



Department
for Transport

Rail market-led proposals Guidance

Moving Britain Ahead



March 2018

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Contents

Foreword	5
1. Introduction to rail market-led proposals	7
What is a market-led proposal?	7
Who is this guidance for?	7
Why are we issuing this guidance now?	7
What does government wish to achieve through market-led proposals?	8
What type of market-led proposals is government interested in?	9
What will happen next?	10
2. How to develop credible market-led proposals	11
What will make a proposal credible?	11
Demonstrating a compelling business case	12
Priority 1 - Keeping people moving safely and smoothly	12
Priority 2 - Delivering the benefits from programmes and projects already committed	14
Priority 3 - New and better journeys and opportunities for the future	14
Priority 4 - Changing the way the rail sector works for the better	16
3. Funding, financing and procurement of market-led proposals	18
Funding and financing of market-led proposals	18
Alternative funding	19
Private finance	20
Procurement of market-led proposals	22
Protecting intellectual property	22
4. Criteria and process for assessing market-led proposals	24
The two main categories of market-led proposals	24
What is the process for assessing MLPs?	25
5. Roles and responsibilities	31

How are roles and responsibilities shared?	31
Promoters	31
Investors	31
Department for Transport	31
Network Rail	31
Network Rail System Operator	32
Office of Rail and Road (ORR)	32
6. Glossary and References	33
Glossary	33
References	35
Annex A – Criteria matrix	37
Annex B – Planning processes	39
Annex C – Accounting classification	41
Annex D – Market-led proposals categorisation	42
Annex E – Responsible, accountable, consulted and informed matrix	43
Annex F – Indicative durations table	44

Foreword

Government wants to open up the development and delivery of transport infrastructure to take full advantage of new and innovative ideas, create real contestability in the market and relieve the burden on taxpayers and farepayers. We want to work with the private sector to identify investment opportunities for transport needs where the schemes fit best with the department and wider government's priorities, and support the government's strategic vision for rail.



The existing long term infrastructure planning process is evolving to become more flexible and responsive with a greater focus on outcomes. But this alone is not enough. We also want to enable the use of market-led delivery structures which we believe can bring significant benefits by allowing us to access innovation and efficiency from the private sector. By involving a more diverse range of parties including promoters, financial investors or a consortium of such parties, we want to enable new and innovative approaches to meeting community needs and reduce the call on taxpayers by building commercially sustainable transport businesses.

The department is keen to engage with promoters and investors of market-led proposals (MLPs) across all transport sectors. Within the department, some of our delivery bodies already have schemes in place to encourage MLPs such as the designated funds at Highways England. The intention of this document is to provide guidance for rail MLPs. However, the scheme assessment criteria are applicable across other transport modes.

We understand that promoters and investors need some assurances from government. For example, a clear route to return for investors for the risk they are taking and certainty that any genuine intellectual property created by developers or promoters will receive the appropriate protection within the law. In turn, government needs to assure itself of the value for money of proposals and that they fit within the overall network objectives. This means compliance with procurement and state aid rules in order to ensure the process is legally robust and to create the certainty, transparency and fairness investors require.

This guidance for promoters and investors comes at a timely moment for rail. Alongside this guidance, we are issuing a call for ideas for proposals that are financially credible without government support. We are also publishing the Rail Network Enhancements Pipeline (RNEP) which sets out the new process for delivering enhancements.

These documents will together set out how we will deliver a more reliable, more competitive, growing railway which will transform the industry and the way that services are run to offer a better deal to passengers.

The railway as a partnership between the public and private sectors has already delivered significant improvements and innovation. We have a strong track record of private sector involvement in rail infrastructure, from the Chiltern Evergreen projects to High Speed 1. More recently, we have seen schemes jointly funded by the public and private sector that enhance ports' rail connections, and examples of where the industry has created new housing and commercial opportunities through the redevelopment of stations.

In a complex system like the GB rail sector, where there is a significant amount of public funding and the infrastructure assets are held in the public sector, structuring deals that work for government, taxpayers and investors is not easy. But recent initiatives in other sectors, including the Thames Tideway Tunnel and off-shore wind farm investments, clearly demonstrate that there are ways for government to incentivise the market to come forward with ideas which also meet government's need to ensure value for money and fair competition. We want to work with the private sector to achieve this balance, starting with the Rail Investment Opportunity Days planned for May this year.

This guidance explains how we expect to consider market-led proposals. But this is just the beginning of the conversation and we look forward to continuing to work with promoters and investors, building on our experience of working with the private sector to develop schemes which deliver the best outcomes.

Rt Hon Chris Grayling MP
Secretary of State for Transport

1. Introduction to rail market-led proposals

What is a market-led proposal?

- 1.1 We define a market-led proposal (MLP), also known as an “unsolicited bid”, as a project promoted by the private sector which addresses an opportunity not necessarily identified or prioritised in a departmental programme or through the Network Rail-led long term planning process (LTPP).
- 1.2 In the rail sector, an MLP could be developed or promoted by, for example, ports, train operators, freight operators, housing developers, financial investors or a consortium of such parties.

Who is this guidance for?

- 1.3 This document is aimed at potential **promoters** who are considering bringing forward a proposal to enhance the railway; and at **investors** (including private companies, local authorities, LEPs and devolved transport bodies) who wish to consider funding or financing part, or all, of a proposal.

Funding and finance explained

Funding means the ultimate source of revenue that is used to pay for the investment (e.g. government grant, rail farebox, or private sector beneficiary contribution), while financing is a way to provide a financial structure that spreads the need for funding over time.

- 1.4 This document contains guidance on alternative sources of funding and private finance and so may be useful to **devolved and local transport bodies** who are developing schemes.
- 1.5 The guidance may also be of interest to the **wider industry**, including design consultants, construction companies, asset managers and operators who may be interested in delivering and/or operating the final enhancement.
- 1.6 The government will continue to identify strategic projects, for example HS2 and East West Rail, and use the LTPP to identify priorities for enhancements which require government funding. Private sector organisations looking to fund, lead or partner-deliver these projects should contact the appropriate Network Rail Route Business Development Director.

Why are we issuing this guidance now?

- 1.7 Promoters and investors have understandably called for clarity on what the department wants from MLPs and the framework within which it will consider them.

This guidance provides a practical tool to help promoters and investors engage effectively with the department, navigate government processes and develop credible proposals. This guidance may be updated from time to time.

- 1.8 This guidance should be read alongside the Rail Network Enhancements Pipeline (RNEP) which sets out the new approach for enhancements.
- 1.9 In parallel to the publication of this guidance, the Office of Rail and Road (ORR) has published information for investors¹ which sets out how the regulatory framework can provide the certainty that investors and the supply chain need and appropriate protection for all parties, whether they are end users, funders or rail businesses.
- 1.10 Network Rail's "Investing in the Network"² provides an overview of Network Rail's investment process and should be read in conjunction with the ORR's investment framework mentioned above.
- 1.11 In response to the independent Hansford Review, Network Rail announced plans to introduce more contestability in the delivery of projects and renewals activity through their "Open for Business" programme³. They committed to change their processes and behaviours to enable third parties to directly carry out projects and renewals on and around the railway, and work has already been done to support this. Their aim is to make third party funding easier to achieve, which will in turn directly benefit passengers and taxpayers. Network Rail also committed to work with the industry to find the right mechanisms to attract and reward third party investment and infrastructure delivery.

What does government wish to achieve through market-led proposals?

- 1.12 We recognise that central government is far from having a monopoly on good ideas. So we want to work with promoters and investors to identify where rail is the right answer for local transport needs and where rail schemes fit best with housing and other government priorities.
- 1.13 Government's strategic vision for rail⁴ sets out government's vision for the railways and the actions it is taking to create a more reliable, efficient and modern railway. It sets out how we would encourage new partners for infrastructure development, design and delivery and encourage and facilitate market-led proposals for rail enhancements and promote new sources of funding and financing.
- 1.14 Our objectives in encouraging market-led proposals are to:
 - Increase overall investment in the railway;
 - Relieve the burden on taxpayers and farepayers where possible;
 - Open up the development and delivery of rail infrastructure to take full advantage of new and innovative ideas; and
 - Create real contestability in the market.
- 1.15 By identifying and leveraging new sources of funding and financing **we can increase overall investment in the railway** and also **relieve the burden on taxpayers and**

¹ <http://orr.gov.uk/rail/investing-in-the-rail-network>

² <https://cdn.networkrail.co.uk/wp-content/uploads/2018/02/Investing-in-the-Network.pdf>

³ <https://www.networkrail.co.uk/industry-commercial-partners/third-party-investors/network-rail-open-business/>

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/663124/rail-vision-web.pdf

farepayers. The RNEP makes it clear that government will consider opportunities for alternative sources of funding and private finance options at each stage of the pipeline.

- 1.16 By **taking full advantage of innovative ideas** that could have wider benefits or better economics, we want to encourage and facilitate proposals which would not necessarily be identified through the existing LTPP in order to identify better schemes or ones that are better value for money. For example, MLPs may better reflect local priorities such as housing needs, and may be more likely to identify commercial opportunities that contribute to funding.
- 1.17 Government is **keen to encourage new partners** for infrastructure design, development and delivery. Successful MLPs should act as a catalyst for innovation and efficiency throughout the whole sector and provide contestability to Network Rail.

What type of market-led proposals is government interested in?

- 1.18 We recognise that MLPs will come in various shapes and sizes and we encourage this as we want innovative and new ideas. Our approach to each MLP will be based on their likely funding and financing arrangements, balance sheet treatment and use of network assets.
- 1.19 The department will prioritise MLPs that minimise the budgetary impact on government and maximise the use of alternative sources of funding.
- 1.20 Please see Annex D for a table which shows the criteria by which the department will categorise MLPs. The following categories are referenced throughout the guidance.

Category 1 MLP

A Category 1 MLP is one which:

- Does not require public funding that is provided either directly or indirectly by central or local government such as government grants or public financing guarantees;
- Has no contractual requirements that involve government action such as changes to franchise agreements or usage guarantees;
- Involves no asset exclusivity requests, such as government guaranteed exclusivity for the scheme.

Category 1 MLPs are not required to enter a procurement or address the priorities set out in Chapter 2.

The next step for Category 1 MLPs is to contact Network Rail; Chapter 4 provides further detail.

Illustrative example of a Category 1 MLP

The owner of a port funds the gauge clearance of a line providing an additional/diversionary route for freight services operating to and from the port. It does not charge freight operators for using the gauge cleared route, but benefits

from a more reliable service for its customers and an increase in rail freight capacity from its port.

Category 2 MLP

A Category 2 MLP is one in which one or more of the following is true:

- Public funding is provided either directly or indirectly by central or local government such as government grants or public financing guarantees;
- Contractual requirements involve government such as changes to franchise agreements or guarantees, such as usage guarantees; and
- Asset exclusivity is required, such as government guaranteed exclusivity for the scheme.

Category 2 MLPs are competing with other unfunded government projects for capital and therefore require a compelling business case to demonstrate value for money. **Category 2 MLPs are subject to procurement and should address the priorities set out in this document and follow the framework for MLPs**

Chapter 2 describes the priorities Category 2 MLPs should address when demonstrating value for money, and Chapter 4 provides further detail on the framework for MLPs.

Illustrative example of a Category 2 MLP

A company reopens a branch-line and station to connect an isolated community to areas of commerce. The company recovers its capital costs by taking a portion of the track access charges paid by the train operating company for running over the renewed line.

What will happen next?

- 1.21 Government is keen to continue to engage with the market and this guidance document represents just the start of the conversation. We will hold follow up discussions in May in the form of Rail Investment Opportunity Days (RIODs) with representatives from the department, ORR and Network Rail present.
- 1.22 We may periodically update this document as and when necessary.
- 1.23 Any queries stemming from this guidance should be directed to railmlp@dft.gsi.gov.uk.

2. How to develop credible market-led proposals

What will make a proposal credible?

- 2.1 All projects which require government support will need to demonstrate how they meet government's strategic objectives. How to do that is set out in this chapter. Category 1 MLPs are exempt from this requirement as they do not require any government support.
- 2.2 Our strategic vision sets out how the railway can uniquely contribute to the government's wider objectives by providing good services for passengers, contributing to the economy and communities, and securing value for taxpayers.
- 2.3 Where projects involve government funding they will need to demonstrate value for money and affordability – including taking full account of any opportunity cost and whole life cost implications.
- 2.4 The department has identified four priorities for investment and action that contribute to achieving the goals set out in the strategic vision.

The department's priorities for investment and action*

Priority 1 - Keeping people moving safely and smoothly

Priority 2 - Delivering the benefits from programmes and projects already committed to

Priority 3 - New and better journeys and opportunities for the future

Priority 4 - Changing the way the rail sector works for the better

* These priorities are not ordered by significance.

- 2.5 These priorities should be used to help produce a compelling business case, which all Category 2 MLPs must develop in order to progress through the framework for MLPs. Further details on demonstrating a compelling business case can be found in 2.8.
- 2.6 A Criteria matrix (Annex A) has been developed to set out the detail required from each of the four priorities. The detail is dependent on the level of government contribution being sought from the MLP, with essential criteria always a requirement. As proposals mature, the level of detail required also increases (in line with the business case requirements).
- 2.7 In addition to these priorities, from time to time government may issue a call for ideas, for example, when the department is interested in a certain type of scheme.

During this period, all schemes submitted to the department should, in addition to submitting a compelling business case, also meet these requirements.

Demonstrating a compelling business case

- 2.8 If government accepts some costs for railway enhancements, whether by providing capital funding, paying finance costs, subsidising operations or simply accommodating for the impact of schemes on the wider network, the department has an obligation to ensure value for money and to protect the network against financial risk brought about by change on, or interfaces with, the railway.
- 2.9 Government support will be subject to capital investment decisions supported by transparent procurements, the business case process and HM Treasury's Green Book⁵ guidance. The five case business model includes the following:
 - 1 Strategic case
 - 2 Economic case
 - 3 Commercial case
 - 4 Financial case
 - 5 Management case
- 2.10 The Green Book supplementary guidance⁶ outlines the different levels of business case from the Strategic Outline Business Case (SOBC), the Outline Business Case (OBC) and the Full Business Case (FBC) and what information and decisions are expected at each stage.
- 2.11 To provide government support for an MLP, the production of a WebTAG⁷ compliant business case would be expected as the use of WebTAG ensures a consistency across proposals. The business case should include considerations of the value for money and affordability of the construction costs, but also the whole life costs of operating and maintaining the asset.

Priority 1 - Keeping people moving safely and smoothly

- 2.12 Delivering new enhancements may impact the existing network during construction, and there may be an operational impact once the asset has been commissioned into use. It is essential that MLPs prioritise the safe and smooth running of the whole network when developing their delivery and operational proposals.
- 2.13 Whilst infrastructure enhancements may alleviate pressure and provide passenger benefits in some areas of the network, MLPs must justify their capacity impact on the entire railway system, and be prepared to compensate or adjust for negative impact elsewhere.
- 2.14 The safety impact of enhancements to our railways is paramount and should be considered in every proposal.

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/685903/The_Green_Book.pdf

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/469317/green_book_guidance_public_sector_business_cases_2015_update.pdf

⁷ <https://www.gov.uk/guidance/transport-analysis-guidance-webtag>

Requirements for consideration

How will the construction and operation of the enhanced asset integrate with the rest of the network?

- 2.15 MLPs must identify the operational conditions/assumptions on which their scheme outputs are dependent.
- 2.16 MLPs must indicate if their scheme requires a change to the existing network operations, including timetable and train service, and propose how the change impact will be mitigated.
- 2.17 The MLP must identify which, if any, franchises and existing freight services will be affected by the scheme. For example, the MLP may be dependent on a franchisee agreeing to it or allowing access, hence the operational, resource, economic and financial impacts to operators should be addressed.

How will the scheme provide an acceptable level of reliability and performance?

- 2.18 Using both current and target network performance indicators, MLPs should demonstrate how their scheme contributes to a satisfactorily improved and sustainable network performance.

How will the change in passenger numbers on other parts of the network be mitigated?

- 2.19 If the scheme plans to bring about a change in passenger numbers, the MLP must demonstrate network capability to manage the change, and mitigate the impact of that change where required.

How will the scheme enhance the safety of the rail network?

- 2.20 The safety of passengers and railway workers is a priority for any party working on the rail network. MLPs which bring about a physical or operational change to the railway must demonstrate that safety has been considered in the design, delivery and deployment of the asset.

Does the scheme adhere to the necessary regulatory and planning requirements?

- 2.21 All MLPs must demonstrate that they adhere to the necessary regulatory and planning requirements. Further details at Annex B.

Potential government support

- 2.22 Once an MLP has been progressed sufficiently, Network Rail's System Operator will provide two functions for MLPs;
 - Co-ordination of network information (data); and
 - Perform strategic analysis (expert assessment).
- 2.23 The strategic analysis will be based on a review of the MLP from a whole network perspective in order to understand the strategic fit of the scheme, and whether it is positive, neutral or negative to the network; and to suggest the position which Network Rail could take regarding further development of the scheme.

Priority 2 - Delivering the benefits from programmes and projects already committed

- 2.24 Government welcomes new proposals that complement or enhance the outputs of schemes that are already committed; this could include infrastructure enhancements or operational changes. MLPs should consider the impact that their proposal may have on committed schemes and should work with the scheme's project management and Network Rail's Business Development Directors (BDDs) to mitigate any negative change. These may be schemes on the current network, interfacing with the network or in close proximity to it.

Requirements for consideration

Will the MLP scheme outputs be dependent on any government committed schemes?

- 2.25 MLPs must identify the infrastructure assumptions on which their proposal outputs are dependent. MLPs should include the outputs of any committed schemes in their delivery and operational plans, and must incorporate the estimated effect of committed programmes on demand and performance forecasts.
- 2.26 MLPs must indicate if their scheme requires a change to the existing network operations and propose how the change impact will be mitigated.

How does the scheme impact other government committed schemes?

- 2.27 MLPs must not negatively impact programmes and projects that have already received commitments (such as guaranteed train paths). MLPs must specify how they will interact with concurrent programmes and projects.
- 2.28 MLPs must plan to mitigate any resourcing or supply chain constraints within the industry.
- 2.29 In addition, MLPs must demonstrate that any transport market share which will be used to fund their proposal does not come at a user/demand cost to existing government funded transport programmes or projects (including other modes of transport). If an impact is anticipated then this must be included in the value for money justification as a cost to government.

Potential government support

- 2.30 Throughout development, MLPs should consult the appropriate Network Rail BDDs. They will be able to provide support by identifying schemes that could impact the scheme.

Priority 3 - New and better journeys and opportunities for the future

- 2.31 The department is committed to exploring new and better journey opportunities for the future. These schemes will tap into the passenger or freight markets opportunities which have not been fully realised by the government. This could include modifying the capability of an existing network asset to enhance an existing market, or creating entirely new infrastructure to generate an entirely new market.

Requirements for consideration

What passenger benefits are introduced by the enhancement?

- 2.32 Throughout the development of an MLP it is essential that traceability is maintained between the design outputs and the intended passenger/freight benefits. This is

promoted through the staging of enhancement development as described in Chapter 4, where scheme benefits are evolved through opportunities; outcomes; outputs; and solution.

2.33 Typical passenger/freight benefits which the department would like MLPs to realise include;

- Increased network capacity (e.g. reduction in overcrowding or increase in tonnage);
- Increased connectivity; and
- Improved network reliability and resilience.

What is the local demand for the scheme benefits?

2.34 MLPs that produce passenger or freight benefits must be able to identify, qualify and quantify the demand for the benefits. This will be key to demonstrating business case credibility (bankability) as it will underpin the demand forecasts. It will also help the MLP attract funding from beneficiaries of that demand.

2.35 Demand may be generated from the following beneficiaries:

- Commuter, rural or intercity passengers;
- Local business in solo or LEP;
- Franchise holding or open access train operators;
- Local or regional governments; and
- Housing or commercial estate developers.

What wider economic opportunities are addressed by the scheme?

2.36 In addition to the passenger and freight benefits released by an MLP, proposals may also exploit opportunities for wider economic benefit. In particular, the government is interested in MLPs which address the following:

Increase UK exports and attract foreign investment

2.37 The department and rail industry supply chain have an ambition to more than double exports by 2025. By promoting the UK as a world-leader for rail expertise and product development, MLPs will contribute to increasing the UK's global market share of railway materials and design capability. This could be by:

- Sourcing materials and rail systems from UK suppliers;
- Investing in and using UK centres of excellence, for example the UK Rail Research and Innovation Network (UKRRIN);
- Producing novel technology, systems or methods of work which are suitable for export;
- Investing in developing UK rail skills and capacity; and
- Identifying and attracting foreign investment and expertise.

Support the UK housing growth targets

2.38 The government's ambitious housing growth strategy recognises the significant role that transport has in unlocking regions for housing development. Housing also presents a number of funding sources, including traditional farebox revenue and land value increase. MLPs can demonstrate contribution to housing growth by:

- Providing evidence of planning permission and interest from developers;
- Including innovative solutions that unlock opportunities around stations including:
 - regeneration schemes that provide housing
 - improve the passenger experience and
 - integration of different transport modes.

Serve communities and rebalance the economy

2.39 It is not only the areas with high concentration of existing commerce and committed government investment in which MLPs should be provide passenger/freight benefits. There are considerable opportunities for MLPs to support the development of regions and communities and the government will recognise the value that MLPs can bring to rebalancing the economy.

Priority 4 - Changing the way the rail sector works for the better

2.40 The department wants UK railway infrastructure delivery to be cost-efficient and innovative, and provide solutions which enable network operation and maintenance to be effective better value for taxpayers and farepayers. We want to support the introduction of new technologies which improve the productivity and efficiency of the railways and maximise the benefits of rail within the wider transport network.

2.41 Government believes the private sector can help to increase the efficiency and innovation of rail infrastructure by identifying creative solutions, providing different perspectives and injecting cost and scope discipline. This could be in the form of providing supply chain and delivery expertise perhaps through design-build partnerships, operator involvement or design for manufacture.

Requirements for consideration

How will the scheme be delivered to introduce efficiency?

2.42 Within the regulatory framework set by ORR and the asset protection agreements and standards prescribed by Network Rail, government will expect MLPs to use methods and technologies to reduce inefficiencies in the following areas:

- Project management;
- Design;
- Delivery; and
- Operation.

2.43 In addition, MLPs will be expected to demonstrate how the scheme design will enable more efficient network operation and maintenance when commissioned. This requirement will tie in closely to the whole life cost considerations in the business case.

How will the scheme increase UK supply chain efficiency and productivity?

2.44 Increasing UK productivity is an objective shared by government and the rail supply chain. The department recognises that MLPs may be able to find and exploit efficiencies in the UK rail supply chain, and enable investment in innovation by forming partnerships or improving demand forecast. In particular, the department will be interested in MLPs which invest, directly or indirectly, in the UK rail skills market, and drive investment in UK manufacturers.

How will the scheme support the development of novel technologies and techniques?

2.45 The department will support MLPs which propose the use of novel technologies and techniques that:

- Contribute to the planned modernisation of an asset class or delivery method;
- Enhance the efficiency of construction, operation or maintenance;
- Provide safety benefits; and/or
- Provide passenger benefits.

2.46 In particular, the department is interested in proposals which demonstrates the use of, or compatibility with:

- Digital Rail signalling, train control and traffic management;
- Construction techniques and methods which minimise impact on railway operation; and
- Asset monitoring technology that supports efficient, reactive maintenance and renewals.

3. Funding, financing and procurement of market-led proposals

- 3.1 This chapter describes what the department believes is necessary for promoters to present credible funding and financing solutions for their proposals, and the related issues of procurement processes and intellectual property.
- 3.2 Funding is the ultimate source of revenue that is used to pay for the investment (e.g. government grant, rail farebox, or private sector beneficiary contribution), while financing is what spreads the need for funding over time.

Funding and financing of market-led proposals

- 3.3 Government wants to increase investment in rail infrastructure and relieve the burden on taxpayers and farepayers by accessing appropriate new funding sources. Government will consider opportunities for alternative sources of funding and private finance options at every stage of scheme development.
- 3.4 Promoters will need to present a credible plan that outlines the sources of funding that would cover the whole life costs of the project and deliver the returns required.
- 3.5 As mentioned in chapter 2, promoters and investors could call on government-backed sources of funding at both national and local level. However, the department will prioritise MLPs that minimise the budgetary impact on government and maximise the use of alternative sources of funding. The MLP promoter will need to present evidence supporting the feasibility of their chosen funding plan.
- 3.6 Promoters and investors might consider the use of private finance in their proposal. If a private financing structure is considered, MLPs will need to demonstrate that this structure is credible and feasible without having a negative impact on the value for money of the project. The plan will need to provide evidence of the potential interest of financiers, as well as the financial resources available of private finance providers to back their particular scheme. The MLP promoter will also need to present a scheme that fairly balances the financial incentives and risk transfers between all interested parties, including government.
- 3.7 The department will consider the viability of the MLP's chosen funding and financing structures on a case by case basis.

Alternative funding

- 3.8 Historically, government grants and farebox revenue have represented the main sources of funding for rail infrastructure. However, when new transport schemes are built by government, there are a number of beneficiaries beyond the transport user and the taxpayer. For example, businesses in the area benefit from better connectivity, landowners benefit from land value uplift, and housing developers benefit from unlocked housing schemes. Funding raised from these beneficiaries is regarded by the department as alternative funding.
- 3.9 MLPs which include alternative sources of funding will be more attractive to government since they help in reducing the burden on taxpayers and farepayers. They may also help MLPs bring innovation in the design and delivery of the scheme through the involvement of the beneficiaries in shaping its development.
- 3.10 MLPs will need to be compelling enough to compete for the use of potential sources of local authority funding, by helping deliver wider government objectives such as the promotion of affordable housing, local infrastructure, or education facilities. Providers of non-legislated funding will also back MLPs that provide convincing economic benefits (see below for further detail).
- 3.11 MLPs most likely to be successful in raising alternative funding typically meet the following criteria and would have:
- A clear set of beneficiaries;
 - Significant potential benefits;
 - Well established mechanisms for collection; and
 - Alignment of parties.
- 3.12 The following mechanisms could provide MLPs with a way to access alternative sources of funding. However, MLPs should approach the relevant local authorities to discuss what potential support may be available, whilst noting that there are already many calls on these limited funding pots:

Potential sources of local authority funding

- Planning (Section 106) Agreements which are negotiated agreements between local authorities and developers to provide or fund services specific to (but not necessarily connected to) the development site.
- Community Infrastructure Levy set and raised by local authorities, designed to streamline and increase transparency for developers, by setting a uniform rate for new developments based on the strategic infrastructure needs of the area.
- Business Rate Supplements where levying authority has the power to impose and retain a levy on non-domestic rate payers, e.g. GLA for Crossrail.
- Business rate retention (e.g. one of the funding sources the local authorities plan to use for the Birmingham Airport HS2 station).

Non-legislated funding

- Property development models where the delivery body develops and enhances the land around a transport scheme and the profits are used to pay for that scheme e.g. Euston over station development.
- Direct contributions where benefitting businesses contribute directly to the cost of transport infrastructure e.g. Canary Wharf Group's contribution to Crossrail.

- Incremental funding mechanisms where the private sector co-invests in transport projects alongside government funds, e.g. New Stations Fund, Housing Infrastructure Fund, which help to increase the benefit-cost ratio (BCR) of a project and ensures a faster delivery.

Private finance

- 3.13 Private finance allows the capital cost of a project to be spread over the life of an asset, which may better match user charges and benefits. It can provide value for money where the benefits of risk transfer and private sector efficiency and innovation offset the additional cost of private finance.
- 3.14 Private financing of rail infrastructure could, under certain circumstances, improve the attractiveness of an MLP by increasing either its potential value for money or its immediate affordability to government, or both.
- 3.15 Private finance models are most likely to be value adding and effective in schemes where:
- The private sector has the ability to identify price and efficiently manage the risks it faces in order to receive a funding stream;
 - There is scope for the private sector to control discrete elements of service provision without excessive oversight or interference;
 - There is the potential for a stable revenue stream and the opportunity of an upside;
 - There are clear boundaries and interfaces with the public sector or other infrastructure and service providers so the private sector can control any risks that threaten the viability of its business; and
 - There exists a stable long term planning horizon and stable regulatory framework, i.e. confidence that assets and services provided will be fit for purpose and used over the long term.

Balance sheet classification

- 3.16 As far as affordability considerations are concerned, when assessing MLPs, government will favour proposals that would be structured to be “off balance sheet”, all things else being equal. However, in cases where this is not achievable, government will still consider proposals that would be on-balance sheet where there is a compelling case that the MLP will deliver better value for money. See Annex C for more details of accounting classification.

Private finance commercial structures

- 3.17 In practice, achieving off-balance sheet treatment for a scheme is highly dependent on the individual characteristics of a scheme and the detailed commercial structure, and so any conclusions can only be drawn on a case-by-case basis:
- **Availability payment** - the promoter would make available to government in a usable form, a piece of infrastructure that would be integrated and used alongside the larger network. In return it would receive from government a fixed annual payment for the availability of this infrastructure. In order for this to be structured off balance sheet the following would need to be true:
 - Partner has to retain on-going role in operation/maintenance of new asset;
 - Has to have automatic deductions to reflect non-availability/poor quality;

- Deductions have to be broadly proportional to extent of non-availability;
 - At the bottom end of the range, must be no payment at all in case of intolerable non-availability; and
 - Cannot vary/change to reflect service provider's actual costs; apart from indexation, price has to be fixed for duration of contract as part of "financial close".
- **Usage fee** - such as a track access charge, could be levied on the users of a piece of infrastructure. In the case of rail, these charges would be regulated by the ORR. In order for this to be structured off balance sheet the following would need to be true:
 - Not linked to any "minimum usage guarantee" from government, unless payment linked to actual supply of service (equivalent to deductions under availability payment system);
 - This applies both to guarantees stretching over time (e.g. between different franchise terms) and where individual payments are backed by government (e.g. pass-through costs under franchise contract, or use required under a management contract); and
 - The inclusion of usage guarantees will impact the balance sheet treatment, since the principle of risk transfer would be breached, whereas a third party would effectively transfer its risk on the commercial structure back to government.
 - **Regulatory Asset Base model (RAB)** - would provide a guarantee for the infrastructure provider on certain aspects of the payments it might receive from users of its infrastructure. In order for this to be structured off balance sheet the following would need to be true:
 - If used simply to price the offer to private sector customers (i.e. cannot be used in conjunction with any government-backed payments, whether through usage guarantees, franchise pass-through costs or management contracts).

3.18 When considering MLPs, government is open to proposals that involve other private finance structures.

Procurement of market-led proposals

Guidelines for procurement by government

- 3.19 We understand that promoters will be interested in how to progress MLPs and any procurement routes they need to follow. Procurement rules are designed to support both promoter and government interests. For investors, the rules ensure fairness and transparency. For government, procurement is used to ensure value for money.
- 3.20 In general, government tries to achieve value for money and procurement best practice by undertaking early market engagement and managing procurements to enable the benefits of competitive tension.
- 3.21 The department values the opportunities that MLPs can offer and will seek to have early market engagement with organisations in the rail sector to gain insight on the potential benefits of their schemes. Information and outcomes from any market engagement will be shared to give assurance that no organisation is favoured over another and that EU treaty procurement principles are adhered to. Note, the intellectual property (IP) of MLPs will not be shared other than when conditions in 3.24 apply.
- 3.22 Outcomes of individual market engagement will not result in a direct award to a promoter. The aim will always be for the department to run a full, competitive procurement in line with the current procurement regulations.
- 3.23 Where MLPs contain restrictive IP or assets, the department will look to remove barriers that prevent competition so an outcome specification can be designed and an appropriate procurement conducted.
- 3.24 The department is subject to obligations under freedom of information legislation (in particular The Freedom of Information Act 2000 and The Environmental Information Regulations 2004). It will need to apply this legislation in reaching a decision whether the information should be disclosed in response to a third party request. Consequently, except where information is legally or contractually protected against disclosure (see 3.29 below) the department cannot guarantee that such information will not be disclosed.
- 3.25 The above constraints do not need to be obstacles to the promotion of MLPs. The following paragraphs explain how MLPs can be progressed.

Procurement methods available to market-led proposals

- 3.26 Category 1 MLPs are not required to go through procurement. The proposal should be developed, designed and delivered by the promoter in line with the existing rules and processes mandated by the ORR and Network Rail.
- 3.27 Category 2 MLPs will automatically trigger a procurement when they enter the Design stage. Prior to this, MLPs are not likely to be sufficiently developed to support a competitive procurement process. The procurement method for each MLP will be considered on a case by case basis.

Protecting intellectual property

- 3.28 The department recognises the need to protect development investment as part of any procurements. Where a party has invested time and money in developing a scheme, the department is committed to protecting those elements which are considered valid IP. IP is protected against unlawful disclosure by legislation,

common law and through additional contractual obligations such as confidentiality agreements.

Category 1 MLPs

3.29 Due to nil procurement requirements, it is unnecessary for government to release detailed Category 1 MLP information to the market. To provide additional comfort to promoters, government may enter into a confidentiality agreement with the promoter which restricts access to the scheme information to the department and its advisors, subject to the department's overriding obligations under Freedom of Information legislation.

Category 2 MLPs

3.30 In order to satisfy the framework for MLPs and support fair and open procurement processes, elements of Category 2 MLP schemes will need to be made public. In collaboration with the department, throughout an MLP's development a scheme specification will be produced, made publically available and announced in a series of Procurement Information Notices (PINs). The level of abstraction of the specification will depend on the maturity and complexity of the scheme.

3.31 The following table describes how the scheme specifications are aligned to the framework stages set out in Chapter 4.

Stage	Specification	Description
Determine	Opportunity	A high level statement which describes the opportunity for improvement that the scheme seeks to address
Develop	Outcome	A set of statements describing the scheme outcomes through which the opportunity is addressed
Design	Output	A set of statements describing the infrastructure and operational outputs through which the outcomes are addressed
Deliver	NA	NA
Deploy	NA	NA

Table 1 Description of what will be publicised in each stage specification

3.32 Promoters need to identify and state where they think they have IP that needs protection. Government will consider each IP item on a case by case basis and will work to ensure that IP protections are afforded to owners where appropriate.

3.33 The following table summarises the difference in approach to procurement and intellectual property for Category 1 and Category 2 MLPs.

	Procurement	Intellectual property	Assessment
Category 1 MLP	Not required	No information will be made public	Not assessed through MLP framework. Promoter should use existing Network Rail and ORR processes.
Category 2 MLP	Procurement process mandated by law	Where appropriate, any IP will be protected (see 3.28)	Assessed using framework for MLPs.

Table 2 Difference in approach to procurement and IP

4. Criteria and process for assessing market-led proposals

The two main categories of market-led proposals

- 4.1 As outlined in Chapter 1, the department will categorise MLPs based on their likely funding and financing arrangements, balance sheet treatment and use of network assets. The MLP's category will determine how it is considered and if any procurement is required. Figure 1 sets out the framework by which MLPs will be considered.

Category 1

A Category 1 MLP is one which:

- Does not require public funding that is provided either directly or indirectly by central or local government such as government grants or public financing guarantees;
- Has no contractual requirements that involve government action such as changes to franchise agreements or usage guarantees; and
- Involves no asset exclusivity requests, such as government guaranteed exclusivity for the scheme.

Category 1 MLPs are not required to enter a procurement or address the priorities as set out in Chapter 2.

Illustrative example of a Category 1 MLP

The owner of a port funds the gauge clearance of a line providing an additional/diversionary route for freight services operating to and from the port. It does not charge freight operators for using the gauge cleared route, but benefits from a more reliable service for its customers and an increase in rail freight capacity from its port.

- 4.2 **Category 1 MLPs** may apply for approval to deploy (operate) without a formal procurement process. This is because they do not require exclusive use of any railway assets.
- 4.3 However, before a Category 1 MLP is connected to the national network it would need to liaise with Network Rail and the ORR. It would also need to pass all relevant safety tests and obtain the necessary licences.

4.4 Category 1 MLPs should refer to Network Rail's "Investing in the Network" guidance⁸.

Category 2

A Category 2 MLP is one in which one or more of the following is true:

- Public funding is provided either directly or indirectly by central or local government such as government grants or public financing guarantees;
- Contractual requirements involve government such as changes to franchise agreements or guarantees, such as usage guarantees; and
- Asset exclusivity is required, such as government guaranteed exclusivity for the scheme.

Category 2 MLPs are subject to procurement and should address the priorities set out in this document.

Illustrative example of a Category 2 MLP

A company reopens a branch-line and station to connect an isolated community to areas of commerce. The company recovers its capital costs by taking a portion of the track access charges paid by the train operating company for running over the renewed line.

4.5 Category 2 MLPs will be in competition with other schemes for public money so the decision to invest will follow the framework set out below and may not enter at the final, Deploy stage.

4.6 There are several types of Category 2 MLPs, dependent on their funding and financing arrangements, as shown in Annex D. The same framework will be used for all three types of Category 2 MLPs.

What is the process for assessing MLPs?

4.7 The framework set out in Figure 1 allows the department to assess the suitability of schemes at various stages of development based on the projected scheme outputs and manage the progression of each scheme in the context of the overall enhancements portfolio.

4.8 Annex F shows estimates of how long the process will take. As is clear in the table, the size of scheme will have a bearing on the timescales.

Decision making

4.9 Depending on where the MLP is in the framework, the department may:

- Assign some development funding (if available);
- Request further information on the proposal;
- Run a competition to assess the scheme against other potential proposals; or
- Reconsider the position of the scheme in the framework.

⁸ <https://cdn.networkrail.co.uk/wp-content/uploads/2018/02/Investing-in-the-Network.pdf>

- 4.10 The framework follows the same five stage decision points as the RNEP⁹, and each stage is preceded by an investment decision point. The minimum requirements for schemes to be considered for entry into, or progression to, a stage are based on the priorities as described in Chapter 2.
- 4.11 A promoter can develop a scheme to any extent at their own risk and apply to enter at the appropriate stage of development. We expect Category 1 MLPs to enter at Deploy and most Category 2 MLPs to enter at Pre-Determine and Develop.
- 4.12 As a proposal progresses, promoters will have:
- Increased confidence in government investment decisions; and
 - A collaborative and iterative approach to scheme development involving government.
- 4.13 When government makes a decision to progress an MLP to the next stage, the promoter may either begin further development of their proposal or take part in procurement activity which will identify the proposal government wishes to continue.

Procurement

- 4.14 The framework sets out a minimum of two stages of procurement activity:
- The first, an option selection procurement based on an outcome specification, would inform the department's decision to commit to Design;
 - The second procurement, based on an output specification, would inform the department's decision to commit to Deliver; and
 - Then, dependent on the delivery structure of the scheme, there may be one or more further procurements (for instance, between the design and build phases).

⁹ Determine, Develop, Design, Deliver, Deploy.

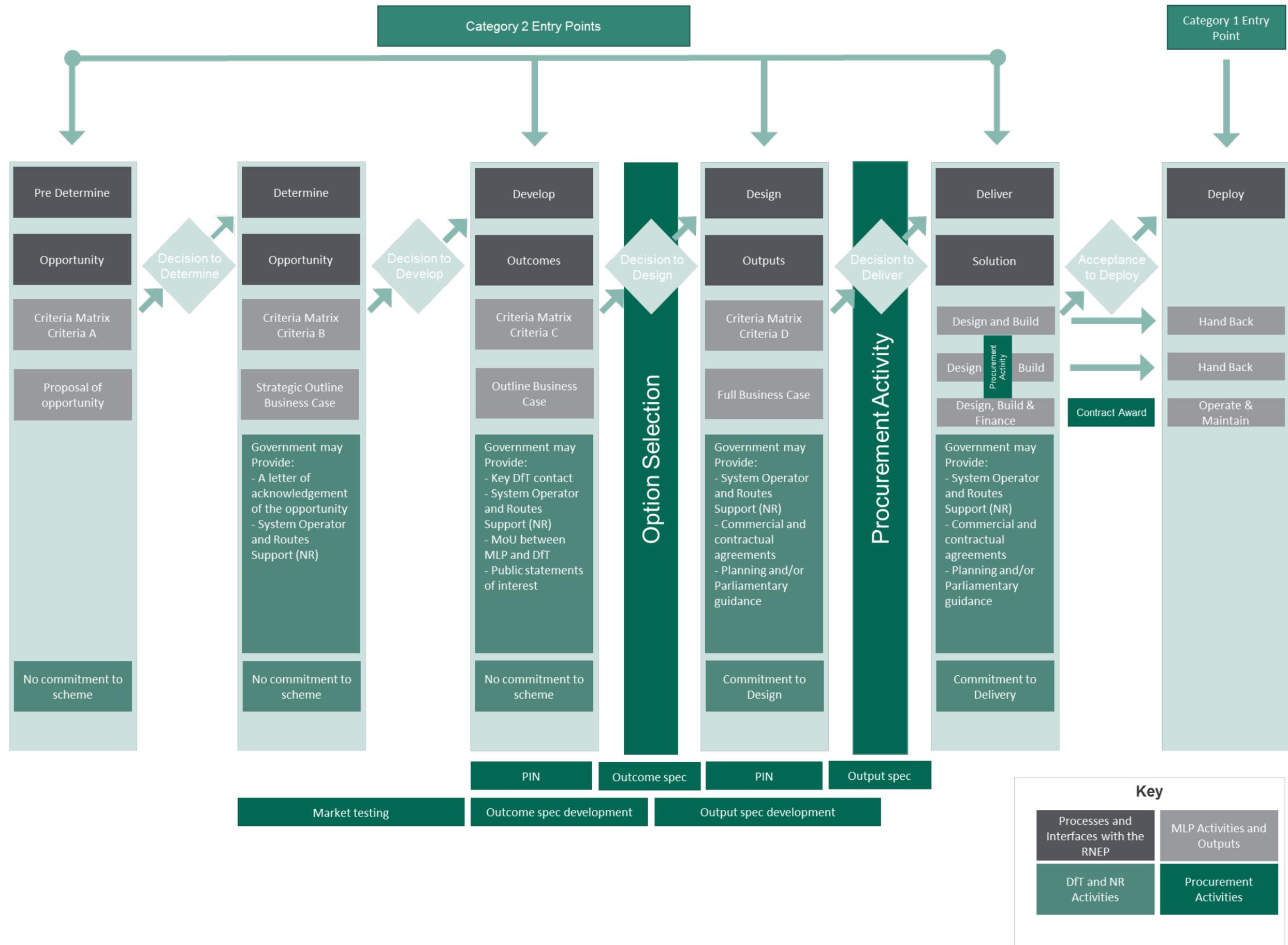


Figure 1 Framework for market-led proposals

Description of framework

Pre-Determine Stage

- 4.15 An MLP is submitted to the department. It identifies an opportunity and satisfies each of the priorities within the Criteria Matrix to the “Criteria A” standard.
- 4.16 When a call for ideas is issued by the department, MLPs will also need to address the requirements set out therein.
- 4.17 The department evaluates the MLP and may place the MLP in the Determine stage if it concludes that an opportunity exists that it is interested in exploring.
- 4.18 MLPs are not competing against each other but are evaluated to confirm whether they satisfy the priorities and adhere to the criteria.

Determine stage

- 4.19 MLPs that enter the Determine stage are issued with a letter acknowledging that an opportunity exists. Government may then undertake market testing.
- 4.20 During the development of the SOBC, the promoter engages with both Network Rail System Operator and Network Rail Routes Business Development Directors (BDDs).
- 4.21 To progress into the Develop stage, the promoter develops an SOBC and this will also need to satisfy the priorities within the Criteria matrix to the “Criteria B” standard.
- 4.22 The department makes a decision to develop the MLP.

Develop stage

- 4.23 The MLP is provided with a key DfT contact. A public statement of interest in the outcome the MLP is set to achieve may be made and if appropriate, at the discretion of the department, there may be a Memorandum of Understanding between the department and the MLP.
- 4.24 The promoter continues to engage with the Network Rail System Operator and Network Rail Routes BDDs.
- 4.25 The department is likely to issue at least one Prior Information Notice (PIN) during the Develop stage.
- 4.26 To progress into the Design stage, the promoter develops an OBC and this will also need to satisfy priorities within the Criteria Matrix to “Criteria C” standard.
- 4.27 The department reviews the OBC and makes a decision whether to proceed to Pre-Design procurement.
- 4.28 Any pre-procurement activates focus solely on developing a procurement that identifies the best way to deliver the required outcome. This will be sufficiently high level to negate any concerns for the protection of intellectual property (IP).

Pre-Design procurement

- 4.29 The department runs a procurement based on an outcome-level specification. This provides sufficient information to other potential market participants to compete in a transparent procurement process.
- 4.30 No IP is included in the specification; the procurement is based on an outcome level specification that is sufficiently high level to negate the requirement for any IP concerns.
- 4.31 The process results in an option selection with the winning bid producing the scheme outputs through the Design stage, including the FBC.

4.32 The winning bid receives no financial reward from government, and there will always be a full procurement at Pre-Delivery.

Design stage

4.33 Once progressed to the Design stage, the option selection winner is provided with commercial and contractual arrangements and, if required, planning and Parliamentary support.

4.34 The promoter continues to engage with the Network Rail System Operator and Network Rail Routes BDDs.

4.35 The department is likely to issue at least one PIN during the Design stage.

4.36 To progress into the Deliver stage, the promoter develops an FBC and this will also need to satisfy priorities in the Criteria matrix to “Criteria D” standard.

4.37 The department reviews the FBC and makes a decision whether to proceed to Pre-Deliver procurement.

4.38 Any pre-procurement activates focus solely on developing a procurement that identifies the best way to deliver the output. Government works closely with the promoter to ensure the protection of IP.

Pre-Deliver procurement

4.39 The department runs a procurement based on an output-level specification. This provides sufficient information to other potential market participants to compete in a transparent procurement process.

4.40 The type of procurement chosen is dependent on scheme complexity, size and existing market contestability.

4.41 The department works alongside the incumbent to ensure that IP is protected; the procurement is based on an output level specification which may require detailed information to be issued to ensure a fair process.

4.42 The process results in the selection of a scheme solution. The winner delivers the MLP.

Deliver stage

4.43 The delivery body undertakes activities to deliver the scheme solution in line with the specification and procured delivery structure. This will vary from scheme to scheme and be dictated by the type of procurement that took place at Pre-Deliver.

4.44 Depending on the delivery structure, a further procurement may take place to determine the construction partner.

4.45 Proposals cannot progress from the Deliver stage until they have passed all relevant safety tests and obtained the necessary licences authorisation from Network Rail and the ORR.

Pre-Deploy procurement

4.46 Subject to the delivery structure, there may be an opportunity to procure the asset operator and maintainer. This will vary from scheme to scheme.

Deploy stage

4.47 Category 1 MLPs enter the framework at the Deploy stage having passed all relevant safety tests and obtained the necessary licences authorisation from Network Rail and the ORR.

- 4.48 Once entering the Deploy stage, the MLP (Category 1 or 2) is fully constructed and ready to enter operation.
- 4.49 Annex E contains a RACI matrix mapping responsibilities along the process.

5. Roles and responsibilities

How are roles and responsibilities shared?

- 5.1 The Department for Transport, Network Rail and the Office of Rail and Road (ORR) are working closely together to ensure promoters and investors can access the support and expertise they need to progress their proposals. In relation to MLPs, each organisation has different responsibilities. The roles and responsibilities below will guide promoters and investors to the right stakeholder.

Promoters

- 5.2 Promoters are responsible for submitting well developed proposals that meet the priorities set out in Chapter 2, and will be responsible for developing their proposals at risk.

Investors

- 5.3 Investors are responsible for financing proposals. Investors should be confident that their proposal provides an appropriate commercial return as the government will not necessarily be committing to provide any funding, repay costs, etc.

Department for Transport

- 5.4 In most circumstances, the department will have decision-making responsibility on the progression of an MLP. However, where an MLP is in Category 1 and does not require anything from government, the department will delegate decision making to Network Rail or the ORR to ensure all the relevant safety tests have been passed, necessary licences obtained, etc.
- 5.5 Once a proposal has been accepted into the Develop stage, a departmental point of contact will be appointed. This will be the main point of contact in the department throughout the development of the MLP. This will not constitute formal support for the proposal nor does it guarantee the proposal will be progressed.

Network Rail

- 5.6 Network Rail's role is to deliver a safe and reliable railway. They have a vital role in providing analysis and advice to support work by promoters, developers or investors and we welcome their commitment to encourage and enable investment. Network Rail have committed to providing timely responses to enquiries from promoters and will shortly be producing a guide on "How to do business with Network Rail".
- 5.7 Network Rail may also provide advice to the department on engineering and technical viability of projects.
- 5.8 Network Rail has established route businesses to devolve responsibility to a local level. These are strategic geographic routes which allow Network Rail to work with local stakeholders to provide the optimal service for its customers. Route Business Development Directors (BDDs) were established to support contestability and should be the first port of call for Network Rail advice on MLPs. BDDs are tasked with

advocating contestability and are responsible for increasing the use of private funding, private finance and third party delivery of projects within their route.

Network Rail System Operator

5.9 The System Operator is a distinct but connected part of Network Rail providing a range of services for route businesses, train operators and funders while delivering its own accountabilities. The System Operator provides a whole-system, long term view informed by detailed knowledge gained from planning and timetabling the network, and from the industry-wide interfaces it has with every customer, route and infrastructure manager. The operating model highlights the role the System Operator plays in the planning, development, and allocation of capacity on the railway network:

- Coordinating the strategic planning of the network to identify the most effective and economic way to enhance capacity and meet future needs;
- Planning how these needs can be efficiently met; and
- Making best use of today's capacity by creating a national timetable for routes and other infrastructure managers to operate.

5.10 The System Operator advises Network Rail as Infrastructure Manager as to the suitability of proposals and their potential impact on the network. The System Operator will consider the wider system impacts, the relative strategic fit and the importance of these proposals to the development of the railway.

Office of Rail and Road (ORR)

5.11 The ORR regulate and license all companies that operate trains, stations and light maintenance depots along with the network as a whole.

5.12 They have published information for investors which sets out how the regulatory framework can provide certainty to investors and the supply chain.

5.13 The ORR is in the process of updating its suite of track access guidance¹⁰ which contains a number of modules used by applicants seeking access rights to use the network.

5.14 For further information please contact investment@orr.gov.uk

¹⁰<http://orr.gov.uk/rail/access-to-the-network/track-access/guidance>

6. Glossary and References

Glossary

Term	Definition	Example
Alternative sources of funding	Mechanisms for providers of alternative funding	Land value capture, Local Authority contribution
Asset managers	Party responsible for the maintenance of an asset on behalf of the asset owner	Network Rail Route
Asset usage exclusivity	When exclusive rights are granted to the owner of infrastructure to generate revenue from users.	
Contestability	A measure for how easy it is for new parties to enter a market.	
Cost-benefit analysis	A method for assessing the potential benefits of a project against its cost	
Developer	This specifically refers to the party which leads to the scheme development from the “Define” to “Design” stage.	
Enhancement	Any investment in new or improved infrastructure.	The upgrading of an existing railway station
Farepayers	Users of a passenger train service.	
Farebox revenue	Revenue generated by the fares paid by passengers on a rail service.	
Freight operator	A company that uses the rail network to transport goods.	Freightliner Group
Funding	How the ultimate cost of infrastructure is met.	
<i>Public funding</i>	Any funding which comes from government grant or farebox revenue. Public funding can be further split into classic and alternative funding.	
<i>Classic funding</i>	Funding which ultimately meets the cost of infrastructure provided by central government grant or farebox revenue.	
<i>Alternative funding</i>	Funding that ultimately meets the cost of infrastructure derived from sources other than sources of classic funding.	
<i>Private funding</i>	Any funding which comes from the private sector.	
Investor	The body, or bodies, contributing to the financing of a scheme.	Banks, finance consortium

Term	Definition	Example
Intellectual property (IP)	IP includes inventions, original designs and practical applications of good ideas protected by law through copyright, patents, registered designs, circuit layout rights and trademarks. Trade secrets, proprietary know-how and other confidential information protected against unlawful disclosure.	
LEP	Local Enterprise Partnership set up between local authorities and businesses to support economic growth.	Coast to Capital, Buckinghamshire Thames Valley, Heart of the South West
Long Term Planning Process (LTTP)	Network Rail led consultation process which informs funders decisions on industry outputs.	
Network	The GB rail network including the track and all other associated assets such as railway stations.	
Network Rail	The owner and infrastructure manager for the majority of the network.	
Office of Rail and Road (ORR)	The independent regulatory body responsible for Britain's rail and road networks.	
Private finance	Private sector investment of debt and equity to finance the capital costs of a project with the expectation of earning a return on the investment in order to spread payment over time. Private finance can help bring forward the benefits of a project where upfront costs might otherwise be unaffordable. Finance needs to be repaid from a project funding stream.	
Private sector	The part of the economy comprised of privately owned for profit businesses or enterprises.	
Promoter	Private sector's point of contact for the MLP; the promoter sponsors the scheme and coordinates the various stakeholders and investors.	
Stakeholder	Any interested or interfacing party to the scheme.	Local government, local land owners, lobby groups, community schemes
Train operator	A UK business responsible for the operation of a passenger train service.	Arriva Rail London, Chiltern Railways, East Midlands Trains
Value for money	The efficiency of spending to obtain an output.	

Table 3 Glossary of terms

References

There are no sources in the current document.

Reference	Description	Location
Green Book	HM Treasury guidance for public sector bodies on how to appraise proposals before committing funds to a policy, programme or project	https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government
Green Book Supplementary guidance	Guidance to support practitioners engaged in producing and reviewing business cases using the Five Case Model, government's standard for business cases.	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/469317/green_book_guidance_public_sector_business_cases_2015_update.pdf
Network Rail Routes	Information on routes	https://www.networkrail.co.uk/running-the-railway/our-routes/
Network Rail Investing in the Network	Overview of Network Rail's investment process	https://cdn.networkrail.co.uk/wp-content/uploads/2018/02/Investing-in-the-Network.pdf
Open for Business	Network Rail's response to the Hansford Review	https://www.networkrail.co.uk/industry-commercial-partners/third-party-investors/network-rail-open-business/
ORR Investment Framework	Document produced by the ORR on investment	http://orr.gov.uk/__data/assets/pdf_file/0014/5720/investment_framework_guidelines_october_2010.pdf
Rail strategic vision	Describes the government's strategic vision for the railways, and the actions we are taking to make it a reality	https://www.gov.uk/government/publications/a-strategic-vision-for-rail
Regulatory framework	Regulatory guidance advising on regulatory requirements and codes of practice	http://orr.gov.uk/about-orr/what-we-do/the-law-and-our-duties/rail-regulatory-law
Track access guidance	ORR's guidance on regulating track access	http://orr.gov.uk/rail/access-to-the-network/track-access/guidance
Transport investment strategy	Document detailing the Department for Transport's priorities and approach for future transport investment decisions	https://www.gov.uk/government/publications/transport-investment-strategy

Reference	Description	Location
Transport analysis guidance: WebTAG	Projects or studies that require government approval are expected to make use of this guidance in a manner appropriate for that project or study	https://www.gov.uk/guidance/transport-analysis-guidance-webtag

Table 2 References

Annex A – Criteria matrix

		To enter the Determine stage		To enter the Develop stage		To enter the Design stage		To enter the Deliver stage	
What will be assessed?		Proposal of opportunity		Proposal of outcomes		Proposal of outputs		Proposal of solution	
Criteria reference		Criteria A		Criteria B		Criteria C		Criteria D	
Business case		Pre-business case		Strategic Outline Business Case		Outline Business Case		Full Business Case	
Delivery plan		None		Outline		Detailed		Finalised	
Priority 1: Keeping people and goods moving safely and smoothly	1.1 How will the construction and operation of the enhanced asset integrate with the rest of the network?	Identify, if any, the required change to baseline operations- including passenger, freight and network maintenance/operations.	Y	Assess strategic fit with current network operations. Produce impact assessment of construction and operation phases.	Y	Perform timetable assessment. Demonstrate that the proposed asset maintenance regime can be supported by the network.	Y	Demonstrate support from route operators, affected train and freight operators and relevant system authorities.	Y
	1.2 How will the scheme provide an acceptable level of reliability and performance?	Identify reliability and performance targets for the enhancement and demonstrate that the proposal considers performance risks.	Y	Identify how the scheme will contribute to performance targets and demonstrate how network resilience will be considered in the design.	Y	Quantify the scheme design impact on network performance.	Y	Demonstrate acceptable level of reliability and performance.	Y
	1.3 How will the change in passengers numbers on other parts of the network be mitigated?	Identify where required train capacity will be found from the existing network, or justify how your proposal will generate new capacity.	Y	Identify which existing station and route capacities will be impacted and identify mitigations.	Y	Quantify the impact on existing stations and routes, with and without proposed mitigations.	Y	Demonstrate effective mitigation of change in passenger numbers.	Y
	1.4 How will the scheme enhance the safety of the rail network?	Indicate how the scheme will address safety requirements and identify if the scheme is able to enhance the current requirements.	Y	Identify relevant safety requirements, regulations and systems with which the scheme must be compliant.	Y	Indicate how the scheme outputs contribute to the safe construction and operation of the scheme	Y	Demonstrate safety management competence and achieve approval of system authority.	Y
	1.5 Does the scheme adhere to the necessary regulatory and planning requirements?	Identify the regulatory and planning requirements to which the scheme should adhere.	Y	Produce an integrated planning application and delivery schedule.	Y	Evidence compliance/support for the planning and regulatory requirements.	Y	Evidence compliance/support for the planning and regulatory requirements.	Y
Priority 2: Delivering the benefits from programmes and projects already committed	2.1 Will the MLP scheme outputs be dependent on any Government committed schemes?	Identify interfacing enhancements which will contribute to the proposed scheme benefits, including infrastructure projects, network digitisation, rolling stock programmes or interfacing modes.	Y	Quantify required outputs from other committed schemes and perform risk assessment on scheme output assumptions.	Y	Integrate MLP scheme programme with committed schemes. Demonstrate approval from scheme authority.	Y	Demonstrate committed scheme output assumptions are still valid.	Y
	2.2 How does the scheme impact other government committed schemes?	Identify interfacing enhancement projects throughout the MLP lifecycle. Estimate impact on construction, operation, maintenance and passenger usage.	Y	Qualify scheme impact on interfacing enhancements and propose mitigations.	Y	Quantify scheme impact on interfacing enhancements and validate mitigation.	Y	Evidence authority(s) from impacted schemes.	Y

		To enter the Determine stage		To enter the Develop stage		To enter the Design stage		To enter the Deliver stage	
What will be assessed?		Proposal of opportunity		Proposal of outcomes		Proposal of outputs		Proposal of solution	
Criteria reference		Criteria A	Essential	Criteria B	Essential	Criteria C	Essential	Criteria D	Essential
Business case		Pre-business case		Strategic Outline Business Case		Outline Business Case		Full Business Case	
Delivery plan		None		Outline		Detailed		Finalised	
Priority 3: New and better journeys and opportunities for the future	3.1 What passenger benefits are introduced by the enhancement?	Identify benefits brought about by the scheme and describe how the enhancement releases the benefit.	Y	Identify the scheme outcomes which produce passenger benefits and demonstrate traceability.	Y	Identify the scheme outputs which produce passenger benefits and demonstrate traceability.	Y	Identify the scheme solution which produce passenger benefits and demonstrate traceability.	Y
	3.2 What is the local demand for the scheme benefits?	Estimate the local demand for scheme benefits and describe how this demand creates the funding and/or revenue required for the scheme whole life costs.	Y	Identify the local demand and quantify the overall contribution of the demand to the scheme costs.	Y	Evidence the demand and quantify the individual contributions to enhancement costs.	Y	Commit the contributors to the local demand.	Y
	3.3 What wider economic opportunities are addressed by the scheme?	Identify wider opportunities which will be exploited by the scheme.	N	Validate opportunities to be exploited by scheme and achieve cross-government support/endorsement.	N	Quantify the value of opportunities exploited by scheme.	N	Produce a plan for releasing wider government benefits which includes measurable indicators.	N
Priority 4: Changing the way the rail sector works for the better	4.1 How will the scheme be delivered to introduce efficiency?	Identify opportunities for innovation and efficiencies.	N	Identify innovation and efficiencies in outline delivery plan.	N	Quantify the impact of innovation and efficiencies and justify any cost to their implementation. Demonstrate how risks (if any) are being managed.	Y	Use benchmarking, lessons learned and evidence of previous experience to validate efficiency and innovation gains in solution.	Y
	4.2 How will the scheme increase UK supply chain efficiency and productivity?	Identify opportunities for increasing UK supply chain efficiency and productivity.	N	Demonstrate how the scheme designer and/or deliverer will collaborate with the supply chain to increase efficiency/productivity	N	Quantify the impact of increasing supply chain efficiency and productivity and justify any costs to their implementation. Demonstrate how risks (if any) are being managed.	N	Demonstrate supply chain support and validation of delivery proposals which contain efficiency drivers.	N
	4.3 How will the scheme support the development of novel technologies and techniques?	Identify opportunities to exploit and/or develop novel technologies and techniques.	N	Identify the benefits released by the use of novel technologies and techniques and justify the cost and/or risk (if any) of their use.	N	Identify novel technologies and techniques in the design and delivery plans of the scheme.	N	Quantify the impact of the use of novel technologies and techniques and evidence support for their use from operators and/or stakeholders.	N

Annex B – Planning processes

- B.1 Permitted Development Rights (PDR)** – PDR, enjoyed by a land owner in certain circumstances, allows the land owner to develop land without going through a planning process. On the railway, this land and the accompanying powers will often be held by Network Rail as the country’s principal railway infrastructure provider. Whether PDR exist in a specific case, and if so who owns them, will depend on the particular circumstances of the case.
- B.2 Transport Works Act Order (TWAO)** – This process typically applies for rail schemes where PDR are not available but works are taking place close to the existing railway and are not nationally significant and therefore subject to the Development Consent Order procedure. A TWAO is made by (or on behalf of) the promoters of a scheme. A TWAO confers powers under the Transport & Works Act 1992 to progress a scheme, and is subject to a quasi-judicial process under which an application for an order is made, in England to the relevant Secretary of State, and in Wales, to the Welsh Government.
- B.3 Development Consent Order (DCO)** - This is for larger projects, those that are recognised as Nationally Significant Infrastructure Projects (NSIP)¹¹. It applies where significant works are required. For railways in England, this is for new track normally of a length over 2km, and also includes new rail freight interchanges in England over 60 hectares. In order to construct a NSIP, a developer must obtain development consent. Applications for development consent are received and examined by the National Infrastructure Directorate of the Planning Inspectorate. In the case of transport NSIPs, after examining an application, the Planning Inspectorate makes a report and recommendation on the project to the Secretary of State for Transport. The Secretary of State then decides whether to grant or refuse development consent. If the decision is to give consent for a project to go ahead, the Secretary of State will make a development consent order. This contains the consent and other authorisations (e.g. to purchase land compulsorily) which the developer needs to construct and operate the project.
- B.4 Hybrid Bill** - A Hybrid Bill is a set of proposals for introducing new laws, or changing existing ones. Hybrid Bills are quite rare. They are generally used to secure powers to construct and operate major infrastructure projects of national importance. Hybrid Bills are so called because they address both public and private matters. Recent Hybrid Bills include the Crossrail Act 2008 and the High Speed Rail (London- West Midlands) Act 2017. The department does not expect to use a Hybrid Bill except for major schemes.
- B.5 National Policy Statements** – National Policy Statements are produced by government. They give reasons for the policy set out in the statement, and must include an explanation of how the policy takes account of government policy relating to the mitigation of, and adaptation to, climate change. They comprise the

¹¹ <https://www.gov.uk/government/publications/nationally-significant-transport-infrastructure-projects/nationally-significant-infrastructure-projects-in-the-transport-sector>

government's objectives for the development of nationally significant infrastructure in a particular sector and state. They also include any other policies or circumstances that Ministers consider should be taken into account in decisions on infrastructure development. National Policy Statements undergo a democratic process of public consultation and parliamentary scrutiny before being designated (i.e. published). The National Networks National Policy Statement¹² sets out the need for, and government's policies to deliver, development of nationally significant infrastructure projects on the national road and rail networks in England. It provides planning guidance for promoters of nationally significant infrastructure projects on the road and rail networks, and the basis for the examination by the Examining Authority and decisions by the Secretary of State.

¹² <https://www.gov.uk/government/publications/national-policy-statement-for-national-networks>

Annex C – Accounting classification

- C.1 In general terms, where assets are “on balance sheet” the project will involve a large up-front impact on public finance figures, reflecting the underlying capital cost of the assets. This means that finding space for that project within existing public spending plans is harder than would be the case for an “off balance sheet” project, where the public costs are spread over time.
- C.2 Under ESA10, the statistical treatment of assets follows the concept of “economic ownership” – who takes responsibility for ensuring the assets can be used in the economic production of goods and services. This includes, in particular, the following areas:
- Financing – providing the original investment cash, and taking the long-term risk on earning that back through use of the asset;
 - Construction – not only managing the process, but taking the risk on any changes in outturn costs, on programme, on build-quality and fitness-for-purpose; and
 - Operations – keeping the asset working properly, and taking the financial risk on how much this costs; repairs and maintenance are key elements of this.
- C.3 The allocation of responsibilities and risks is rarely absolute or completely in one direction, which means that the balance sheet assessment of any particular asset or project will rely on a judgement call assessing where the balance of risks lies. Formally, these decisions are made by the Office for National Statistics (ONS) at the request of HM Treasury. They follow the principles and particular rules set out in:
- ESA10 – in particular, Chapter 20 “The Government Accounts”;
 - The Manual on Government Deficit and Debt (MGDD) – in particular Part VI “Leases, licences and concessions”; and
 - A Guide to the Statistical Treatment of PPPs – published by The European PPP Expertise Centre and Eurostat.
- C.4 In addition, there is a growing body of case law from formal decisions made by ONS and by Eurostat available via their websites. The department may be able to help in navigating through these various sources and anticipating how ONS might evaluate any particular proposal. In practical terms, the internal assessment by the department of the likely balance sheet position of any proposal will be highly significant, as it will shape how the proposal will be evaluated at an early stage.

Annex D – Market-led proposals categorisation

MLPs Category	Funding source	Finance	Balance sheet	Asset usage exclusivity*	Category example
Category 1	Total cost provided by alternative sources of funding	Privately financed	Off	None	iPort Doncaster
Category 2a	Total cost provided by alternative sources of funding	Privately financed	Off	Exclusivity provided	Channel Tunnel
Category 2b	Publically funded (partially or wholly)	Privately financed	Off	Exclusivity provided	Nottingham Tram
Category 2c	Publically funded (partially or wholly)	Privately or publicly financed	On	Exclusivity provided	Mersey Gateway

Table 3 Definition of MLP categories

* When exclusive rights are granted to the owner of infrastructure to generate revenue from users

Annex E – RACI

Task	MLP Promoter	DfT	ORR	Route BDD/ Sponsor	NR System Operator	Rail supply chain	Local Authority
Pre-Determine							
Submit proposal of opportunity	A	I					
Determine							
Issue letter of acknowledgement of opportunity	I	A					
Produce SOBC	A	I	C	C	C		
Decision to Develop	I	A		A			
Market testing		A				C	
Develop							
Network analysis report produced	I	C			A	C	C
Network data support	I				A		
Provide MLP MoU	C	A		I			
Provide public statements of interest		A				I	
Review system impact of MLP	A				C		
Process regulatory and planning requirements	A	I	C	C			C
Produce OBC	A	I		C			
Decision to Design	I	A		A			
Produce outcome specification	C	A					
Option selection PIN		A				I	
Design							
Select design option		A				I	
Commercial and contractual agreements issued	C	A					
Planning and parliamentary guidance given	I	A	C				
Produce FBC	A	I		C			
Produce output specification	C	A					
Decision to Deliver	I	A		A			
Gain planning permission	A	I					C
Pre procurement PIN		A				I	
Run procurement		A			C	I	
Deliver							
Produce Deploy specification		A					
Decision to Deploy	I	A		A			
Acceptance Decision	I	C	C	A	I		

Key: R=Responsible; C=Consulted; A=Accountable; I=Informed

Annex F – Indicative durations table

Project size:	Small	Medium	Large
Example project:	Station upgrade	Signalling enhancement	New railway
Capex (value)	£1m	£50m	£1bn
Construction time	1 month	1 year	1-3 years
Duration of procurement	1-3 months	6 months	1 year
Option selection	3 months	6 months	1 year
Time between decision to Develop and the start of a procurement	6 months	1-5 years	3 years