

Towns Fund Business Case Additional Guidance

Addressing your Planning / EIA / HRA needs in your Town Fund business case











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Purpose of this document



What is this document for?

The purpose of this document is to provide additional guidance in relation to addressing planning, Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) needs within your Towns Fund business case. This document supplements the Introduction to Business Cases provided by the TFDP (here).

This document provides an overview of some of the key actions associated with planning, EIA and HRA processes and outcomes that you should consider when preparing your business case.

The stages presented within this document correspond to those set out within the 'stage 2 (business case) journey' (summarised overleaf). The intention is that this document provides a step-by-step guide for how you can address planning, EIA and HRA matters throughout your business case journey. This includes developing a business case in line with conditions set out in your Heads of Terms, and to enable the smooth transition from business case into project delivery.

This guidance is intended to complement existing support available to you, and therefore links are provided to these documents, where relevant. In particular, it is recommended that you familiarise yourself with:

- Introduction to Business Cases (Stage 2) slides and webinar recording (<u>here</u>)
- MHCLG Business Case Guidance (<u>here</u>) and project adjustment form
- Introduction to Planning, Environmental Impact Assessment and Habitats Regulations' Assessment guidance document (here)
- Road to Delivery: Planning & EIA requirements Briefing Pack (here)

Should you require any additional support, the Towns Fund Business Case & Delivery Plan Development team are available to you throughout the process of developing your business case(s). Alternatively, you can book a one-to-one session with one of our Planning or EIA Service Team experts by using the Expert Drop-in Hour service.

Who is this for?

This document will be helpful for Towns in seeking to understand how Heads of Terms conditions for planning and environmental requirements can be incorporated within the development of your business case(s).

When should this document be used?

This document should be read in advance of commencing work on business cases, and once your town has received its Heads of Terms conditions.

Overview

This document provides additional guidance for the business case itself, for which the advised structure is here. As planning, EIA and HRA considerations are one element of the overall business case, it is not the intended purpose of this document to replicate advise on business case structure, nor content.

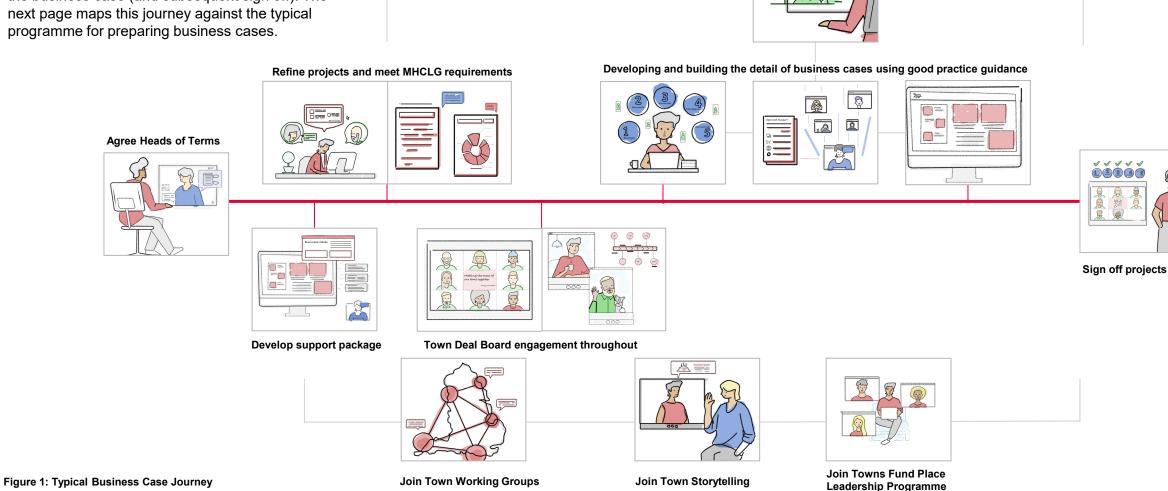
The structure of this document is therefore as follows:

- Typical 'business case journey' and 'plan on a page' programme for preparing these documents;
- Recapping the 'five case model' and how planning, EIA and HRA considerations influence the five cases; and
- Detailed guidance for addressing planning, EIA and HRA matters within your business case.

Stage 2 (Business Case) Journey



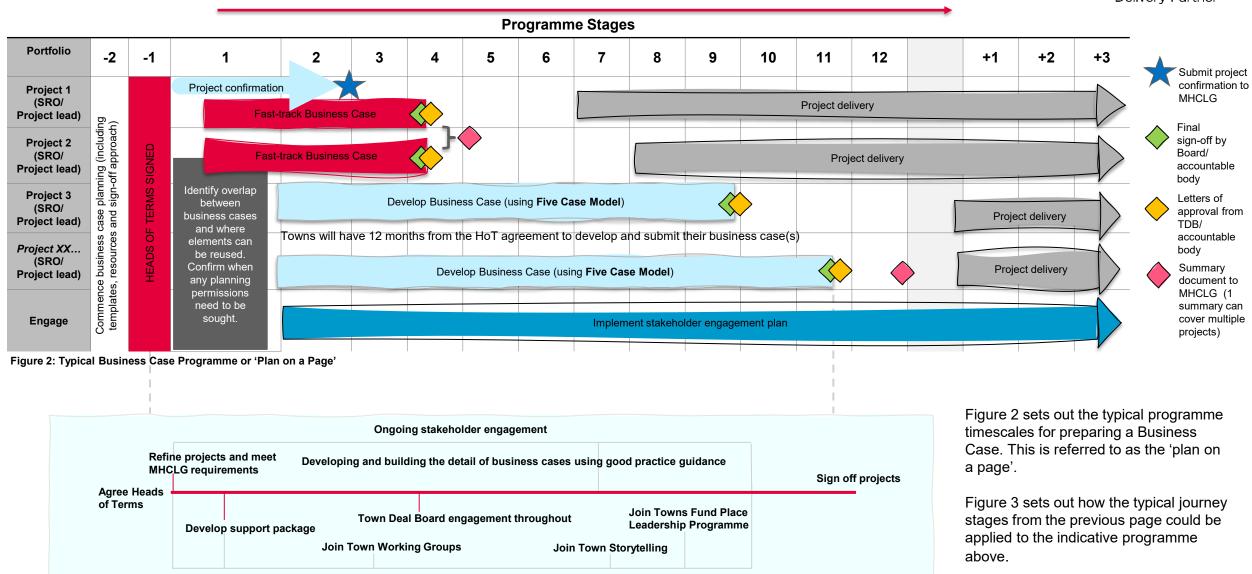
Below illustrates the Stage 2 (business case) journey for programme leads, from the point of receiving the Head of Terms, to the completion and submission of the business case (and subsequent sign off). The next page maps this journey against the typical programme for preparing business cases.



Stakeholder engagement

Typical Business Case Programme







PART 1: Five Case Model and Planning, EIA and HRA considerations



Towns should develop **full business cases for each project** in line with the Treasury's Green Book guidance (<u>here</u>). This requires business cases to address, in a proportionate manner, the five cases:











Strategic Case

Economic Case

Commercial Case

Financial Case

Management Case

In November 2020, the Green Book was updated to ensure appraisals and business cases are in alignment with the delivery of Government's levelling up ambitions and other policy priorities. These updates include a much stronger emphasis on the strategic case being backed up by rigorous theory of change analysis, and renewed clarity on what constitutes value for money.

A business case must be developed for each project in line with the conditions agreed in the Heads of Terms, unless there is a reasonable justification to produce one business case for a group of projects (e.g. similar outcomes, strategic objectives etc.). In relation to combining projects into one business case, in addition to the 'Introduction to Planning, Environmental Impact Assessment and Habitats Regulations' guidance document (here), you should also work with the **TFDP experts** to consider the whether there would be a reasonable justification for undertaking single or multiple EIA/HRA for multiple projects.

How can I factor in Planning, EIA and HRA considerations into the Five Case Model?

The remainder of this section sets out how planning, EIA and HRA considerations should be factored into each stage of each full business case. It should be noted that these are often not sequential activities which take place in a chronological order. Therefore, the second part of this guidance sets out key considerations for each programme stage, and how this might inform the five case model.





Strategic Case

The **Strategic Case** must show the rationale, background, policy context and strategic fit of the public expenditure/intervention. This will include clear objectives with a robust logic of change from inputs to outcomes.

The Strategic Case must include consideration of environmental legislation to identify environmental drivers or constraints. As well as ensuring environmental compliance, the strategic case should include consideration of whether the project can contribute to wider environmental outcomes. The Environmental Monitoring and Impact Analysis guidance provides example environmental objectives that Towns could consider (here).

In relation to Planning, EIA and HRA considerations, a well-informed Strategic Case will assess the following:

- 1. What is the case for change, including the rationale for intervention? How do these fit with wider government policies and objectives?
- Set out alignment between the strategic and local planning policy context with the **vision**, **strategy** and **project objectives**.

2. What is the current situation?

- Set out the current local plan policy context specific to each project; including where projects align with the local plan, or where there are areas of policy non-compliance. The Planning and EIA Briefing Pack should help guide you to understand the local plan context (here). Broad descriptions of proposed project/development at this stage will help to gain a better understanding of the consenting strategy and risks.
- Undertake strategic environment assessment to understand the current context. Again, the Planning and EIA Briefing Pack (here) should help direct what this baseline could cover.

3. What is to be done?

Set out **how evidence**, which may have been prepared to inform the Local Plan, **may have been used to support project development** and the **'case for change'**. For example, where green infrastructure connectivity is proposed as a project, how the latest Green Infrastructure Strategy has been used to inform the case.

- Consider what support you may need from TFDP experts to achieve your objectives.
- Undertake **early engagement** with relevant stakeholders, to identify where there may be potential for impacts on statutory or non-statutory assets (such as ecological designations and heritage features) and confirm the baseline.
- Engagement undertaken as part of preparing the Town Investment Plan should help inform the identification of risks and opportunities with proposed projects; this can also be used to inform or support consultation/engagement on any permissions/approvals that may be required.

4. What outcomes are expected?

- Set out the overlap between **objectives**, **monitoring** and **indicators** within the Local Plan, and how this may have influenced the Theory of Change.
- Set out **evidence** behind the **Theory of Change SMART objectives** and indicators, to ensure that you will know when you have achieved success.
- Express **programme objectives** in terms of outcomes that the expected change could produce. Alongside the policy and environmental context, this will also help frame the consenting programme options.





Economic Case

The **Economic Case** will predominantly focus on the evidence to demonstrate why a privately provided solution would fall short of what is optimal (market failure) and a list of options to achieve a better outcome. The case must build on robust verifiable evidence. Wider benefits and costs should be considered and specified where these are sizeable, compared with the direct impacts.

What is the net value to society (the social value) of the intervention compared to continuing with Business As Usual?

Qualitative and quantitative testing of benefits and disbenefits.
 This is likely to include environmental (dis)benefits of projects relative to the baseline scenario, as well as wider societal benefits too.
 Relevant topics to explore are set out within the 'Key considerations in planning for an EIA' (here).

What are the risks and their costs, and how are they best managed? Which option reflects the optimal net value to society?

- Set out the likely costs of different consenting routes for each of the proposed projects, and alternative options, which should be informed by reference to the Planning and EIA Briefing Pack and local plan context (here), and discussions with your Town Coordinator.
- Set out the risks, including programme risks, associated with regulatory consents.



investment.

Commercial Case

Can a realistic and credible commercial deal be struck? What is the impact of the proposal on the public sector budget in terms of the total cost of both capital and revenue?

The aim of the Commercial Case is to assess the commercial viability of the

investment and the Financial Case is to assess the affordability of the



Financial Case

- Set out, and account for, sufficient planning and EIA costs and contingencies within the financial case for each proposed project. This may include broad cost assumptions associated with preparing and securing relevant permissions/consents, and the levels of certainty associated with costs (this can be informed by pre-application advice/discussions).
- The value of soft-market testing for supporting the case, for example end values for proposed projects. This may be important for cases where a compulsory purchase order is being considered.

Who will manage which risks?

- Sufficient consideration within the procurement specification and strategy for gaining consents. This may include methods for procurement of consultancy advice and external statutory body feedback, where appropriate. It may also consider whether there is sufficient resource to prepare any applications/associated documentation.
- Risks associated with elements of the **procurement strategy**, **specification** and **timing** will be explored and graded.
- Demonstrate that engagement has taken place with the private sector in relation to the financial case, and evidence provided of leveraging private sector investment, e.g. through Section 106 contributions/Community Infrastructure Levy.





Management Case

The Management Case demonstrates the project is deliverable. This should include any detailed measures/mechanisms for achieving key environmental or social objectives.

Are there realistic and robust delivery plans? How can the proposal be delivered?

- Detail the planning, EIA/HRA programme and consenting strategy for the preferred option within the management case.
 - At this stage it should be understood what form of detailed planning, environmental and social assessment is required, and whether the proposed project requires a statutory EIA and/or HRA to be undertaken, or an environmental appraisal.
 - At this stage, it may be important to draw on initial preapplication advice for the preferred option from the local planning authority.
 - As the selection of a preferred option from the shortlist requires interaction between all five cases, and key stakeholder input, at this stage, it may be important to draw on initial pre-application advice for the preferred option from the local planning authority.
- Include any detailed measures/ mechanisms for achieving key environmental or social objectives as part of the monitoring and evaluation process.
- Set out likely regulatory conditions (such as **planning conditions**), and risks associated with these.

- Set out mitigation measures to minimise risks associated with stakeholder engagement, member engagement and statutory bodies.
- **Project governance** for preferred option, including how this links to land-ownership and any associated risks.





PART 2: Detailed guidance for considering Planning, EIA and HRA considerations within your Business Case Programme



PROGRAMME STAGE -1

Congratulations! Your Heads of Terms have been signed. This is a significant milestone to reach within your Towns Fund journey.

However, you need to be mindful that your Heads of Terms may be subject to **conditions** which may relate to obtaining the requisite planning approvals, including EIA (and HRA) to allow the project to be delivered.

Once you have confirmed your projects, you should begin to think about the **action required** to address any TIP conditions relating to planning permission, EIA and HRA.

Further information on each of these processes, and appropriate consenting strategies, can be found within the:

- Introduction to Planning, Environmental Impact Assessment and Habitats Regulations' guidance document (here); and
- Road to Delivery: Planning & EIA requirements Briefing Pack (here)

What is...?

Planning permission is essentially the legal process of determining whether or not a proposed development should be permitted. Planning applications are submitted to the Local Planning Authority who determine whether permission should be granted or refused.

EIA stands for **Environmental Impact Assessment**. It is a process of evaluating the likely environmental effects (both beneficial and adverse) of a proposed project, taking into account the environmental, social and economic impacts.

HRA stands for **Habitats Regulations Assessment**, it is a process that 'competent authorities' must undertake to consider whether a proposed development plan or programme is likely to have significant effects on a European site designated for its nature conservation interest.

PROGRAMME STAGE 1-2

In refining projects based on your funding offer, the need to secure planning permission and determining whether EIA or HRA are required should be a key consideration.

Asking the following questions will help you to define what type of planning application(s) and environmental assessments may be required to deliver a project, and how you would navigate it through these processes. This will be highly dependent on the nature of your proposal(s), as well the planning policy and environmental context.

Using the Planning and EIA Briefing Pack (here), consider the key 'what' questions:

- What is the overarching project and does it constitute 'development'?
- · What does the planning context and environmental assessment baseline look like?
- What are the options for securing regulatory consents? How might these impact proposed programme options?





PROGRAMME STAGE 1-2 (continued)

How?

- Where the Town is the applicant: Where a project is clearly defined, you may wish to seek pre-application advice from the local planning authority or specialist organisations. Further guidance on pre-application engagement, its benefits, the relevant parties and the process is available here.
- Where a third party is the applicant: Meet with prospective applicant to understand programme objectives and explain the conditions of the Business Case.

This stage may lead to the generation of alternative regulatory options (beyond the required 'business as usual' option).

Using the information gained you should consider how complex the project is in planning and environmental terms. This will help to inform the financial, commercial and the management case.

Who?

Consider who will be responsible for the actions presented. Who within your team (i.e. officers and consultants) will be responsible for leading on identifying possible consenting routes and risks associated with these?

This is also likely to build on early engagement with relevant stakeholders, to identify where there may be 'receptors' which are more impacted by specific environmental effects. Engagement undertaken in preparing the Town Investment Plan should help inform the identification of risks and opportunities with proposed projects.

When?

The timing of the key milestones in the planning and environmental consenting will be dependent on the nature of the project and the type of planning application(s) required. Discuss this with your TFDP experts, Town Co-ordinators and Planning / EIA service teams.

KEY RISKS – Project Confirmation

At this stage, you should be mindful of the following key risks:

There is a risk that your chosen project site may be subject to significant planning and environmental constraints, which may present issues in obtaining the requisite permissions/approvals.

- Consider at this point how these constraints can be addressed and/or whether they present alternative opportunities for the project.
 - Does this generate alternative options (beyond the required 'business as usual'), which need consideration within the business case and may represent better value for money?
 - Would this result in an adjustment to the project? This may be possible
 within the two month window after the Head of Terms offer and should be
 discussed with your Town Coordinator.
- There is a risk, particularly in the case of complex planning applications, that
 more work is required to obtain planning permission than may have been
 envisaged, or this results in delays to the overall programme. You should
 discuss potential consenting strategy options with your CLGU representatives
 and Town Co-ordinator.



PROGRAMME STAGES 2-5 – Visioning and Strategy

Your first stages in developing your Business Case should focus on establishing the context of the projects and the detail regarding what development might take place (i.e. the 'description of development').

This should include setting out the local planning policy context specific to each project and undertaking a strategic environmental assessment. The Road to Delivery: Planning & EIA requirements Briefing Pack (here) should help direct what this baseline could cover. This process goes hand in hand with developing **the Strategic Case.**

As set out within the Business Case Stage 2 Guidance, you should also start thinking about refining project/programme objectives specific to planning, EIA and HRA; these objectives should be SMART, which ideally would draw on the work completed for the Town Investment Plan.

There are a number of considerations which could be explored when developing a planning strategy for your project and these are presented in more detail overleaf.

As set out within this <u>guidance</u>, there will be variations in the planning, EIA and HRA process depending on the size of the project, its complexity and the chosen development site.

KEY RISKS – Visioning and Strategy

- Visioning is a key programme stage however, your project should remain realistic and achievable in planning and environmental terms - remember these should be SMART.
- Does this align with local planning and national policy objectives? Are there any inconsistencies which need to be explained?







PROGRAMME STAGES 2-3 – Understanding Planning Policy

If you have identified that the proposed development might need planning permission, the starting point for a planning strategy should be your planning policy context specific to each project.

- What is the planning policy context for the site and for the project?
- Is the project compliant with the local policy context?
- When was the local plan/development plan document adopted, and is the plan under review?

More information on planning policy can be found within the Road to Delivery: Planning & EIA requirements Briefing Pack (here). Further information on this can be found within the National Planning Policy Framework and the Planning Practice Guidance.

There may also be useful information in the <u>evidence prepared</u> to inform the Local Plan which can be used to inform **Strategic Case**.

KEY RISKS – Understanding Planning Policy

- Assessments of proposed projects/development, and alternative options, against the
 planning policy context will help to understand consenting strategy and risks. The
 Road to Delivery: Planning & EIA requirements Briefing Pack should help guide you
 to understand the local plan context (here).
- Where a site does not comply with local plan policies, this can sometimes effect timescales and certainty that the project can progress. Where a project is 'noncompliant', this should be explored further with your Town Coordinator.
- Set out how evidence, which may have been prepared to inform the Local Plan, may have been used to support project development, or identify any inconsistencies.





PROGRAMME STAGES 2-4 - Environmental Baseline

Understanding the environmental baseline will help to inform whether your project is likely to trigger the need for EIA or HRA. Undertaking the strategic environment assessment will help to understand the current context. The Road to Delivery: Planning & EIA requirements Briefing Pack (<u>here</u>) should help direct what this baseline could cover.

As a starting point, you should know whether your site is in a sensitive area as defined by the EIA regulations. These are set out on page 6 of this <u>guidance</u>.

In most cases, if a project is within 2 km of a Special Protection Area or Special Area of Conservation there is the potential for impact on protected habitats and therefore further investigation may be required to understand if you require HRA.

You should also consider the qualitative and quantitative effects of the proposed project, and alternatives. Relevant topics to explore are set out within the 'Key considerations in planning for an EIA' (here).

KEY RISKS – Environmental Baseline

 Many baseline surveys can only be undertaken at certain times of the year and some topics require survey data for considerable durations. Survey requirements should be established early in the programme to ensure sufficient data can be collected. The Road to Delivery: Planning & EIA requirements Briefing Pack (here) provides guidance on the type of surveys that may be required to support an EIA and HRA.



PROGRAMME STAGES 2-4 – Stakeholder Engagement

As set out within the Stage 2 Welcome Pack, you should start thinking about stakeholder engagement early in the business case process. It is recommended that you consider a stakeholder engagement plan specific to planning and EIA/HRA (if applicable).

Consider both individual stakeholders (e.g. residents, ward members) and organisations (e.g. community groups, businesses). Your stakeholder engagement plan should also include information on how you will go about engaging with these groups.

Where statutory and non-statutory designated assets have been identified through the environmental assessment, on-going engagement with statutory bodies could help identify programme and outcome risks.

Where a project is reliant on leveraging private sector investment (such as Section 106 contributions) it will likely be necessary to undertake on-going engagement with relevant third parties. Consider liaising with your Town Coordinator to explore the best way of undertaking and evidencing this engagement.

KEY RISKS - Stakeholder Engagement

- You should carefully consider stakeholder engagement activities within overall project costs for planning, EIA and HRA.
- Where designated assets (such as ecological designations or heritage features)
 have been identified, engagement with statutory bodies could help identify
 appropriate mitigation.

PROGRAMME STAGES 5-6 – Pre-application Engagement

If not carried out at Stage 1, pre-application engagement is advised in the development of the **Strategic Case** with the local planning authority and statutory bodies (e.g. the Highway Authority or Environment Agency). Such engagement may require involvement from **topic experts**. There may also be fees associated with pre-application engagement which should be factored into your project costs.

The local planning authority will be able to advise on the most appropriate consenting route to deliver the project and if an application is required, the type of information that should accompany it.

It may be beneficial to submit a formal request for <u>pre-application advice</u> from the local planning authority which would result in a written response from a Planning Officer. This is particularly the case for larger projects which may take longer to reach delivery stage.











PROGRAME STAGES 7-12 – Scope Application Requirements and Prepare Applications

As your business case progresses, you could start scoping your application requirements (and EIA/HRA if applicable). Further information on this is set out within the Planning and EIA Briefing Pack (here).

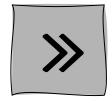
As noted within the briefing pack, 'the amount of detail and certainty required for a full planning application is broadly similar to the end of <u>RIBA Stage 3</u>', hence you would need to keep this in mind when programming your planning submission(s). Less detail is required for an outline planning application (although the detail will subsequently be required in the form of a reserved matters application), and so this might be an approach to be considered if detail is still being developed. This is explained further within the Road to Delivery: Planning & EIA requirements Briefing Pack (here).

PROGRAME STAGES 9-12 - Business Case Sign Off

Between programme stages 9 and 12, your business case summary should be nearing completion for final sign off by the board/accountable body. Your summary should provide details of the actions taken to address any conditions that were attached to the project, including planning permission, EIA and/or HRA. Your Town Co-ordinator and CLGU representative can advise on what type of evidence is appropriate to submit as part of your business case summary.

KEY RISKS – Application Preparation

- As noted above, applications can require the preparation of a large number of specialist documents. As such consider what support may be needed from topic experts.
- The preparation of applications will have costs associated with the which could include the <u>planning application fee</u>. This should be factored into the **overall project costs**.
- Different options for consenting will have impacts on the overall proposed programme.
- Sufficient consideration within the **procurement specification and strategy for gaining consents**. This may include methods for procurement of consultancy advice and external statutory body feedback, where appropriate. This may also consider whether there is sufficient resource to prepare the application.
- Risks associated with elements of the procurement strategy, specification and timing will be explored and graded.







Business Case Programme: Fast Track



PROGRAMME STAGE 1

To help understand whether to fast-track project(s), from a planning and environmental perspective you should consider **the following questions**.

- Do the works fall outside the definition of 'development'?
- Are the works permitted development?
- Does the project already have planning permission?
- Do the works fall outside the definition of major development?
- Do the works fall outside the EIA Regulations or has the local planning authority screened the project as non-EIA development?
- Has the project been screened out from requiring further assessment under the HRA regulations?

Details which may help in answering these questions can be found within the Road to Delivery: Planning & EIA requirements Briefing Pack (<u>here</u>).

PROGRAMME STAGE 2-4

Once these questions have been considered, you should work in collaboration with your Town Co-ordinator and Planning/EIA services team to understand:

- Whether planning permission is required? See the Planning and EIA Briefing Pack to help.
- How should this approval be obtained? Consider the planning and environmental baseline as per programme stage 1.
- Who can help you? Consider reaching out to your local planning authority or Town Co-ordinator for advice.
- When should you secure planning permission (if required)? Speak to your Town Co-ordinator, TFDP and Planning/EIA Services team to ensure that planning, EIA and HRA are appropriately factored into the project programme.

KEY RISKS - Fast Track Business Case

- It should **not** be assumed that if there is planning permission in place that project implementation can take place. Review whether there have been any changes that have taken place to the project, which would require an amendment to the planning application, or whether there are any conditions associated with the consent.
 - Preparing amendments to applications can often take time. To mitigate this
 risk, ensure that contingency for achieving consent is built into any project
 programme.
 - Planning conditions can often require inputs from specialists. Have relevant experts be identified and do they have sufficient resources to assist you?
- There may be permits or licences required from statutory bodies that are required prior to commencing physical work on-site. Ensure that timescales associated with obtaining the necessary permits are factored into the programme.
- During the determination of a planning application, or any material amendments, the local planning authority must carry out <u>consultation</u>. Without pre-application engagement with landowners, neighbours and other community stakeholders there is a risk that objections to the application may be received. Your stakeholder engagement plan will help to mitigate this risk by ensuring that feedback from interested parties is factored into your business case and the preparation of any applications. For more information on this, speak to your Town Co-ordinator and Planning/EIA Services support team.







PART 3: Planning, EIA, HRA and the Business Case – Summary Guide

Summary Guide: Planning, EIA and HRA



Programme Stages														
The Five Case Model	-2	-1	1	2	3	4	5	6	7	8	9	10	11	12
>>	gn-off approach)	Begin to think about the action required to address any TIP conditions Do your projects require planning permission EIA, HRA?	Define the projects - is fast track suitable?	Understand planning policy Establish an environmental baseline	Undertake visioning Develop SMART objectives		Consider EIA, HRA + stakeholder engagement		Scope application requirements			Business Case almost ready for sign off - provide details of actions taken to address any conditions that were attached to the project		
	case planning (including templates,		Determine consenting route(s)											
10					Consider engagement with private sector						Evidence private sector investment			
							Determine costs associated with EIA, HRA + stakeholder engagement		Determine costs for planning & EIA in the procurement strategy					
血			Determine project governance and responsibility		Determine your planning strategy Who is the applicant?				What topic expert support is needed?					

