on public communications and issues arising and remains fully briefed regarding any potential implications for land acquisition, associated compensation costs and potential risks to overall budget and schedule.

7.3 Development Of The Design

7.3.1 General

The Partner organisation shall keep the NTA informed during the preparation of the design in particular in respect of the following, where they are applicable:

- Planning control (protection of any preferred route corridor);
- Stakeholder management with landowners/members of the public;
- Approvals and consents;
- Interactions with An Bord Pleanála;
- Interactions with the Office of Public Works (OPW) and other statutory authorities regarding planning and consents;
- Interactions with Local Authorities;
- Interaction with the Railway Safety Commission;
- Interfaces with other transport providers including other Partner organisations of the NTA;
- Other such activities and relationships with other 3rd parties such as utilities companies.

7.3.2 Output Definition and Performance Metrics for the PPP

The Output Definition for the PPP elements will be prepared based on the earlier work on the functional specification developed in Phase 1. The Performance Metrics will be based on the initial work undertaken in Phase 2 to define the performance the PPP contractor has to deliver. This will be somewhat similar to the Project Brief envisaged for traditionally procured projects in the DoF Capital Appraisal Guidelines, but focusing on outputs rather than inputs, and extended to consider the performance measurement regime that will be put in place

to underlie the performance payment mechanism in the PPP contract.

A paper will be prepared to cover the PPP contractor's scope, responsibilities, levels of service outputs, standards of performance to be delivered and the specific metrics to be used to monitor performance.

Although to be more fully detailed and finalised at the next Phase, this paper will represent a step towards developing the Output Specification and the Performance Payment Regime to be incorporated in the PPP contract. The NTA will wish to ensure that the finalised specification and regime, together with the Scheme design, are such that the NTA's strategic plans (for the development of an integrated transport system which contributes to environmental sustainability and social cohesion and promotes economic progress) are met, and that the Availability payments will represent value for money and be at an affordable level.

7.3.3 Peer Review

The NTA regards the demonstration of a Peer Review Group assessment of the Design Working Papers as not only following good practice but also reducing risk and the potential for delay in obtaining any Statutory Approvals at the next phase. Furthermore, the NTA is prepared to accept a Peer Review Group assessment as a major part of the Gate 3 Review Process.

7.4 Control Of Scope

The Partner organisation will be responsible for developing the outline design in accordance with the requirements of the Project Brief. Any proposed changes to the Project Brief, and any discretionary changes of scope that imply changes in the outputs, increased costs or delays to the schedule that exceed thresholds given below, or suggest potential changes in interfaces with other NTA funded infrastructure projects or existing subsidised public transport services, or have been identified as indicated at Section 3.5 above, shall only be implemented with the approval of the NTA.

The cost threshold applied from Phase 1 through until the TC1 estimate is determined and agreed at Gate 3 will be 5% of the overall capital cost, and after that Gate the threshold applied will be 0.5% of the overall capital cost, or such other figure as may be determined at a Gate review by the NTA. The schedule threshold will be three months up to Gate 3, and after that Gate one month for every twelve months of the project's construction/ implementation duration, or such other period as determined at a Gate review by the NTA.

The Partner organisation shall also keep the NTA informed of major issues and risks and their mitigation and management.

7.5 Scheme Cost Estimate

7.5.1 Overview

As the outline design of the preferred option is developed, the Partner organisation shall produce a Scheme cost estimate. The Scheme cost estimate comprises all costs that can be projected will be incurred in realizing the deliverables (including VAT where applicable) for the Scheme, from commencement of the overall project planning phase through to completion and close out. The Scheme cost estimate will be developed in two stages: a Scheme Base Cost, and then an Outline Scheme Target Cost (TC1). The Partner organisation shall arrange for an independent Peer Review of all of the elements making up the TC1 estimate.

7.5.2 Scheme Base Cost

In the absence of a tender or contract amount, the Partner organisation shall ensure a Scheme Base Cost is ascertained by the preparation of a point estimate **which shall exclude provision for risk and inflation**. This Scheme Base Cost shall be the best estimate of the final outturn cost of the scheme at current rates and prices for the scope of works as is known at the date of estimate preparation.

The outline Scheme Base Cost shall be based on the point estimate (with a stated level of confidence expressed as a probability percentage) for each of the principal cost headings related to:

- Planning and design;
- Archaeology (if applicable);
- Advanced works contracts (if applicable);
- Main construction and other main supply (e.g. systems and rolling stock) contracts;
- Direct works to be undertaken by the Partner organisation;
- Contract supervision;
- Land and Property (if applicable);
- Project management;
- Partner costs including integration costs (if applicable);
- Other Third Party costs (if applicable).

The outline Scheme Base Cost will be reviewed further in Phase 4 when cost estimates are finalised.

7.5.3 Outline Scheme Target Cost (TC1)

The Partner organisation shall prepare the Outline Scheme Target Cost (TC1) which will comprise the outline Scheme Base Cost and provisions for:

- An allowance for inflation,
- An assessment of Contractor's risk, and

- A provision for contingency, to cover the Employer's risk.

The Contractor's risk can be determined by quantified risk assessment techniques, based on an understanding of known risks captured in workshops, and the DoF CWMF contract conditions.

The Employer's risks are more likely to be unknown, as if they were known they should be investigated by the Partner organisation and, where it would be appropriate in value for money and practical terms, transferred to the Contractor with sufficient information for him to price the risk. So for the Employer's risk, in addition to known, quantified risks that are not transferred to the Contractor for sound reasons, a percentage contingency will need to be assigned for unknown risks based on experience of similar projects.

Such inflation, risk and contingency provisions shall be subject to NTA review and agreement and the overall Outline Scheme Target Cost (TC1) to which the Partner organisation is to work shall also be approved by the NTA as part of the Gate 3 review.

7.5.4 Risk Identification, Mitigation and Management

The Partner organisation shall ensure that risk assessments and reviews are taking place and that key risks have been identified with an assessment of likely impacts and required mitigations. The Partner organisation shall inform the NTA of the results of these reviews and provide updates on the management of Top Risks as part of the regular reporting process. A risk management report should also be appended to the Scheme cost estimate report. The Partner organisation should ensure that any impact of risk mitigation on Scheme scope, benefits or outputs is analysed and reported to the NTA.

For projects expected to be procured as PPPs, in order for the VfM Test 1 referred to in Section 7.6 below to have meaning, it needs to take into account the initial proposals for the transfer of risk⁸. The design, and the business case will need to be tested for sensitivities to assumptions and this should include consideration of the potential deltas on risk allocation.

It is envisaged that the VfM process will be used to test the structuring of the contract packages with the options in Phase 2 carried forward and decided upon in Phase 3. The definition of contract packages, scope and risk together should result in the emergence of a sound procurement strategy.

⁸ Two options identical in all respects except risk allocation may have significantly different VfM considerations: in one case the risk might be transferred but at a cost, in another, the client organization may need to address the risk with additional resources

7.5.5 Value Management

The Partner organisation shall ensure that value management processes are being applied and that the results of value engineering are explicitly reflected in the costs reported at this Phase. A value management report should be appended to the Scheme cost estimate report. The Partner organisation also should ensure that any impacts on the Scheme benefits or outputs as a result of the value management process are taken into account, and reported to the NTA.

7.6 Whole Life Cost Estimate / Shadow Bid

In addition to preparing capital cost estimates for a project, in order to prepare the project appraisal it will also be necessary to establish whole life cost estimates for the project in accordance with the requirements of the DoT Capital Appraisal Guidelines. These will need to include projections of operating, maintenance and renewal costs for the period of the appraisal.

In the case of PPP projects, a preliminary version of the Shadow Bid should be prepared for the elements planned to be included in the PPP contract. This will be based on the whole life cost estimate and the work undertaken in this phase on the structuring of the PPP and the outputs and performance regime that is proposed for the PPP contract.

7.7 Project Appraisal

During Phase 3, the Phase 2 project appraisal will be updated and refined to reflect the more detailed cost estimate and risk assessment developed during the Outline Design process. The project benefits, disbenefits, impacts and objectives achievement will also be updated to reflect any changes in the Scheme or its outputs. Detailed quantitative analysis will be undertaken during this Phase. This, and all appraisal activities, will reflect the DoT *Common Appraisal Guidelines* and any additional guidelines that may be produced by the NTA.

The Partner organisation shall ensure that a Detailed Business Case report will be produced at the end of Phase 3. This is a key deliverable. In accordance with the DoT *Common Appraisal Guidelines*, the report will include the option selection and assessment tasks undertaken in Phase 2.

For PPP projects the report must make reference to the optioneering and analysis undertaken regarding the contracting strategy to demonstrate that due consideration has been taken of alternatives and that the proposals are sound as indicated in Section 7.4.4 above. It must also include detailed projections of any subvention implied by the proposals for the life of the PPP contract.

7.8 First VfM Test and PPP Procurement Assessment

The first PPP VfM Test (as required by paragraph 1.8 of the DoF PPP VfM Guidelines⁹) is undertaken at the conclusion of this phase to formally assess “whether, and in what form¹⁰, a PPP arrangement has the potential to offer a value for money solution for procuring the project”. This will build on the informal assessments undertaken in Phases 0, 1 and 2 as appropriate.

7.9 Phase 3 Deliverables

The key deliverables from Phase 3 are:

- A design report incorporating the results of design working papers and peer review of the Scheme;
- A procurement strategy report for the Scheme;
- An Output Definition and Performance Metrics paper covering the PPP elements of the project as part of the procurement strategy;
- The Scheme cost estimate report, with accompanying risk assessment, value management and Peer Review reports;
- The Detailed Business Case report;
- Preliminary Railway Order application documentation¹¹;
- First formal VfM test and PPP Procurement Assessment;
- The brief for Phase 4 and accompanying budget plan.

7.10 The Gate 3 Review

7.10.1 Overview

The Gate 3 review will be conducted as set out in Chapter 3. Passing Gate 3 signifies the commitment to a Scheme based on a developed outline design, a cost estimate and a detailed business case. Gate 3 is also the second ‘Hold Point’, which is approval to prepare for and submit an application for statutory approval (e.g. a Railway Order). However, the NTA needs to be satisfied that the Scheme is sufficiently developed before giving approval to proceed through to Phase 4.

The Gate 3 review is intended to have the following outcomes:

- Approval of the Phase 3 deliverables;
- Confirmation that a clear plan exists for the progression into the next phase;

⁹ More fully described in the Department of Finance’s Technical Guidance Note: Assessment of Projects for Procurement as PPPs, November 2006

¹⁰ For example, Design Build and Maintain (DBM), Design Build Finance Operate and Maintain (DBFOM), etc.

¹¹ This should include as a minimum outline drawings defining the works to be included in any Statutory Approvals/Railway Order application and the lands to be compulsorily acquired.

- Confirmation that the NTA wishes to proceed at this time including express approval prior to submitting formal application for Statutory Approvals including Railway Orders.

7.10.2 Lines of Enquiry for the Gate 3 Review

The lines of the enquiry that will be developed by the NTA for the Gate 3 review through a combination of analysis and discussion with the Project Team will include the following themes related to the development of the Project:

- “Are we satisfied that the design has been developed to the required level ?”
- “Do the preliminary Railway Order documents reflect a reasonably mature understanding of issues and sensitivities that are likely to be of importance in the consent process?”
- “Are we clear about management of major issues and risks?”
- “Is the proposed procurement strategy considered robust and suitable and consistent with DoF CWMF requirements?”
- “Are we sure from the Scheme cost estimate and the outline business case that the project still addresses strategic plans and business needs, and fits within the funding envelopes?”
- “For PPP projects are we sure assumptions regarding structuring and risks have been considered in sufficient depth and that appropriate sensitivity testing has been undertaken to ensure the project is robustly planned.”
- “Is there evidence of a clear, well developed procurement strategy and plan to proceed to the next phase?”

7.10.3 The Gate 3 Review Process

As indicated in Chapter 3 of these Guidelines, the NTA will meet with the Partner to be briefed and provided with copies of:

- The project deliverables as indicated in Section 7.6 above;
- The Partner organisation’s internal Gate Review Report;
- Plans for Phase 4 (particularly related to the Statutory Approvals submission) and including the PEP and budget)

The NTA will examine the submitted material. Additional meetings may be required or clarifications requested. Once sufficient clarity is obtained, the NTA and Partner organisation will then meet to discuss the NTA’s Gate review decision. If the Gate is declared as passed, the project will proceed to the next phase.

7.10.4 Expected Gate 3 Outputs

If the Gate 3 review has been successfully passed, the following outputs are expected:

- Validation of the Phase 3 project deliverables;
- Endorsement of the procurement strategy proposed - including confirmation that the PPP procurement route is to be applied;
- Endorsement of the decision to proceed with an application for the appropriate statutory approvals;
- Agreement to the plans for the next stage of work.

The NTA will also release agreed funding for Phase 4.

In the case of PPP projects, if Fast Tracking has been agreed with the NTA in accordance with Section 4.5 above and Appendix 2, with parallel working authorised on Phases 5A and 5B alongside the work of Phase 4, for instance, then additional approvals may be sought at this Gate to cover the work included in Phase 5A.

8. Phase 4: Statutory Processes

8.1 Purpose of Phase 4

The purpose of this Phase is for the Partner organisation to finalise the submission of the Railway Order application and/or other statutory approvals for a Scheme (including of the Environmental Impact Statement and other required statements), provide inputs during the proceedings including any Oral Hearing, and achieve award of the Railway Order and/or other powers required to implement the Scheme. Not all projects will require statutory approval.

At the same time, the Partner organisation should be making preparations for advance enabling works or supply contracts to be let at the conclusion of this Phase¹². (In addition, outline design for the main Scheme may be progressed to a more detailed level to allow enabling works to be designed but parallel working in this way for use only in subsequent phases would be treated as Fast Tracking and need to be approved in advance by the NTA.)

8.2 Key Phase 4 Activities

8.2.1 Overview

For PPP projects, there is a need to maintain the bidders' latitude to propose technical solutions offering better value than the Reference Design while meeting the Output Specification right through until the BaFO stage (Phase 5C) – which will be after the Railway Order is confirmed. This requires that special care is taken over the terms of the Order which are sought from An Bord Pleanála in Phase 4, including delegation of more fully detailed consents to later Local Authority planning processes. Those can then be pursued by the PPP contractor, once appointed.

8.2.2 Use of Partner Organisation Processes

The NTA does not intend to particularly examine the Partner organisation's detailed project arrangements for this Phase but will expect that the level of project set up is appropriate to the scale of the required activity. To that end it may seek details similar to those required of the Partner organisation for Phase 1 (see Section 5.2.2).

8.2.3 NTA to be Notified of Activities

As required in Section 7.2.3 above the Partner organisation shall continue to ensure that the NTA is consulted on public communications and issues arising, and remains fully briefed regarding any potential implications for land acquisition, associated compensation costs and potential risks to overall budget and schedule.

The NTA will wish to be assured that the Partner organisation responsible for the statutory processes is taking reasonable steps to accommodate stakeholder needs while keeping costs to the minimum and without adversely affecting the business case for the Scheme. It will also wish to be assured that the Partner is mitigating and

managing its risks through the consenting process to the maximum extent reasonably possible.

The NTA will wish to be kept informed of progress and issues around the advance enabling works, supply contracts and land acquisition and be consulted on whether these are to be progressed rapidly for an early start to construction once the consent is achieved, or whether the project funding situation means that these activities should be deferred.

8.2.4 Approval to Submit Application

Some of the pre-application activities that are likely to be undertaken in this Phase could affect the Scheme design, its costs and hence its appraisal. These include the assessment of environmental impacts, with the potential for that to lead to mitigation works being proposed to bring the severity of impacts to an acceptable level, and hence the final assessment of land costs.

Where a Scheme does not depart significantly from the outline design which was validated at Gate 3 (and on which a decision to proceed with an application for Statutory Approvals was based), then no further approval will be required. However, where the design, or its costs and business case has changed in any significant way the Partner organisation shall consult with the NTA and obtain express approval prior to submitting any documents as part of the formal application process for Statutory Approvals including Railway Orders.

8.2.5 Review of Consent Achieved

On the assumption that the application for a statutory order is successful, there are likely to be commitments made in the run-up to the Oral Hearing and conditions imposed on the consent that could affect the Scheme outputs, costs and schedule and hence the business case. The Partner organisation should as soon as practicable after the terms of the consent are known, review the impacts and prepare a brief report of any significant issues.

The Partner organisation shall also update all modelling results and the Detailed Business Case to reflect the latest position, and before the Gate 4 review takes place.

The Partner organisation shall also reconfirm the procurement strategy and contract packaging plans assumed at Phase 3.

8.2.6 Update of Scheme Target Cost (TC2) and Project Appraisal

The Partner organisation shall ensure that the Scheme Base Cost estimate is updated to reflect changes made in this Phase, either pre application or post award as a result of any conditions imposed in the Railway Order or other consent, and that an updated Target Cost 2 (TC2) is prepared. The Partner organisation shall also ensure that

¹² Unless, as may be the case for PPP projects, this is deferred as indicated in the footnote to Phase 4 in Table 3.2 above.

any material changes to the Scheme or its costs as a result of the work of this Phase, are reflected in an update of the Detailed Business Case.

8.2.7 Outline Scheme Target Cost (TC2)

Two of the activities that are likely to be undertaken in this Phase could affect Scheme costs. These are the assessment of environmental impacts, with the potential for that to lead to mitigation works being proposed to bring the severity of impacts to an acceptable level, and the assessment of land costs. The Partner organisation shall ensure that updates are made to the Scheme Base Cost estimate as required to reflect such changes, and that an updated Target Cost 2 (TC2) is prepared.

8.3 Phase 4 Deliverables

The key deliverables from Phase 4, in sequence, are:

- The finalised Statutory Approvals /Railway Order submission documentation;
- The granted consents and their terms;
- A review of any impacts those may have on the Scheme going forward;
- The updated Scheme cost estimate and Detailed Business Case, along with confirmation of the Scheme procurement strategy; If appropriate and agreed with the NTA, contracts ready to be signed for land acquisition, advance enabling works and supply contracts¹³;
- A clear plan for undertaking Phase 5 (PEP updated) and associated budget plan.

8.4 The Gate 4 Review

8.4.1 Overview

Gate 4 will be timed for when the outcome of the statutory processes are known. The Gate is an NTA Hold Point in that passing it signifies the commitment to start preparations for the procurement of major construction and supply contracts.

For PPP projects this is when approval is given to launch the first part of the procurement process.

8.4.2 Lines of Enquiry for the Gate 4 Review

The lines of the enquiry that will be developed by the NTA for the Gate 4 review through a combination of analysis and discussion with the Project Team will include the following themes related to the development of the Project:

- "Are we clear that the outcome of the statutory processes has not affected the business case negatively?"

→ "Are we clear that major risks have been or are capable of being satisfactorily mitigated?"

→ "Is there a suitably robust plan for undertaking the next phase?"

8.4.3 The Gate 4 Review Process

As indicated in Chapter 3, the NTA will meet with the Partner to be briefed and provided with copies of:

- The project deliverables indicated in Section 8.3 above;
- The Partner organisation's internal Gate Review Report;
- Plans for Phase 5 (including the PEP and budget)

The NTA will examine the submitted material. Additional meetings may be required or clarifications requested. Once sufficient clarity is obtained, the NTA and Partner organisation will then meet to discuss the NTA's Gate Review decision. If the Gate is declared as passed, the project will proceed to the next phase.

8.4.4 Expected Gate 4 Outputs

If the Gate 4 review has been successfully passed, and subject to funding for construction being available, the following outputs are expected:

- Validation of the Phase 4 project deliverables;
- Endorsement of any decision to proceed to enter into advance enabling works or supply contracts and authority to proceed to acquire land in accordance with the Railway Order;
- Agreement to the plans for the next stage of work.

The NTA will also release agreed funding for Phase 5.

¹³ But this may well be deferred as previously indicated in Table 3.2 and elsewhere.

9. Phase 5: Advance Works, Further Design & Procurement

9.1 Purpose of Phase 5

This phase follows the granting of the necessary Railway Order or other statutory consents required for the scheme unless Fast Tracking has previously been agreed by the NTA, in accordance with the provisions of Section 4.5 and Appendix 2 of these PPP Guidelines.

For a conventionally procured project the purpose of Phase 5 is to begin the advance works/advance supply contracts authorised at Gate 4 and undertake the procurement process for the main works/main supply contract(s) for authorisation at Gate 5. For a PPP project the purpose is the same: undertaking the procurement of all the contracts necessary for the project, including the PPP contract itself.

However, for a PPP project, given the additional requirements associated with awarding a PPP contract, this single phase of work becomes a five-step process. Each step has the purpose of achieving specific incremental progress towards readiness to award the PPP contract. This phase encompasses VfM Tests 2, 3 and 4 as laid down in the DoF Main PPP Guidelines. These tests can be expected to require iterations, in particular if there is a Best and Final Offer (BaFO) bid round.

The five sub-phases for a PPP contract procurement are as follows:

- 5A. Complete preparations for 1st round tendering; undertake 2nd VfM test
- 5B. Conduct 1st round tender process; interim run of the 3rd VfM test (Test 3A);
- 5C. If applicable, conduct BaFO tender round process; formal run of the 3rd VfM test (Test 3B);
- 5D. Commercial Close; 4th VfM test (Test 4A);
- 5E. Financial Close; update of the 4th VfM test (Test 4B) on basis of financial close..

9.2 Key Phase 5 Activities

9.2.1 Overview

This phase represents mobilization towards procurement and delivery of the scheme. While the provisions set out in these Guidelines are primarily for schemes involving the development of an asset requiring land-take, other assets or systems schemes may not have the same requirements in terms of consultation, land and stakeholder issues. Where steps may be omitted, an “if applicable” statement is provided at the start of the relevant sub-section.

Given the particular requirements of a PPP procurement, this phase will be of extended duration and the activities will be divided into five separate sub-phases, each of which will conclude with a Gate review to ensure that both the Partner organisation and NTA remain fully content that the procurement process is on track to meet its objectives:

- Phase 5A: Complete Preparations for 1st Round Tendering
 - Prepare a legal strategy for the procurement;
 - Prepare the Output Specification for the PPP elements (based on the Output Definition and Performance Metrics paper prepared in Phase 3);
 - Prepare the Project Agreement (based on the work on structuring, risk and the specification completed in Phases 2 and 3);
 - Finalise the Shadow Bid and prepare the Public Sector Benchmark (PSB);
 - Undertake formal VfM and Affordability Test 2 on foot of quantifications in the PSB;
 - Issue the PIN notice and conduct any formal market soundings;
 - Finalise and issue the OJEU notice;
 - Prequalify potential bidding consortia;
 - Finalise and obtain approval for ITN documentation.
- Phase 5B: 1st Round Tender Process
 - Issue ITN documentation to prequalified bidders;
 - Answer bidder queries, conduct bid clarification, and evaluate (first round) bids;
 - Prepare (first round) bid report; conduct interim run of 3rd VfM test (Test 3A) comparing the highest ranked bidder with the PSB;
 - Partner organisation approval of (first round) bid report and reduction of bidders to one, or say two bidders (typically if BaFO round is included);
 - Prepare and obtain approval for draft BaFO documentation and issue to selected bidders;
 - If not undertaken earlier, complete preparations for entering into any advance enabling works or supply contracts and, if applicable, for acquiring land in accordance with the Railway Order.
- Phase 5C: BaFO Round Tender Process (if applicable)
 - Answer bidder queries, conduct BaFO bid clarification, and evaluate BaFO bids;
 - Prepare BaFO bid report; conduct final run of 3rd VfM test (Test 3B), comparing the highest ranked bidder with the PSB;
 - Partner organisation approval of (BaFO round) bid report; appoint Preferred Bidder.
- Phase 5D: Commercial Close
 - Finalise the commercial terms (incl. a specified range for relevant financial parameters within which Financial Close should be achieved – a range that

the Sponsoring Agency is content to seek approval for from the Sanctioning Authority);

- Conduct interim run of the 4th VfM test (Test 4A) using the range of financial parameters within which Financial Close is to be achieved (such that the final VfM test in Phase 5E is purely a formality);
- Obtain approval for Commercial Close and for proceeding to Financial Close subject to the financial parameters being within the specified range.

→ Phase 5E: Financial Close

- Work to ensure any conditions precedent are fulfilled;
- Finalise the relevant financial parameters within approved range to permit Financial Close;

Conduct, as a formality, a final run of the 4th VfM test (Test 4B) using the actual financial parameters at Financial Close

The remainder of this section refers to activities that apply to conventionally procured projects, to the procurement of non-PPP elements of PPP projects and also in some cases to PPP elements. Specific activities that relate solely to the five sub-phases for a PPP procurement are included in Section 9.3.

The key activities of Phase 5 include:

- Land acquisition;
- Advance enabling works and supply contracts, as required – letting and supervision;
- Design and specification development (which can be full design for a traditional employer designed contract, finalisation of sufficient designs and requirements for a Design & Build contract, or finalisation of requirements specifications for systems and other supply contracts such as rolling stock acquisition);
- Value engineering and value management;
- Updated risk assessment and Scheme cost estimate (in two stages);
- Updated business case (in two stages);
- Preparation of procurement documentation for the main contracts;
- Peer review of the Tender documents;
- Shortlisting of tenderers (if 2-stage procurement is applicable);
- Tender processes up to preparation of report on tenders , approval by the Partner organisation's Board and readiness to award contracts subject to the NTA's Gate 5 approval.

9.2.2 Use of Partner Organisation Processes

The NTA will require that the level of project set up is appropriate to the scale of the required activity. To that end it will seek details similar to those required of the Partner organisation for the main contract (see Section 10.2.2).

9.2.3 Land Acquisition

Approval to proceed with land acquisition was a Gate 4 Hold Point¹⁴ so the Partner organisation is able to proceed to serve "Notices to Treat" (i.e. taking possession and paying compensation), but should keep the NTA informed. The Partner organisation will be responsible for preparation and publication of Confirmation notices.

9.2.4 Advance Enabling Works and Supply Contracts

Advance enabling works and supply contracts was a Gate 4 Hold Point¹⁵ so the Partner organisation is able to proceed to let these contracts

9.2.5 NTA to be Notified of Progress

The NTA should be kept informed of progress on, and issues relating to, the design and specification development, value engineering and value management, the updating of the risk assessment, the Scheme cost estimate, including an updated Target Cost (TC2), and the business case. TC2 is the pre-tender cost estimate following inclusion of the results of the statutory approval process and the allowance for any risk provision retained and not passed on to the Contractor.

It should be noted that post-tender the Target Cost will be updated to TC3 and the business case further updated. These versions shall be reviewed and approved by the NTA at Gate 5. The Partner organisation shall ensure that the Scheme Final Business Case with any other revisions to cost, scope or schedule are consolidated and that updated reports are submitted to the NTA for approval at Gate 5.

9.2.6 Tender Documents Preparation

The contracting strategy, including the contracting packaging appropriate for the different project elements and the most suitable contract forms for each contract should have been identified in an earlier phase. However, during this Phase these arrangements need to be confirmed and finalised to allow the preparations for the procurements to proceed.

During the development of the tender documents, the Partner organisation shall ensure compliance with the DoF CWMF Guidelines, including but not limited to:

- *GN 1.4 Procurement & Contract Strategy for Public Works Contracts;*

¹⁴ If, for a PPP project, land acquisition approval has been deferred from the Gate 4 Hold Point, perhaps to the Gate 5B Hold Point, then this will occur once that later Gate has been passed.

¹⁵ If, for a PPP project, advance contract approval has been deferred from the Gate 4 Hold Point, perhaps to the Gate 5B Hold Point, then this will occur once that later Gate has been passed.

- GN 1.5 Public Works Contract;
- GN 2.3 Procurement Process for Works Contracts.

9.2.7 Peer Review and Approval of Tender Documents

The Partner organisation shall arrange for a peer review of the draft tender documents. The Partner organisation shall ensure that following any requested revisions, the documentation is formally signed off in accordance with Partner organisation processes.

The NTA will not generally require sight of the tender documents before they are issued to tenderers, this being an internal matter for the Partner organisation. The NTA will have consented to the tenders being sought at Gate 4. However, the NTA will require the Partner's confirmation at Gate 5, when the proposed contracts are presented for approval, that they are in compliance with DoF CWMF Guidelines.

9.2.8 Tender Process

The Partner organisation shall complete the pre-qualification suitability assessment questionnaire / Instructions to Tenderers prior to publishing the Invitation to Tender/Expressions of Interest.

If applicable, the PIN and Contract Notices shall be posted on the Official Journal of the European Union (OJEU) via the government procurement website (www.etenders.gov.ie). The Partner organisation shall consult in advance with the NTA on whether the Prior Information Notice should be published as it may in certain circumstances reduce the Tender Period. The PIN Notice may also be published prior to commencement of the Tender process, subject to consultation with the NTA. Publishing guidance including Common Procurement Vocabulary (CPV) Codes, EU Thresholds and OJEU Forms are also provided on the e-tenders website.

If the procurement is by a 2-stage process, the Partner organisation shall then undertake the prequalification process according to the Partner organisation's procurement processes and produce a shortlist of contractors to proceed to Stage 2. Once the Stage 2 tenders have been returned and the evaluation process undertaken following the Partner's procurement processes, the Partner organisation shall prepare a tender report, summarizing the tender processes and making formal recommendation on the appointment of tenderers for the main contracts.

The Partner organisation shall ensure that it has appropriate legal expertise available to it in preparing for and undertaking procurement and shall inform the NTA of its legal strategy – essentially its analysis of, and plan to avoid, potential legal pitfalls in the procurement process.

9.2.9 Updated Target Cost (TC3)

An updated Target Cost 3 (TC3) shall be prepared taking account of the Contract Sums for the main contracts and any changes to base costs for other headings in the Scheme Base Cost (e.g. land & property). The Partner organisation shall arrange for an updated independent Peer Review of all of the elements making up the TC3 estimate.

9.2.10 Project Appraisal

The Partner organisation shall ensure that the project appraisal is updated with the pre-tender cost estimate, risk assessment and any changes to the scheme impacts, benefits or outputs.

Post-tender, the Partner organisation shall ensure that the project appraisal is validated and updated, in accordance with DoF and DoT guidance, to reflect the results of the tendering process. The outcome will be reported in the Final Business Case report.

9.2.11 Approval for Contract Award

In order to proceed with the award of the main works or supply contracts, it will be necessary to obtain the written approval of the NTA. This will be obtained through the Gate 5 review process which will need to have been successfully passed.

9.3 Specific Activities For PPP Projects

9.3.1 PPP Specialist Inputs Required

Activities required in Phase 5 specifically for the procurement of a PPP contract are listed in Section 9.2.1 of these Guidelines. These activities are to be undertaken in accordance with the guidance provided by DoF listed in Section 1.4 of these Guidelines, supported by Irish and international best practice for PPP procurement, utilising well qualified and experienced specialist advisers (technical, financial - including the National Development Finance Agency (NDFA) as appropriate, legal, insurance, etc.) required for a PPP project.

9.3.2 Phase 5A - Pre-ITN Activities

The procurement strategy set out at Phase 3 will be reviewed and confirmed and a legal strategy for the procurement prepared to ensure that potential pitfalls are identified and can be avoided.

The Output Specification will be prepared for those elements for the project to be included in the PPP contract. This will be based on the Output Definition and Performance Metrics paper prepared in Phase 3. In finalising the Output Specification, any changes since Phase 3 that will affect whole life costs will need to be reviewed. The NTA will wish to have confirmation that in finalising the specification the level of any subvention that is likely to be required remains affordable.

The Project Agreement will be drafted based on the work on structuring, risk allocation and the proposed performance regime prepared in Phases 2 and 3, and the finalised specification.

The preliminary version of the Shadow Bid prepared in Phase 3 will be finalised and the Public Sector Benchmark (PSB) prepared. As required by Section 2.7.2 of the DoF Main PPP Guidelines, the PSB should be a comprehensive estimate of the cost (including risk valuations) of procuring those elements of the project that the private sector is to be invited to tender for in the PPP contract. It should be based on the whole life cost to the Sponsoring Agency of procuring (those elements of) the project using traditional procurement, and should include risks. The PSB does not include any costs (or risks) which will be borne directly by the Sponsoring Agency irrespective of the procurement method used, and which are therefore not part of the PPP contract. The Sponsoring Agency will be responsible for ensuring all DoF requirements are fully adhered to in the preparation of the PSB.

The second formal PPP VfM Test (as required by paragraph 1.9 of the DoF PPP VfM Guidelines) is undertaken at the conclusion of this phase to determine whether, on foot of the quantifications in the PSB, the conclusion reached in the PPP Procurement Assessment undertaken in Phase 3 still holds.

The draft PIN notice will be prepared, along with any formal market consultation questionnaire to accompany the PIN. A first draft of the OJEU notice for the procurement of the PPP contract should also be prepared subject to modification in the next Phase following any market consultation exercise.

The NTA will expect the Partner organisation to ensure that the OJEU is fully reviewed to avoid later procurement difficulties and that the ITN is thoroughly prepared and peer reviewed to ensure that:

- The requirements, in terms of the risk, performance, scope and specifications, can be traced back to the objectives of the project and that, in responding to the ITN document that is about to be released, the market will be able to offer and deliver what the project is trying to achieve;
- There is a robust structured engineering process embedded in the ITN to ensure visibility of delivery of technically complex projects - with process linked to commercial obligation on the contractor to deliver insight to the technical project progress, so the development and application of such a process (e.g.

the Systems Engineering process¹⁶) becomes the window into the project;

- The Partner organisation can maintain sufficient control over the contract;
- The deliverables are programmed satisfactorily against interfacing contracts;
- Processes for review are back-to-back with all related or interfacing contracts;
- The Partner organisation has a negotiation strategy prepared to support their role as counterparty¹⁷.

The ITN documentation will be finalised and approval obtained through the Gate process for its issue at the start of Phase 5B.

9.3.3 Phase 5B - 1st Round Tender Process

In this sub-phase, once the first round bid process has been concluded, the Partner organisation will undertake an interim version of VfM Test 3, comparing the highest ranked bidder with the PSB.

The NTA will wish to be assured that the project still appears to be achievable as a PPP at this stage before the Partner organisation moves forward to the BaFO stage (if applicable). It can generally be expected that a BaFO stage will be required unless an exceptionally clear gap between bidders is apparent after the first round tenders are evaluated.

9.3.4 Phase 5C - BaFO Round Tender Process (if applicable)

In considering the BaFO tender evaluation, the NTA will expect the Partner organisation to pay particular attention, inter alia, to:

- Checking that the deliverables in the BaFO will still deliver the outputs that the project is trying to deliver, and that the BaFO numbers run through the business case show that the project still performs sufficiently well;
- Checking the risk profile and identifying changes since the approval of the project – and the value of those changes;
- Checking that the contractual process levers required to enable the Partner organisation sufficient control of the project are still in place;

¹⁶ Defined in many international norms, Systems Engineering is a classic engineering process. A potential issue with a PPP is that a performance requirement is set out and contractualised and then, say 4 years later, the contractor delivers an asset to bring into operation, but there has been little visibility in the interim delivery stages. If the client interferes with the planning or design then the client attracts back design risk that had been transferred to the contractor. How then to get visibility that all is going well and not get the hands dirty. A solution is to define a structured approach to engineering in a manner appropriate for the project. The contract deliverables then relate to the process rather than the design –and the client gets visibility.

¹⁷ What in the ITN would be given away first, what is a must keep, and what trade offs are available?

- Checking that where the gap between bidders is small the evaluation does not rely excessively on a Partner valuation of risk deltas, which might open up the risk of process challenge;
- Checking that the evaluation does not rely excessively on cash flow differences if they are skewed between the bids, unless that is rigorously reviewed;
- Checking for sensitivity of the performance projections to key risks;
- Checking the extent, character and criticality of any items still open.

This sub-phase will include the formal re-running of the 3rd VfM Test on the highest ranking BaFO bid against the PSB before the decision is made to appoint a Preferred Bidder and Partner organisation and NTA approval is sought for that.

9.3.5 Phase 5D - Commercial Close

The final commercial terms are negotiated, the conditions precedent are determined and the range of the relevant financial parameters that are achievable and likely to be approved are set out. NTA will wish to be assured that as these items progress attention still focuses on items such as those listed above in sub-phase 5C, and that the Partner's overall position is not being diluted, even if there are a balance of wins and (non-critical) losses.

This sub-phase concludes with the 4th VfM Test (Test 4A) before Partner organisation and NTA approval is sought to conclude Commercial Close and move to Financial Close.

9.3.6 Phase 5E - Financial Close

As actions relating to the conditions precedent are pursued and the financial work stream continues, the NTA will wish to be assured that all the Partner commitments (e.g. in terms of other non-PPP activities for which it is responsible) are all on track and exposure to the risk of PPP contractor claims as a result of any delays or lack of site access is rigorously managed. (Key decisions having been taken at Gate 5D regarding the PPP procurement, focus at the Gate 5E review is likely to be on the non-PPP elements.) The 4th VfM test will be updated so that the model reflects the rates achieved at financial close (Test 4B).

9.4 Phase 5 Deliverables

The key deliverables from Phase 5 are:

Sub-phase Key Deliverables

- | | |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5A | <ul style="list-style-type: none"> • The Legal Strategy; • The Output Specification; • The draft Project Agreement for PPP contract; • The finalised Shadow Bid and Public Sector Benchmark (PSB); • Formal VfM and Affordability Test 2 on foot of quantifications in PSB; • The draft ITN documentation, with accompanying Peer Review report. |
| 5B | <ul style="list-style-type: none"> • The first-round tender report (outcome only to be provided to NTA); • Results of VfM test 3A; • Draft BaFO documentation (if applicable). |
| 5C | <ul style="list-style-type: none"> • BaFO-round Tender report (if applicable; outcome only to be provided to NTA); • The post-Tender Scheme cost estimate report (TC3), with accompanying updated Peer Review report; • Results of VfM Test 3B and comparison of highest ranked bidder with the PSB; • The post-Tender Project Appraisal and Final Business Case documentation. |
| 5D | <ul style="list-style-type: none"> • Finalised commercial terms and specified range for relevant financial parameters within which Financial Close should be achieved; • Details of conditions precedent proposed at Commercial Close to be met for Financial Close; • Results of interim VfM Test 4A; • The brief for Phase 6 and the accompanying PEP and budget plan. |
| 5E | <ul style="list-style-type: none"> • Finalised PPP contract; • Results of final VfM Test 4B; • Other (e.g. non-PPP) elements requiring review or approval. |

9.5 The Gate 5 Review

9.5.1 Overview

Gate 5 is a key NTA Hold Point. Passing it permits the award of major construction and supply contracts.

For PPP projects, there will be Gates at the conclusion of each sub-phase. The timing of the Gate for conventionally procured elements of PPP projects in relation to the Gates for the sub-phases will need to be proposed by the Partner organisation and agreed with the NTA. The sub-phase Gate reviews are intended to have the following outcomes:

- Approval of the sub-phase deliverables¹⁸;
- Approval to progress to the next sub-phase, or
 - at Gate 5D to move to Phase 5E (Financial Close) and into Phase 6, and
 - at Gate 5E to agree plans for the Partner's work in Phase 6 and authorise any remaining non-PPP elements to sit alongside the PPP contract;
- Confirmation that a clear plan exists for the progression into the next phase;
- Confirmation that the NTA wishes to proceed at this time.

9.5.2 Lines of Enquiry for the Gate 5 Review

Lines of enquiry will be developed by the NTA for the various sub-phase Gate reviews in Phase 5 consistent with the purposes each sub-phase is expected to achieve. This will be done through a combination of analysis and discussion with the Project Team. Lines of enquiry will include the following themes related to the relevant sub-phases:

- "In light of the finalised Outline Specification, the PSB and the results of VfM Test 2, is the proposed procurement strategy considered robust and suitable and consistent with the DoF PPP Guidelines and, where appropriate for non-PPP elements, the DoF CWMF requirements?"
- "Is there funding available to proceed with the PPP contract and other construction and supply works?"
- "Is the likely level of any subvention required post construction to support Availability payments as indicated by the Shadow Bid going to be affordable?"
- "Are the market consultation proposals and draft procurement notices framed to elicit the responses required and are they robust in terms of the procurement process?"
- "Are the Project Appraisal and Final Business Case documents fit for purpose?"
- "Is the advice from the NDFA that the various VfM tests been passed satisfactorily?"
- "Is the Scheme affordable within current funding arrangements?"
- "Are we clear that all major risks have been satisfactorily mitigated?"
- "Are the commercial terms satisfactory?"
- "Do we have all the necessary authorisations to move forward to Commercial close?"

¹⁸ As indicated in Section 9.2.1 above, approval of bid evaluation reports will be undertaken by the Partner organisations in accordance with their own procurement procedures. The NTA will note the outcome of the evaluation and consider that along with the Partner organisation's recommendations for the next sub-phase or phase of work.

- "Are all the enabling works, other supply contracts and land purchase arrangements that will be required to enable or complement the PPP contract, for which the Partner organisation is responsible, sufficiently advanced to avoid delaying the PPP contractor?"

9.5.3 The Gate 5 Review Process

As indicated in Chapter 3, the NTA will meet with the Partner at the end of each sub-phase to be briefed and provided with copies of:

- The project deliverables indicated in Section 9.3 above;
- The Partner organisation's internal Gate Review Report;
- Plans for the next Phase 5 sub-gate or Phase 6 as appropriate (including the PEP and budget)

The NTA will examine the submitted material. Additional meetings may be required or clarifications requested. Once sufficient clarity is obtained, the NTA and Partner organisation will then meet to discuss the NTA's Gate Review decision. If the Gate is declared as passed, the project will proceed to the next sub-phase or to Phase 6 as appropriate.

9.5.4 Expected Gate 5 Outputs

If all of the Gate 5 reviews have been successfully passed, and subject to funding being available, the following outputs are expected:

- Validation of the Phase 5 project deliverables;
- Endorsement of the decision to enter into non-PPP works and supply contracts, including definition of what will be considered to constitute a 'significant' contractual claim or project over run in the following Phase (see Section 10.2.3);
- Award of the PPP contract;
- Agreement to the plans for the next phase of work.

The NTA will also release agreed funding for Phase 6.

10. Phase 6: Construction And Implementation

10.1 Purpose Of Phase 6

Having obtained authorisation at Gate 5 to enter into the main contracts for the delivery of a project, Phase 6 covers the award and administration of those contracts through to their completion, along with any internal works orders placed with Partner organisations' specialist/direct works divisions.

This phase includes the integration of the various works and supply elements to deliver the planned outputs assumed in the business case, the testing and commissioning of both the elements and the overall system, obtaining safety case approvals and any other necessary acceptance processes.

It includes, finally, putting the new, extended or upgraded asset(s) into passenger service, and the review and authorisation of final accounts on the various contracts.

For PPP projects Gate 5E will have concluded the award process for the PPP contract. Phase 6 will involve the private sector PPP contractor undertaking many of the roles traditionally undertaken by a client. The role of the Partner organisation as the public sector client (and contracting entity) for the PPP contract is therefore more limited, but remains crucial for the project's success. The Partner remains responsible for delivering non-PPP elements in the usual manner for conventional projects and, therefore, has a further role in supporting the integration of the PPP and non-PPP elements.

10.1.1 Overview

Other than those 'client' activities to be undertaken by the PPP contractor, the responsibility for the management of all activities in this phase remains with the Partner organisation, including the monitoring of the PPP contract and the management of the contracts awarded for non-PPP elements.

The NTA will expect to be kept informed on progress and consulted on key issues or events that could have an impact on the cost, specification or schedule of the whole Scheme. The NTA will also be particularly concerned that the construction and implementation phase is managed strictly according to the terms of the approved contracts. The NTA will arrange, subject to giving notice at Programme Director level, to audit Partner organisations in respect of their delivery of projects.

For the PPP contract, Phase 6 activities will include:

- Monitoring the PPP contractor's delivery against their contractual obligations, while:
 - *Taking care to avoid inadvertently accepting back risks transferred by the terms of the PPP contract to the PPP contractor, and thus*
 - *Ensuring that achievement of the VfM projected at Financial Close is not compromised;*

- Monitoring the progress being made to achieve operational service of the new asset on schedule;
- Undertaking audits of the PPP contractor's quality and performance monitoring systems to ensure the contractor's reporting is accurate;
- Managing the Partner organisation's retained risks, including:
 - *Strict management of non-PPP elements in order to meet key milestone dates committed to by the Partner organisation under the PPP contract;*
- Managing any changes to the PPP contractor's obligations (but only where unavoidable as a result of, for instance, technical developments or revised Partner operational requirements);
- Managing payment of any capital contributions to the PPP contractor's work;
- Managing claims received from the PPP contractor;
- Maintaining a project outturn cost prediction including:
 - *Claims received,*
 - *Claims expected,*
 - *Risks outstanding;*
 - *The projected level of Availability payments;*
- Making timely preparations for any Partner organisation role provided for in the PPP contract during testing, commissioning and operational start up, including:
 - *Undertaking any duties set out for the Partner in the acceptance of the asset as ready to enter into passenger service,*
 - *Undertaking any Partner safety obligations and ensuring all safety obligations of the PPP contractor are progressed satisfactorily,*
 - *Setting up the ongoing contract management and interface arrangements for the Availability period, and*
 - *Making arrangements for the commencement of Availability payments.*

The NTA will expect to be kept informed of progress across the PPP contractor's and the Partner organisation's activities.

10.1.2 Project Organisation

The Partner organisation shall follow guidance on the implementation stage of projects procured under DoF CWMF Conditions of Contract provided in guideline GN 3.1 *Implementation Process*. With the increased number of project interfaces in this phase, the NTA will expect the Partner organisation to review roles and responsibilities and clearly communicate to all parties the changes made to the organisational structures:

- The Partner organisation shall ensure that he/she has appropriate resources, either internal or contracted, to undertake the specialist role of integrating the different contracts, coordinating the design and delivery interfaces to ensure that all elements come together without delays and extra costs being incurred due to any reworking being required, and that the overall asset when completed, tested and commissioned is able to meet assumed business case outputs and functional specification requirements, achieves all necessary safety approvals, and is brought successfully into operational service;
- The Partner organisation shall ensure that any other divisions of the Partner organisation with which works orders are placed and which have separate reporting lines within the organisation, are able to account with full transparency for their use of resources and the allocation of costs to the project and that they can demonstrate value for money;
- The Partner organisation shall ensure, prior to commencement of each contract, that a person has been appointed to act as Employer's Representative on behalf of the Partner organisation in accordance with the requirements of that contract;
- The functions and duties of the Employer's Representative shall be limited to those stated in the contract. These functions and duties are outlined in DoF CWMF Guidance Note *GN 3.1 Implementation Process*;
- Overall responsibility for the delivery of the Scheme shall remain with the Partner organisation who will report to the Programme Director if appointed;
- On large or complex Schemes the Partner organisation will be expected by the NTA to appoint a suitably qualified construction/implementation stage monitoring and advisory committee/project board to whom the Programme Director, if appointed, shall report (see Section 1.4.6);
- The committee or board shall review progress, quality and expenditure on the contracts, and also discuss contractors' design proposals including value engineering, the Partner organisation's integration of contracts, technical issues arising, and the mitigation and management of risk;
- The committee or board shall report to the Partner organisation's Board. Copies of all Board reports shall be sent for information to the NTA at the same time as to the Board.

In undertaking the Partner organisation's duties under the PPP contract, NTA will expect consideration to be given to the commonalities between the Partner organisation's interests in monitoring performance under the contract

and those of the PPP contractor's Lenders. The Partner will be expected to explore with the Lenders establishing an appropriate level of liaison between their professional support teams (e.g. technical advisors) monitoring of the PPP contractor's compliance with the output specification.

The NTA will also expect the Partner organisation to undertake advance preparation of the organisational plans for oversight and management of the PPP contract once the Availability period commences, such that an already mature, fully tested organisation with all the necessary management procedures is in place from Day 1 of operational service.

10.1.3 Project Reporting and Payment

The Partner organisations shall follow their own internal processes for reporting progress and financial management of NTA-funded projects. Monthly progress reports and financial reports relating to each contract, each project and each programme shall be prepared. The NTA shall be copied Partner organisations' project- and programme-level reports as issued to their Steering Groups (or monitoring and advisory committees/project boards).

The Partner organisations shall handle monthly requests for release of funds from the NTA at a programme level, but back-up details shall also be provided at project or contract level depending upon the size of contracts and as agreed with the NTA.

The Partner organisations shall maintain such records as are necessary in order to properly assess and make a considered determination on any claim(s) submitted, particularly where the issue of quantum of work is being claimed or disputed.

The NTA shall be advised, as early as possible, of significant contractual claims and projected cost over runs. The Partner organisations shall consult with the NTA on their proposed approach to handling significant contractual claims.

10.1.4 Land and Property

The Partner organisation shall ensure that a land acquisition schedule is updated and land agreements are finalised.

10.1.5 Testing and Commissioning

The Partner organisation shall be responsible for ensuring that the Partner organisation's relevant operating division/concessionaire provides any necessary inputs to the testing and commissioning process in a timely manner.

The testing and commissioning of the PPP contractor's work will usually be the contractor's responsibility but where, under the PPP contract, the Partner organisation is responsible for any inputs to the process then the Partner organisation shall ensure they are made in a timely manner.

10.1.6 Safety Case Approvals, Other Consents and Acceptance Processes

The Partner organisation shall ensure that all safety case approvals and other consents and acceptance processes that must be completed are identified and programmed, that liaison with approval bodies begins sufficiently early, that responsibilities are clearly allocated and resources made available to ensure that all approvals are achieved on time. The NTA will wish to be kept informed at a high level only of relevant planning and liaison taking place with 3rd party bodies but more particularly with any issues arising from these processes.

Where in a PPP project the Partner organisation has responsibility for any inputs to these processes then the Partner organisation shall ensure they are made in a timely manner.

10.1.7 Handover into Service

The Partner organisation's project delivery organisation will be responsible for the handover of the completed assets to the Partner organisation's relevant operating division/concessionaire.

Where in a PPP project the Partner organisation has responsibility for any inputs to the handover of assets then the Partner organisation shall ensure they are made in a timely manner.

10.1.8 Launch of Passenger Operations

The Partner organisation will communicate with the NTA on arrangements for opening new services or facilities to the public, including the date for the start of passenger operations, if applicable.

For a PPP contract, the ongoing administration of the contract by the Partner organisation will be a particular focus of the NTA. Unlike conventional projects where the financial exposure is quite limited at the conclusion of the construction phase, the State retains significant financial exposure after the system starts operating. The NTA will require the Partner organisation to engage with the NTA on a regular basis to ensure that issues and risks associated with the ongoing contract are being managed satisfactorily. Full details of the NTA's requirements in this respect will be set out separately.

10.1.9 'As-Built' Records

The Partner organisation, through the Employer's Representative, shall ensure that 'As-Built/As-Delivered' records and all other key documents and manuals are prepared by each contractor in accordance with its contract and handed over to the Partner organisation's relevant division/concessionaire upon completion of the Scheme.

10.1.10 Contract Final Accounts

Following the completion of each contract, the contractor

shall be obliged to submit a final statement of account in accordance with the relevant conditions of contract. This, and any reference to conciliation (and/or arbitration), shall be dealt with in accordance with the Partner organisations' procurement processes taking into account relevant DoF CWMF Guidelines. The NTA shall be kept informed of any matters referred to conciliation or arbitration.

Where the final outturn cost of the final account (as agreed or as determined by conciliation or arbitration) exceeds the tender sum, the Partner organisation shall be required to obtain the approval of the NTA to discharge the balance payable to the contractor. This can most conveniently be undertaken at Gate 6, referred to below; where necessary for timing reasons, Gate 6 reviews may need to be undertaken contract by contract.

For a PPP project, the Partner organisation will be responsible for keeping the NTA informed of any impacts of the overall costs that are likely to be incurred by the NTA as Sanctioning Authority, whether during the project development period or after that during the Availability period.

10.1.11 Final Account Report

Once the final outturn costs of the final accounts for all contracts and work orders making up a project have been determined, the Partner organisation shall prepare a final account report relating to the various contracts and work orders. In cases where there are long running close out costs the NTA will, at the Partner organisation's request, consider with the Partner a process for enabling the bulk of the project to be closed while making provision for those items which remain open to be monitored and reported upon.

As the final account report information will be central to the Project Completion Review report, which is a Phase 7 deliverable, the Partner organisation shall prepare the information according to DoF CWMF Guidance Note *GN 4.1- Project Review on Completion*. In effect, the Partner organisation should carry out as much of the Completion Review as possible prior to settlement of the final account.

10.1.12 Audit Requirements

The Partner organisation shall ensure that copies of the project documents are retained in a manner such that they are capable of being retrieved in a reasonable timeframe, for a period of up to 10 years after completion of the scheme.

10.2 Phase 6 Deliverables

For the purposes of these Guidelines, Phase 6 will conclude when the main contracts and work orders have reached substantial completion and when certificates of the dates for substantial completion of all relevant contracts have been issued.

In the case of a PPP project, Phase 6 will conclude with the commencement of the Availability payments.

It is recognised that some of the key deliverables required for Phase 6, in particular the Final Account Report, may not be completed by this time. Where this arises, the deliverables will therefore carry forward to Phase 7. The Partner organisation shall advise the NTA of deliverables that will be required to carry forward to Phase 7 and shall also advise of any outstanding payments and/or deductions to be made from the various contracts/work orders after the conclusion of Phase 6.

10.3 The Gate 6 Review

10.3.1 Overview

Gate 6 is the final NTA Hold Point. It marks the completion of the project which will be indicated by the asset delivered by the project passing into passenger service and the settling of the final accounts. On multi-contract projects, it may be practical for Gate 6 reviews to be undertaken on a contract by contract basis. Gate 6 will not be fully passed, however, until the last contract goes to the Gate. At this point, ideally the Final Account Report which wraps up the project and its constituent contracts, will be presented for approval. If this is not possible, it will carry forward to the Project Completion Review task in Phase 7.

10.3.2 Lines of Enquiry for the Gate 6 Review

The lines of the enquiry that will be developed by the NTA for the Gate 6 review through a combination of analysis and discussion with the Project Team will include the following themes related to the development of the Project:

- “Has the project implementation been managed in accordance with the Conditions of Contract?”
- “Has the project been delivered to the agreed specification?”
- “Is the asset fit to be passed over to the concessionaire/operating division for the start of passenger operations?”
- “Will the output be as set out in the Final Business Case?”
- “Can the final account(s) be settled?”
- “What is the final cost of the project?”

10.3.3 The Gate 6 Review Process

As indicated in Chapter 3, the NTA will meet with the Partner to be briefed and provided with copies of:

- The project deliverables indicated in Section 10.3 above;
- The Partner organisation’s internal Gate Review Report; and
- Plans for Phase 7.

10.3.4 Expected Gate 6 Outputs

If the Gate Review has been successfully passed, the following outputs are expected:

- Approval to settle the final account, on a contract by contract basis if appropriate; and
- Approval to proceed to the next project Phase.

11. Phase 7: Close-Out And Review

11.1 Purpose Of Phase 7

Phase 7 follows the completion of the project. It is undertaken to ensure that:

- The project is properly closed out, without any outstanding issues;
- The project was delivered as specified;
- The requirements of the contract were met; and
- The project met the needs that were identified at the outset by delivering the specified outputs.

For PPP projects, essentially the same purposes apply and the processes to be followed will merely need to be modified to accord with the specific provisions of the relevant PPP contract.

The necessary activities of the Partner organisation during the Availability period are not covered in these Guidelines. However, as indicated in Sections 10.1.2 and 10.1.8 of these Guidelines, the NTA will expect the Partner to have a fully tested organisation with all the necessary management procedures in place from Day 1 of operational service in order to manage its responsibilities and control its risks under the PPP contract. The close out review will seek to verify that this is working satisfactorily.

Beyond that, the Partner organisation will be expected to engage regularly with the NTA regarding the ongoing management of the contract. Full details of the NTA's requirements in this respect will be set out separately.

11.2 Key Activities Of Phase 7

11.2.1 Overview

The responsibility for the management of all activities in the phase remains with the Partner organisation and their Project Manager.

Phase 7 covers the resolution of all outstanding contractual and residual issues relating to the Scheme and its close-out. It also deals with the review of the project to ascertain the lessons to be learned for future schemes.

The key activities of Phase 7 include:

- Management of the Defects Period;
- Close-out of all land and property issues;
- Confirmation of the outturn costs, outputs and outcomes/benefits;
- Post completion review;
- Post project review.

11.2.2 Defects Period / Defects Certificate / Retention Monies

The Partner organisation shall ensure that all outstanding works and items are addressed by the various contractors/suppliers during the defects periods, which shall generally commence after the certificates of substantial completion have been issued.

At the ends of the defects periods, the Partner organisation shall obtain from the contractors/suppliers defects certificates in accordance with the contracts.

The Partner organisation shall ensure that adequate provision is made in the Scheme budget to discharge retention monies and that any such payments due to contractors/suppliers are issued within the time periods specified in the contracts. The Partner organisation shall ensure that all works have been satisfactorily completed prior to releasing retention monies.

11.2.3 Land and Property

Where applicable, the Partner organisation shall ensure that all outstanding land and property issues are closed out in accordance with contract and statutory requirements. This will include the Partners' best endeavours to collect the payment of development levies where applicable. The Partner organisation shall inform the NTA when these requirements have been met.

11.2.4 Scheme Final Outturn Cost

The Scheme final outturn costs for each of the principal cost headings across all contracts and work orders should be compiled. The Scheme final outturn cost is the sum of all outturn costs from each cost heading agreed with the NTA.

The Partner organisation shall compile the base cost elements, based on final outturn costs, of the Phase 7 Target Cost 4 (TC4), which should reflect the final account settlement values for all the main contracts. The TC4 estimate shall be forwarded to the NTA for approval.

11.2.5 Post Completion Review

The Partner organisation's final activity in relation to the contracting process is to undertake a Post Completion Review in accordance with DoF CWMF Guidance Note *GN 4.1- Project Review on Completion*. This will include an evaluation of the performance of the project contractors and consultants, a review of outturn costs, a design review and value and risk management reviews. The report will include a statement of 'Lessons Learned' from the various contracts. This should highlight both the positive and negative aspects of the contracts. These lessons learned will be recorded to inform the Partner organisation and the NTA of improvements that can be made to standards and policy for future contracts. If appropriate, actions to improve project management will be identified.

A report documenting the post completion review findings will be prepared for the NTA.

11.2.6 Post Project Review

The post-project review has the aim of drawing out lessons for the future. It is an assessment of both the project outturn and the appraisal and project management procedures used. Project outturn is to include an analysis of whether the expected benefits and outcomes materialised, as well as the project outturn cost.

The Partner organisation shall ensure that the Post Project Review is undertaken in accordance with the DoT's *Post Project Review Methodology for Transport Projects (February 2009)*. This methodology requires that the person carrying out the review should not have been directly involved in the oversight of the project planning or implementation, or in the appraisal of the project. It also recommends that the post-project review is undertaken once sufficient time has elapsed to allow the project to be properly evaluated with sufficient evidence of the flow of benefits and costs from it. It is envisaged that, except in special circumstances, the Review will be commenced one year after project opening. The Post Project Review shall evaluate all previous phases of the project. Where appropriate, actions to improve project appraisal, planning or implementation will be identified.

In some cases, project benefits, maintenance costs and operating costs will be only partially realised at the time of the Post Project Review. The Post Project Review should describe systems put in place to monitor costs and benefits over the life of the scheme. These will integrate with the NTA's arrangements for monitoring public service contracts where relevant.

The Post Project Review should identify plans, if any, to expand or enhance the project at a future date.

A report documenting the findings of the Post Project Review will be prepared for the NTA.

11.3 Phase 7 Deliverables And Close Out

The Phase 7 deliverables are:

- Post completion review report
- Post project review report

There is no NTA Gate to be passed in this phase. A close out review will be held with the NTA and the Partner organisation to review deliverables and lessons learnt. The Partner organisation shall also produce a Closure Report following the Review for the NTA to approve.

**APPENDIX 1 -
SELECTED LIST OF ABBREVIATIONS,
DEFINITIONS AND TERMINOLOGY**

Appendix 1 - Selected List Of Abbreviations, Definitions And Terminology

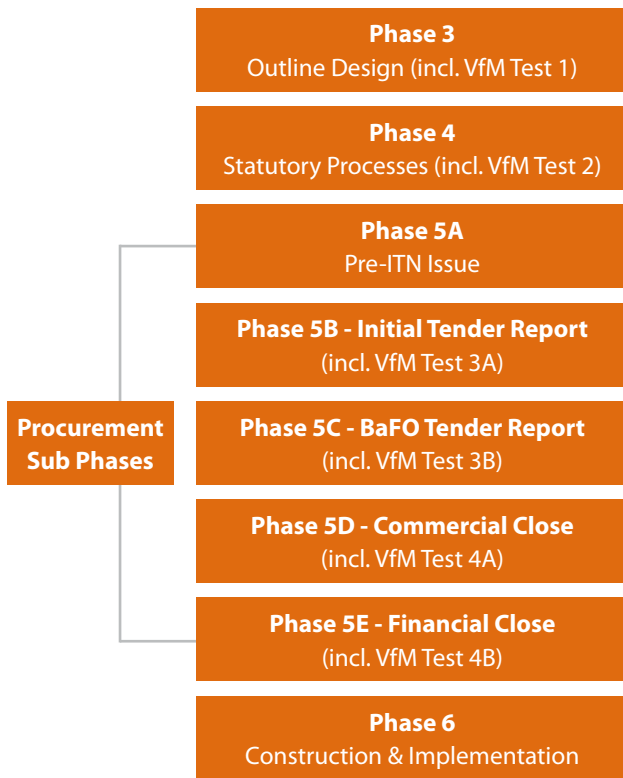
Term	Definition
Capital Works Management Framework (CWMF)	The Capital Works Management Framework (CWMF) is a structure that has been developed to deliver the Government's objectives in relation to public sector construction procurement reform. It consists of a suite of best practice guidance, standard contracts and generic template documents that form the four pillars that support the Framework. The Guidelines were produced by the Department of Finance (DoF)
Contingency	The contingency is a budgetary provision for to cover unknown risks informed by experience of similar projects and by reference to social, political, historical and economic considerations particular to the proposed location.
Design and Build contract	A Contractor-designed contract is one where the Contractor offers to design and build the required works.
Detailed Business Case	Sometimes previously referred to as the Outline Business Case. The outcome of the Detailed Project Appraisal undertaken in Phases 2 and 3, in accordance with DoF and DoT Guidelines.
Employer Led or Traditional Design contract	An Employer-designed Contract is one where the Employer includes detailed designs in the tender documentation, and prospective contractors bid for the build element of the Contract only. This is also referred as a Traditional Contract.
Environmental Impact Statement	An environmental impact statement is an environmental assessment prepared under Statutory Instrument S.I. No. 349 of 1989 'European Communities (Environmental Impact Assessment) Regulations 1989'. The instrument determines the criteria for where the process is applied
Fast tracking	The acceleration and on specified occasions, concurrent progression of a Scheme through planning and design phases up to and including statutory processes
Final Business Case	The Final Business Case is the outcome of the post-tender appraisal validation process, where the Detailed Business Case is updated to take account of the tender prices received, and any changes to the Scheme or its outputs and benefits.
Functional Specification	The functional specification will set out not only what a system is supposed to accomplish but also how it is proposed that will be achieved. This will go into greater detail on elements of the project, particularly any systems, that are non-standard or that need to interface with other elements or systems of the existing or planned transport infrastructure.
Gate	A stage in the project life cycle usually between project phases which must be passed to proceed to the next phase
Outline Business Case	See Detailed Business Case.
Partner or Partner organisation	The CIÉ Group companies (Iarnród Éireann, Bus Éireann and Dublin Bus), and/or the Railway Procurement Agency, unless otherwise stated.
Programme (1)	See Project Schedule
Programme (2)	A set of Projects that have some particular common objectives, characteristics, interfaces or other linkages in terms of their business cases, implementation or operation which mean that they are better considered together than in isolation
Programme Director	A member of the Partner's senior management team with overall responsibility for a major project and/or programme of projects
Project	All phases of a temporary endeavour undertaken to create a unique product or service taken as a whole from inception, through approvals and consents to asset acquisition and on into service operation
Project Brief	The Project Brief sets out all that is known from the Appraisal stage about the proposed project categorised under the sixteen project parameters. It should list alternative ways of satisfying the needs, and should set out the parameters and constraints that informed the approval-in-principle.

Term	Definition
Project Execution Plan	A core document produced by the Partner organisation that details how the project is to be managed throughout its life cycle. The document will include the policies, standards, procedures and controls to be used and provides a concise description of the project scope and objectives
Project Management	A structured and documented approach, comprising sets of behaviours, methods and techniques, designed to ensure the successful delivery of a Project to prescribed standards in a cost effective and scheduled manner
Project Manager	The person appointed by the Partner organisation who has been assigned responsibility for the delivery of a Project
Project Schedule	A planned schedule of events or activities, which are organised to ensure the successful delivery of a Project, or part of a Project, within a specified timeframe.
Risk Management	Risk management runs for the entire lifetime of a construction project, and seeks to minimise exposure to events that might increase the cost or extend the time-span of the works.
Sanctioning Authority	The Government Body with responsibility for implementing Government Policy and for providing financial assistance for capital programmes and projects. In the case of projects within NTA's authority, the NTA normally fulfils the role of Sanctioning Authority, subject to certain exceptions, where the role may be retained by the Government or the Department of Transport.
Sponsoring Organisation	The State organisation or company that requires the project to be undertaken. This is the core role that the NTA's Partner organisations fulfil in these Guidelines.
Scheme	NTA funded proposal which is subject to the requirements of these Guidelines
Scope	The work elements of which the project is comprised - which can be expressed in relation to time, cost and quality.
Scope Change	Changes to the work and supply elements included in a project which affect time, cost or quality/ outputs as defined in Sections 3.5 and 7.4 of these Guidelines
Statutory Approval	Any kind of planning or other consent or approval that is required by any Irish law or statute enacted by the legislature.
Value Engineering (Value Management)	Value engineering is a practice that involves continually monitoring project development to determine if there are any alternative ways of proceeding or any innovative solutions that can reduce the costs while delivering the same outputs or enhance the value of the project without increasing the cost. Value management is the process of striving to attain improved value in this manner.

**APPENDIX 2 -
TYPICAL ARRANGEMENTS FOR FAST
TRACKING PPP PROJECTS**

The default process set out in these PPP Guidelines for undertaking a public transport investment project, sequentially - phase by phase, is illustrated in the figure below.

Phases 3 to 6 as per PPP Guidelines
(Undertaken sequentially)



Whereas this may be appropriate in some instances, it is recognised that current PPP projects are being fast tracked and so Section 4.5 of these the Guidelines makes allowance for fast tracking where agreed by the NTA.

In particular, the procurement process for PPP projects is, inevitably, of extended duration, with Phase 5 of the NTA Conventional Project Guidelines broken down into five separate sub-phases to reflect that. It is therefore likely that fast tracking of PPP projects will be considered by the Sponsoring Agencies and may, if (inter alia) the necessary funding is available, be agreed by the NTA.

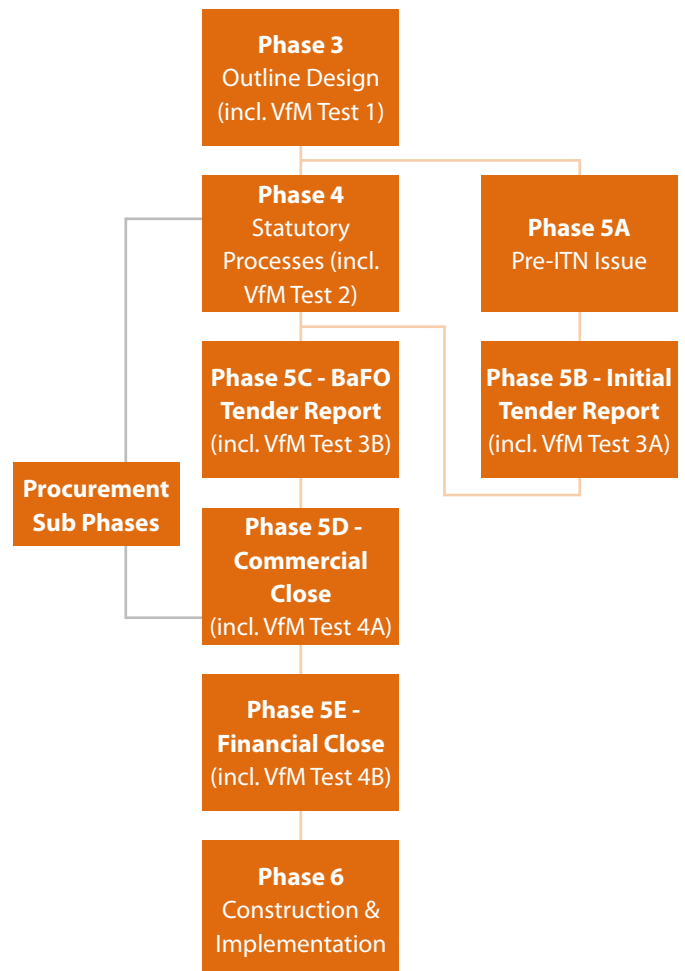
In that event, the precise arrangements for combining Phases or running Phases in parallel, and for the rearrangement of the Gate reviews, will need to be agreed between the relevant Sponsoring Agency and the NTA. The overlapping of the Phases will typically be as indicated in the figure below, although other arrangements may also be put forward and agreed by the NTA on a project by project basis.

The scope of review laid down for the Gates at the ends of Phases 4 and the five procurement Sub- Phases in Phase 5

will still be required in accordance with these Guidelines. However, the Gates may be combined at appropriate times with, say, elements from the earlier parts of the Gate 4 review combined with those of Gate 5A, and the remainder of Gate 4 undertaken with Gate 5B.

Arrangements appropriate to each project should be considered by the Sponsoring Agencies and proposed to the NTA for agreement.

Phases 3 to 6 Fast Tracked (Typical)
(Only when agreed by NTA)





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