

**SOUTH EAST ENGLAND  
REGIONAL TRANSPORT BOARD**

Date: 16 May 2008

Subject: **Regional Infrastructure Fund**

Report of: Director of Development  
South East England Regional Assembly

**Recommendation:**

It is recommended that the Board consider and comment on the draft framework for the Governance and Accountability of the Regional Infrastructure Fund.

**Purpose of Report:**

To inform the Board of the progress made in establishing the Regional Infrastructure Fund and to seek views on the draft framework for Governance and Accountability.

**Key Issues:**

The Regional Infrastructure Fund (RIF) is a key part of the package of measures identified in the Implementation Plan that need to be put in place in order to facilitate sustainable economic growth. It is also one of the Transformational Actions identified in the Regional Economic Strategy. The RIF has been jointly promoted by the Assembly and SEEDA, and both organisations are committed to having the RIF established and operational from autumn 2008.

Initially the RIF will be established using funds from the public sector. The Governance and Accountability arrangements are therefore firmly based within the public sector. However those arrangements enable the RIF to develop over time in such a way that opportunities to work more closely with the private sector are not fettered.

## **1. Context**

- 1.1 Establishing the Regional Infrastructure Fund is a priority action for both the Regional Assembly and SEEDA. This Board was due to consider a report on progress with the RIF at its previous meeting. However time pressures were such that a deferment to this meeting was agreed. In the intervening period progress has continued to be made with the proposal.
- 1.2 A formal submission setting out the region's proposed arrangements will be considered by the Assembly's Executive Committee and the SEEDA Board next month. This will enable the RIF to become operational in the autumn.

## **2. What is the Regional Infrastructure Fund?**

- 2.1 Its primary purpose is to facilitate the timely provision of regionally or sub-regionally significant infrastructure that supports the delivery of planned growth as set out in the Regional Spatial Strategy and/or the Regional Economic Strategy.
- 2.2 The RIF **is not** about supporting delivery of infrastructure where that can be secured through traditional funding mechanisms.
- 2.3 The RIF **will** focus on bridging the gap in situations where the cost of infrastructure will ultimately be met either in full or in part, through private sector contributions but where the availability of those contributions is itself dependent upon development taking place (the 'catch-22' of delivering planned growth).
- 2.4 In other words the RIF is a pump priming fund, through which the public sector forward funds the delivery of infrastructure the cost of which is then recovered from the private sector.
- 2.5 The funds allocated to the RIF are recycled – i.e. the initial investment is recovered through contributions received from third parties. Hence the RIF will increase the leverage effect of public sector funding. The recycling of funds means that a small initial sum can be used to deliver a much larger investment in the region.

## **3. Developing a Governance and Accountability Framework**

- 3.1 Using the framework developed between the South West and the DfT as a template a draft governance and accountability framework has been prepared (Annex I).
- 3.2 The key elements of the framework are:
  - a) SEEDA be identified as the Accountable Board for the purposes of operating the RIF in the region;

- b) An Investment Panel is established to direct the investment made through the RIF.
- 3.3 The inclusion of the Chairmen of this Board will provide a linkage between the decisions made by the Investment Panel and the RFA programme. The suggestion to include some external representation on the Investment Panel draws upon the model being developed in the South West. It would enable specialist advice to inform the Panel during its discussions; it would also provide a mechanism for beginning a longer-term dialogue with the private sector in terms of its potential role in the evolution of the RIF.
- 3.4 The draft Governance and Accountability framework has been considered by both the Regional Assembly's Executive Committee and the Regional Housing Board. Reaction has been broadly supportive. Aspects that are receiving further attention are:
- i) The Investment Panel – we're looking at the most appropriate way for bringing the private sector expertise identified in the draft framework can be realised;
  - ii) Investment Criteria – work is in hand to develop a draft set of criteria to be used in identifying suitable candidates for RIF;
  - iii) Governance arrangements – we're checking to ensure that the basic framework remains valid notwithstanding the on-going debate on regional governance arrangements post Sub National Review. In particular we're looking in more detail at the linkages with the work of the RTB and RHB;
  - iv) Single Regional Delivery Plan – we're ensuring that the arrangements dove-tail with the work on the single regional delivery plan.
- 3.5 The first meeting of the Investment Panel is provisionally identified for early autumn.

#### **4. Operating Procedures**

- 4.1 Along with the Governance and Accountability framework a set of Operating Procedures is being finalised that will govern the way in which the Investment Panel will operate.
- 4.2 The Panel will take decisions within the framework of its Business Plan which will have a 10 year life-span. It will have two decision making processes:
- a) A decision to include a scheme in the Business Plan
  - b) A final decision to invest the RIF.
- 4.3 It is not envisaged that there will be a formal bidding process as part of the operating procedures. Instead it is proposed that officials within the Assembly/SEEDA will work with the Local Authorities in existing priority areas for investment to identify infrastructure requirements that could benefit from the RIF approach.

- 4.4 Infrastructure requirements identified through this dialogue will then be considered by the Investment Panel. If the Panel concludes that the proposal satisfies an agreed set of criteria it will be included in the RIF Business Plan. This would result in the allocation of both an indicative amount and timing for the investment, including when the investment can be expected to be repaid.
- 4.5 Infrastructure proposals could be submitted to the Panel anything up to five years in advance of the predicted provision of the infrastructure. It is envisaged that Local Authorities would be able to express interest in including a particular scheme in the RIF Business Plan at any time by writing to the Regional Assembly/SEEDA.
- 4.6 The Investment Panel will undertake an annual Business Plan review and that the financial activities of the RIF will be audited and reported annually.

## **5. Providing the funds for the RIF**

- 5.1 The RIF will be established using public sector funds that are available as part of the Regional Funding Allocation process.
- 5.2 The SEEDA Corporate Plan for the 3-year period from 2008/09 identifies a commitment to provide just over £10m towards the RIF.
- 5.3 Elsewhere on the agenda of this meeting the Board will receive a proposition that it should in future over programme on the regional programme. This reflects more recent advice from the DfT on the management of the regional programme and is appropriate in order to ensure that we take full advantage of the funding available to the region.
- 5.4 The proposition is that the Board over programme by 15% over the current 3-year Comprehensive Spending Review period. This would give the Board scope to identify up to £66m of investment for the period to 2010/11. Of this we recommend that up to £25m of funds be ear marked to be available via for use as part of the RIF.
- 5.5 It is important to bear in mind that this allocation for the RIF will only be drawn upon if schemes are accepted by the Investment Panel. As the RIF operates on the basis that the funds invested are recovered through the planning system, meaning that the Board's contribution to the RIF is effectively a zero cost over time.
- 5.6 The intention remains to secure a contribution towards the RIF from the 'housing' fund that forms part of the RFA process. Discussions with CLG officials have identified the concerns that need to be addressed in order to enable them to consider this proposition further. The critical issue is the need to demonstrate the contribution that the RIF will make towards delivering affordable housing targets agreed between CLG and HMT. The working assumption is that we should aim to secure a contribution of £15m (over two years) for the RIF from the 'housing' RFA.

- 5.7 We are therefore working on the basis that for the first three years of the RIF we will have in the order of £50m available. As part of the longer term strategy to develop the RIF SEEDA has commissioned work that will explore the potential of using the funds identified to lever in additional funds from the private sector for investment in the region.

## **6. Developing the initial Business Plan**

- 6.1 This is the third strand of work currently underway to enable the RIF to be established. Based on the experience of operation of the RIF in the South West the number of potential candidates for consideration will be limited.
- 6.2 This is because in order for a proposal to be considered by the Investment Panel a local authority will have had to have been through a process of identifying the need for a piece of infrastructure. In particular it will be able to identify how the infrastructure is required to deliver planned growth. It will have identified the potential for that infrastructure to ultimately be paid for through contributions from the private sector collected via the planning system. Most importantly it will have identified a mechanism that will enable that contribution to be recovered; this could be via a standard charge, tariff or levy of some description.
- 6.3 By way of illustration it is useful to consider an example associated with Ashford. Here the local authority, in partnership with regional and local stakeholders, has identified the infrastructure required to support its planned growth. It has identified the contribution that might be expected from the private sector through the planning system and set a tariff through which this contribution will be collected.
- 6.4 The implementation plan for Ashford identifies a number of critical pieces of infrastructure that need to be delivered in order to unlock the delivery of new houses and employment sites. Ultimately the cost of this infrastructure will be recovered through the tariff, however the initial capital sum required to deliver the infrastructure cannot be provided up front by the developers.
- 6.5 It is on this basis that the infrastructure proposal is an early contender for the RIF and Assembly/SEEDA officials are working closely with Ashford to enable an application for funding from RIF to be considered at the earliest opportunity.
- 6.6 Another early contender for support from the RIF is the provision of the green infrastructure and access management services required to mitigate the impact of development in the area surrounding Thames Basin Heaths.

**Martin Tugwell**  
**Director of Development**

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Tel: 01483 555230

E-mail: [martintugwell@southeast-ra.gov.uk](mailto:martintugwell@southeast-ra.gov.uk)

## **SOUTH EAST ENGLAND REGIONAL INFRASTRUCTURE FUND**

### **Governance and Accountability Draft Framework**

#### **1. The Regional Infrastructure Fund**

- 1.1 The Regional Infrastructure Fund will provide added value to the delivery of sustainable economic development either by:
- a) removing barriers to delivery,
  - b) speeding up delivery
  - c) making the development more sustainable by earlier delivery of key infrastructure
  - d) leveraging in additional investment from the private sector
- 1.2 Operation of the RIF will be undertaken on behalf of the region by an Accountable Body. The Accountable Body will operate the RIF in accordance with a Business Plan. The Business Plan will be prepared by the Accountable Body within a framework agreed at a regional level by an Investment Panel.

#### **2. The Investment Panel**

- 2.1 The purpose of the Investment Panel will be to direct the investment of the RIF and manage the RIF Business Plan in order to best aid the delivery of key pieces of infrastructure required to support sustainable growth. Investment decisions will be taken within the framework of existing regional strategies, against clear criteria and using a consistent and transparent assessment process.
- 2.2 Membership and Structure of the Investment Panel
- 2.2.1 It is proposed that the Investment Panel will comprise the following representatives:
- a) Representatives from the SEEDA Board
  - b) Representatives from the Regional Assembly
  - c) Representatives from the Regional Housing Board and./or Regional Transport Board
  - d) External representatives from the private sector drawn from experts in infrastructure provision, risk management, investment processes

GOSE will be invited to attend as an observer.

2.2.2 Membership of the Investment Panel will be limited to between 8-12 members. A quorum of a majority of the members will be required, if there were a temporary vacancy in the Panel membership, the quorum shall be reduced. Declarations of interest will be required and those with a particular interest in specific schemes that may come before the Panel will not be involved in the decision making process.

2.2.3 The Panel will normally meet quarterly to take decisions and review the Business Plan; more frequent meetings may be required early in the life of the RIF in order to consider schemes for inclusion in the initial RIF Business Plan.

## 2.3 Role and Responsibilities

2.3.1 The role and responsibility of the Investment Panel will be to:

- a) To direct the investment of the RIF within South East England and to advise the Accountable Body on those investments
- b) To manage the RIF Business Plan ensuring investments are balanced appropriately with available resources
- c) To consider schemes for inclusion in the Business Plan and to produce an amended Plan accordingly
- d) To take due account, where appropriate, of established regional priorities in investment decisions
- e) To ensure that the Accountable Body's required appraisal, financial and audit processes are met with regard to each RIF investment
- f) The Panel will consider all proposals for investments from the RIF and make recommendations to the Accountable Body on the level of investment, any specific conditions to be applied, etc
- g) The Accountable Body shall ensure that all other necessary consents/approvals in connection with the investment level are satisfied, i.e.:
  - i) Decisions to invest sums above £10m from the economic development element of the RFA will need to be authorised by BERR;
  - ii) For transport schemes that are part of the RFA process, the Panel's decision to invest funds from the RIF will need confirmation by DfT.

## 2.4 Relationship to other regional structures/organisations

2.4.1 The Investment Panel will not be formally linked to other regional boards (i.e. in reporting terms) but by drawing on representatives from relevant organisations clear links will be established

2.4.2 A key criterion for RIF investment is delivery of regional priorities established through the South East Plan and Regional Economic Strategy, and supported by other initiatives such as the designated Growth Areas, New Growth Points and/or eco-town proposals. The Panel will operate in the context of these agreed regional priorities, taking due account of them for individual investment decisions and, if required, to prioritisation between investments.

2.4.3 The Investment Panel will not be a forum for discussing the merits of particular pieces of infrastructure but will focus on the degree to which a RIF investment adds value to the delivery of sustainable economic growth.

2.4.4 Formal agreements with the relevant Local Authorities will be required before RIF funds are invested to ensure that the RIF element is repaid to the Accountable Body. SEEDA, acting as the Accountable Body will enter into contractual arrangements with Local Planning Authorities and/or land owners or developers, in order to secure the return to the Fund of the relevant developer contributions. SEEDA will contract with the relevant infrastructure provider who will be expected to guarantee delivery and accept the cost risk.

## 2.5 Accountability

2.5.1 The Investment Panel will advise the Accountable Body on all aspects of the investment. The Panel's Business Plan and investment advice will be made public. The Accountable Body will ensure proper records and accounts are kept such that they can be scrutinised. An annual audit of those accounts shall be carried out and provided to the Investment Panel for the purposes of assisting management of the Business Plan.

2.5.2 Similarly, the Accountable Body shall ensure that the information requirements of any other funding contributor are met.

## 3. Accountable Body

3.1 The Regional Development Agency (SEEDA) will be the accountable body for Regional Infrastructure Funds. It will hold any uncommitted RIF funds and receive back payments, which can then be recycled into further investments. It will undertake the day to day operation of the fund, and will manage the process of project and financial appraisal and ensure that appropriate monitoring and evaluation processes are implemented.

## 4. Realising opportunities and delivering sustainability through RIF investment.

4.1 RIF offers an opportunity to enhance the sustainability of new development through the timely provision of infrastructure, encompassing earlier delivery, delivery of whole packages of infrastructure in parallel, more appropriately sequenced delivery and potentially more innovative solutions.

4.2 National, regional and local government and agencies all have a role to play in establishing environmental standards for new development. The Investment Panel will wish to ensure that the schemes it supports meet the highest standards of environmental sustainability set by others. Where clearly defined standards exist for particular types of development (the Code for Sustainable Homes for example) the Panel may adopt additional criteria so

that only schemes meeting the required levels will be considered for investment.

- 4.3 As part of the annual Business Plan review process and the on-going monitoring and evaluation process, the Investment Panel will assess the extent to which RIF investments have realised the benefits that were set out in the original case made for investment.

## **5. The RIF and risk**

- 5.1 The Investment Panel will determine its own risk strategy and approach to risk, in consultation with the Accountable Body, and manage it through the Business Plan process. Given the overarching objectives of the RIF and its role in delivery, risks for the RIF can be identified and separated from the normal risks associated with infrastructure delivery which will remain with the delivery agent.

### *Risks for the RIF*

- 5.2 Non-payment of developer contributions back in to the RIF.
  - 5.2.1 The foremost risk to the RIF is the non-payment, late payment or deferred payment of the developer contributions that it forward-funds. Non-payment will obviously lead to the Fund failing to become self-sufficient. This will be managed by the Investment Panel by firstly setting aside a contingency from its initial fund to cover such circumstances and mitigated by its contracts with landowners or developers and some direct charges.
  - 5.2.2 The RIF Criteria will also require schemes to demonstrate the robustness of the agreements in place to secure the relevant contributions and/or the framework for seeking future relevant contributions from developments that are not yet in the planning system, before a decision to invest is made. The Investment Panel may adopt an approach whereby a minimum percent of the investment must be secured through secured legal agreements, balanced against those due to flow from future developments (with or without permission) that are not yet secure.
  - 5.2.3 In exceptional cases, where significant RIF investments are at risk due to the failure of development land (benefiting from the investment) being brought forward in the planning process, the use of Compulsory Purchase powers will be considered by the Accountable Body with the aim of bringing forward land for development in accordance with agreed planning timescales.
- 5.3 Non-return of developer contributions from Local Planning Authority (LPA) to RIF.
  - 5.3.1 Developer contributions can be made to non-LPAs, but legally only LPAs can enforce agreements made under S106 of the Town and Country Planning Act. For reasons of simplicity, the Accountable Body is unlikely to sign S106 agreements, or receive developer contributions directly, instead the LPA, as

the enforcing body for S106 agreements, will receive payments and then pass them back to the RIF. In some cases, the RIF (in the form of the Accountable Body) may enter into agreements directly with the landowner/developer that secure specific contributions.

This would need to be done in agreement with the LPA who might be required as a consequence to amend their S106 requirements.

- 5.3.2 It is possible that the LPA could receive back repayments and then not return them to the RIF. To prevent this possible occurrence, the Accountable Body will sign agreements with LPAs to legally secure the return of relevant developer contributions to the RIF. The signing of such agreements will be required before a decision to invest is made.
- 5.4 RIF is not a large enough Fund to be effective – too many schemes.
  - 5.4.1 It is likely that the number of potential candidates for RIF investment will be limited in its early stages. However, in the medium to longer term this risk can also be mitigated by introducing stricter, or more targeted eligibility criteria. In future, there are of course opportunities for the RIF to grow as others make contributions to it (see below) and if options to secure some of the uplift in development value that RIF investment will bring about are pursued (see below).
- 5.5 No schemes come forward for RIF Investment – too few schemes.
  - 5.5.1 If no appropriate or eligible schemes come forward for RIF investment then the committed funds will be returned to the relevant part of the RFA.
- 5.6 RIF Investment is required in too large amounts at the same time.
  - 5.6.1 There is some potential for a number of eligible schemes to require RIF investment at the same time making the investment process more difficult to manage. There is also potential, if the sums required at the time are greater than the investment value remaining in the Fund, for issues of scheme priority to arise. The Investment Panel will manage this issue through its Business Plan monitoring process and in circumstances where there are competing schemes, will seek guidance from other regional stakeholders on suitable additional criteria for determining priority.
- 5.7 Slippage in the Business Plan due to delivery delays.
  - 5.7.1 Infrastructure schemes can be difficult to deliver to a planned timetable, no matter how well managed. There are inherent planning and development risks. This slippage, if unrecognised by the Business Plan, could lead to it becoming a relatively inaccurate Plan as to when investment is required. The Panel will mitigate this risk by requiring quarterly reports from LPAs on scheme progress, leading to amendment and refinement of the Business Plan as appropriate.

*Normal risks of infrastructure delivery that will not fall on the RIF.*

5.8 Cost overruns.

5.8.1 The RIF investment will forward-fund an identified and valued developer contribution only. If the total scheme costs rise, then there is no facility for the RIF investment to grow accordingly.  
If further investment is needed from RIF, to cover enlarged (and agreed and secured) contributions from developers, then the Panel will take a further investment decision.

5.9 Delivery delays.

5.9.1 See above under 5.7.

## **6. Success criteria for RIF Investment**

6.1 It is important to establish criteria against which the operation of the RIF might be judged. However it is also important to ensure that the criteria are realistic, measurable and do not place an undue burden in terms of monitoring requirements.

6.2 The initial success criteria for RIF will include:

- i) At least a (to be established) percentage of contributions are returned to it.
- ii) Planned growth is delivered earlier.
- iii) Essential infrastructure is in place earlier.
- iv) Measurable/identifiable additional sustainability is secured through investments.
- v) Some developer contributions are realised sooner
- vi) Additional developer contributions are realised through leverage.

## **7. The RIF and value for money**

7.1 The Investment Panel will assess the value for money of RIF investment based on the expected return of its investment and the scale of early delivery of growth that it brings about. The Panel will not assess the wider value for money of the actual infrastructure it is investing in; the Panel will require that this assessment has already been completed satisfactorily before an investment decision is made.

7.2 Any scheme RIF invests in (or decides to invest in) will have to have been through (or go through) all necessary consent regimes and assessment processes. For RFA transport schemes this will include the Major Scheme Bid process, and for non-RFA schemes the Local Transport Plan process. Affordable Housing schemes that are also supported by public subsidy will have to go through the Housing Corporation's Affordable Housing Programme. Health schemes will go through NHS value for money processes etc.

7.3 The value of RIF investment in each scheme will be assessed in detail using a standard financial modelling process. This process will also establish the financial viability of the whole development and will aid LPAs in arriving at a realistic and fair contribution package during negotiations with the developer.

7.4 The RIF concept itself offers the public purse value for money in that it will be a recycling resource. It will also aid in delivering infrastructure earlier, thereby reducing the cost of its delivery.

## **8. Draw-down of Resources from Regional Funding Allocation**

8.1 [NOTE: this section will be developed in light of ongoing discussions with central Departments with regards their expectations on draw-down].

## **9. Returning surpluses**

9.1 If a publicly funded RIF begins to make surpluses then these will be redistributed to the funding organisations.

## **10. Facilitating other contributors to the RIF.**

10.1 There is potential for additional funding from other government departments (e.g. Health, Children Schools and Families) and similarly amongst existing and proposed regional and national non-departmental public bodies that have a role in supporting the delivery of sustainable economic growth. RIF will have the ability to deliver any type of infrastructure early, be it houses, affordable houses, schools or transport schemes.

10.2 The Investment Panel will commit to spending relevant amounts on particular types of infrastructure (not everything will come forward as part of a package) and will be able to make similar commitments to any future contributors. The Business Plan will offer additional confidence for other contributors that their investment will deliver particular outcomes or priorities. Allocations can easily be made to the RIF through the Accountable Body.

10.3 A well-funded RIF operating with a distinct regional branding will have momentum and vitality, building on existing enthusiasm and a feeling of regional ownership and benefiting from wide support for its agreed priorities for investment in particular places. It will offer simplicity and consistency through a single investment process.

## **11. Growing the RIF by capturing development value uplift**

11.1 RIF investment will have associated benefits for developers and land-owners. Some of these benefits are clearly fundamental to why a RIF is being developed: to enable development to proceed by assisting the developer's

cash-flow and to ensure the early delivery of infrastructure. RIF will also assist in reducing development risks; any infrastructure required to be in place before certain development phases can proceed past a particular point will be in place earlier. The early delivery of infrastructure will also unlock other development sites, reducing planning risks and potentially development costs (cost of capital etc).

- 11.2 Within an Area Action plan formula or standard charge process it would be possible to value and 'charge' for this uplift. Further work will be required to set out the relationship between the RIF and the proposed Community Infrastructure Levy (CIL).

## **12. The RIF and private sector investment**

- 12.1 It is clear that securing private sector investment in the RIF will be of most benefit to the public purse.
- 12.2 We will need to consider this issue from our region's perspective as part of the longer-term development work associated with the RIF.

## **13. State Aid**

- 13.1 Risk sharing between public and private sector investors must be at least equal. Security of returns should be related to the scale of investment – no private sector investor should be able to invest without accepting some risk.
- 13.2 It is intended that the RIF will operate without conferring any state aid.

**April 2008**