

**Catherine Williams**  
Deputy Director, Railway Markets and Economics



25 July 2018

David Hughes  
Director of Strategy and  
Network Development,  
London Underground  
Transport for London  
11th Floor, 197 Blackfriars Road  
London  
SE11 8NJ

Mathew Lodge  
Rail Major Projects  
Department for Transport  
Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

Dear David and Mathew,

### **Third Crossrail Regulatory Statement**

#### **Security of Access for Elizabeth Line services on the Crossrail Central Operating Section**

Thank you for your letters dated 2 May 2018 in relation to security of access for Elizabeth Line services on the Crossrail Central Operating Section (CCOS).

Your letters set out that in order to realise the expected benefits of the Crossrail project and service the financing raised, TfL needs to secure access to the CCOS for a minimum of 30 years.

You requested that ORR provide certainty and clarity of the approach that we will take in considering future applications for access to the CCOS.

Prior to ORR issuing the first Crossrail Regulatory Statement in 2008, we had discussed a track access option for the CCOS in order to allow the Crossrail project Sponsors (the Department for Transport and Transport for London) to secure access rights to deliver the full Crossrail project. As we have recently discussed, we do not consider that it would be appropriate to approve a track access option at this point as there are other ways that they will be able to secure the relevant access rights to the CCOS. However, we did agree that ORR could issue a Regulatory Statement setting out the approach that we intend to take in handling future access applications.

I therefore attach a Regulatory Statement setting out the approach we will take to considering track access contracts between the infrastructure manager of the CCOS and train operators, in accordance with the Railways Act 1993. The statement complements:

- (a) the Crossrail Regulatory Statement which related primarily to charging arrangements for the CCOS which we issued on 13 November 2008; and

- (b) the Further Crossrail Regulatory Statement which related primarily to the Crossrail Supplementary Access Charge which we issued in February 2014.

I will arrange for a copy of this letter to be published on our website in due course.

Yours sincerely

**Catherine Williams**

Enc. Third Crossrail Regulatory Statement

**Annex 1**  
**Crossrail Regulatory Statement**

## Third Regulatory Statement in respect of the Crossrail Central Operating Section (CCOS)

### *Introduction*

- 1 This Third Crossrail Regulatory Statement has been requested by the Department for Transport (DfT) and Transport for London (TfL) (together, the Sponsors of the Crossrail project). It complements:
  - the Regulatory Statement (“the Crossrail Regulatory Statement”) in respect of the CCOS<sup>1</sup> dated 13 November 2008; and
  - the Further Regulatory Statement on Crossrail charging<sup>2</sup> (the "Further Crossrail Regulatory Statement”) in respect of the Crossrail Supplementary Access Charge which we issued in February 2014,both of which are annexed to this Third Crossrail Regulatory Statement.
- 2 The purpose of this Third Crossrail Regulatory Statement is to set out our current approach to handling track access applications for the CCOS, and in so doing clarify the matters described under the "Security of Access" and "Duration of access rights" sections of the Crossrail Regulatory Statement and to acknowledge developments that have occurred since 2008 including that Network Rail will no longer be the infrastructure manager of the CCOS.

### *Background*

- 3 The CCOS itself will be regulated under the Railways Act 1993 (the Act) and The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (the Regulations). Stations located adjacent to the CCOS where TfL will be the facility owner through London Underground Limited (LUL) will be exempt<sup>3</sup> from the licensing and access provisions of the Act.
- 4 TfL has established a subsidiary, Rail for London (Infrastructure) Limited (RfL(I)) to be the infrastructure manager and facility owner of the CCOS. The services planned to be operated on the CCOS (such as Reading, Heathrow Airport and Shenfield) will be known as "Elizabeth line" services. These services will be operated initially under a concession agreement by MTR Corporation (Crossrail) Limited (MTR-C). We understand from TfL/RfL(I) that the initial track access contract between RfL(I) and MTR-C is expected to be formally submitted to us for approval in the next few months (the Initial CCOS TAC).
- 5 The Crossrail Regulatory Statement set out how we would expect to address certain issues in our consideration of any future application for access rights to the CCOS. It recognised that (at that time) there was no reason in principle why the duration of access rights approved for the CCOS should be limited to the 30-year duration of access rights for the Network Rail network which we had already approved, for example if the balance between protecting existing users and facilitating new investment were judged to be different. The Crossrail Regulatory Statement contemplated that access rights might be sought in respect of the CCOS for a fifty-

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<sup>1</sup> [http://orr.gov.uk/\\_data/assets/pdf\\_file/0017/10745/crossrail-reg-statement-131108.pdf](http://orr.gov.uk/_data/assets/pdf_file/0017/10745/crossrail-reg-statement-131108.pdf)

<sup>2</sup> [http://orr.gov.uk/\\_data/assets/pdf\\_file/0017/10754/crossrail-charging-statement.pdf](http://orr.gov.uk/_data/assets/pdf_file/0017/10754/crossrail-charging-statement.pdf)

<sup>3</sup> This is assuming those stations are not shared with other scheduled passenger services.

year period. Access rights for such a period would typically be granted under a track access option (TAO).

- 6 Our current guidance (“Investing in the railway: securing access”<sup>4</sup>) sets out that we will generally assess TAO applications in the same way that we consider track access applications. However we will focus on two particular issues:
- the impact of the TAO on the overall use and efficiency of enhanced network capacity including to what extent the TAO locks up capacity; and
  - whether the TAO is needed to support a specific and significant investment in the railway, such that it cannot be secured in other ways.

#### *Our general approach to access regulation*

- 7 If a train operator wants to run trains on a rail network that is regulated under the Act, its track access agreement(s) with the relevant facility owner(s)/infrastructure manager(s) must usually be approved by ORR. RfL(I) will be responsible for granting track access to train operators seeking to use the CCOS. ORR will be required to approve and direct RfL(I) track access contracts for use of the CCOS in accordance with the Act.
- 8 In considering any applications for track access on the CCOS, we operate within a specific statutory and policy framework and an application will need to be made in the normal way. Our published criteria and procedures explain how we typically consider such applications<sup>5</sup>.
- 9 We are supportive in principle of passenger open access applications, recognising the benefits competition between train operators can bring. Our decisions on track access applications must be made in accordance with our statutory duties. The duties most likely to be relevant here are:
- Protecting the interests of users of railway services;
  - Promoting the use of the Network for Passengers and Freight;
  - Promoting competition for the benefit of rail users;
  - Enabling persons providing railway services to plan the future of their businesses with a reasonable degree of assurance;
  - Promoting improvements in railway service performance; and
  - Have regard to the ability of the Mayor of London and TfL to carry out the functions imposed on them by or under any enactment
- 10 Our published criteria and procedures explain that we typically consider the following factors when making track access decisions:
- Whether there is fair and efficient use of capacity. We determine what that is where an operator and infrastructure manager cannot agree a contract;

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<sup>4</sup> [http://orr.gov.uk/\\_data/assets/pdf\\_file/0010/26578/investing-in-the-railway-securing-access.pdf](http://orr.gov.uk/_data/assets/pdf_file/0010/26578/investing-in-the-railway-securing-access.pdf)

<sup>5</sup> See our track access guidance at: <http://orr.gov.uk/rail/access-to-the-network/track-access/guidance>

- What impact proposed services could have on train performance, especially on a busy network;
- Whether new services would support more competition resulting in overall benefits to passengers (e.g. through lower fares);
- Whether proposed services are consistent with the industry's long term plans;
- Whether new competing services would generate new revenue, rather than just taking it away from current services. We call this the "not primarily abstractive" test; and
- Where we have competing applications for limited capacity, the costs and benefits of the available options.

11 In making this Third Crossrail Regulatory Statement, we have taken into account all of our duties under section 4 of the Act and the relevant provisions of the Regulations.

#### *Considerations relevant to the CCOS*

12 In issuing this Third Crossrail Regulatory Statement, we have considered (among other points):

- the expected economic lives of the assets constructed;
- the quantum and duration of the benefits delivered, particularly in terms of supporting the Mayor of London's transport strategy;
- the expected duration of any contractual commitments, such as the concession length and the length of time required to repay the debt incurred in construction of the CCOS; and
- the distinction between the construction of new infrastructure with a specific purpose in mind and for which there are no current users, and enhancements to existing infrastructure for which there are multiple existing users.

#### *Security of access*

13 As set out in our current guidance ("Investing in the railway: securing access"), our access policy recognises that parties developing and funding infrastructure projects require comfort that they will be able to secure access to the railway.

14 TfL put forward a draft TAO in respect of the CCOS in order to obtain comfort that it will be able to hold appropriate access rights in order to be able to realise the benefits of the investment. We discussed this with TfL in the context of our current access policy and guidance.

15 We consider that there are ways other than a TAO by which the Sponsors of the Crossrail project can take comfort that they will be able to secure the relevant access rights to the CCOS to deliver Elizabeth Line services and secure the benefits of the Crossrail project. These are discussed further below. As a result, we do not consider that a TAO in respect of the CCOS is appropriate at this time.

16 As we did in the Crossrail Regulatory Statement and the Further Crossrail Regulatory Statement, we recognise that the Crossrail project is one of national importance and it is crucial to ensure the project can deliver the benefits set out in the business case. We also recognise that Elizabeth line services form a key part of the Mayor of London's transport strategy and that we are required to have regard to the ability of the Mayor of London and TfL to carry out the functions imposed on them by or under any enactment.

#### *Our approach to access regulation for the CCOS*

17 We note that, from the outset, access to the CCOS over its life will be represented by several long term access contracts.

18 In our guidance on the duration of access contracts, we set out that the award of a typical franchise contract can justify access contracts having a duration of up to 10 years<sup>6</sup>. We therefore consider that the duration of access rights to the CCOS could be set on the basis of matching the length of the corresponding MTR-C concession, plus an additional 1-2 years beyond that to facilitate a smooth transition to the next concession.

19 As noted in the Crossrail Regulatory Statement, we shall need to ensure that other potential users can gain access to the CCOS if there is spare or unused capacity. We also noted that we have approved a long term TAO for Crossrail services to run on Network Rail infrastructure. In approving that TAO we took into account the benefits of passenger services being able to run through the CCOS. We do not therefore expect to approve third party access rights which would undermine those benefits or prevent them from being utilised (though such rights could be sought). This continues to be the case.

20 There is a strong presumption in our approach in favour of the extension of current access rights except where we have said otherwise (for example, where there was uncertainty about capacity or performance impacts, or if we anticipate a significant change in infrastructure configuration/capacity). This would apply to the renewal of rights to subsequent concession holders.

21 The presumption in favour of the extension of current access rights will apply to the access rights to be granted under the Initial CCOS TAC (including any successor to MTR-C responsible for operating Elizabeth Line services, to whom the Initial CCOS TAC may be transferred).

22 Any access rights approved on the above basis could potentially be extended mid-term, for example in the event that the concession length was extended.

#### *Interface with Network Rail network*

23 We recognise that, with the connections between the CCOS and Network Rail network, the matters set out in this Third Crossrail Regulatory Statement also have implications for the Network Rail network. This will be particularly relevant following the expiry of the long term access option for Elizabeth Line Services on the Network

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<sup>6</sup> [http://orr.gov.uk/\\_\\_data/assets/pdf\\_file/0018/22815/duration-guidance-publication-sept-2016.pdf](http://orr.gov.uk/__data/assets/pdf_file/0018/22815/duration-guidance-publication-sept-2016.pdf)

Rail network. We can confirm that our approach to access regulation on the Network Rail network would be consistent with the position outlined above for the CCOS.

**Date:** 25 July 2018



## **Annex 2**

### **Further Crossrail Regulatory Statement**

# Further regulatory statement on Crossrail charging

## Background

1. The Crossrail project is jointly sponsored by the Secretary of State (SoS) and Transport for London (TfL) (together the Sponsors), for the development, design, procurement, construction, commissioning, integration and completion of a railway transport system that is capable of operation for services from Maidenhead in the County of Berkshire and from Heathrow Airport in the London Borough of Hillingdon through central London to Shenfield in the County of Essex and Abbey Wood in the London Borough of Greenwich (the Crossrail Project). In addition to the construction of the new central tunnelled section being directly delivered by Crossrail Ltd (CRL), the project requires enhancements and alterations to existing infrastructure and stations above ground on the existing network owned by Network Rail Infrastructure Limited (Network Rail), the On Network Works (ONW).
2. The SoS, CRL and Network Rail have agreed, with the approval of the Office of Rail Regulation (ORR), the Crossrail-Network Rail Programme Protocol (the Protocol), which states how the ONW will be developed and delivered by Network Rail, including appropriate governance and incentive arrangements.
3. The Protocol provides that Network Rail will finance its own programme costs in delivering the ONW, and describes the process for identifying costs and the requirements for logging the programme costs to Network Rail's Regulated Asset Base (RAB). We agreed in a letter dated 27 November 2009 to Network Rail, CRL and DfT, that the process set out in the Protocol would be used to determine the actual amount to be added to the RAB and that this could be treated as an efficient price. This RAB addition and the way we will treat the financing costs associated with the ONW will ensure that Network Rail is appropriately remunerated for its investment in the ONW, as it will form part of the determination by ORR of Network Rail's total revenue requirement for each Control Period.
4. During the passage of the Crossrail Bill in Parliament, the then-Secretary of State formally laid in Parliament heads of terms for Crossrail that had been agreed between the Department for Transport and TfL, setting out the intended sources of funding for Crossrail<sup>1</sup>.
5. Consistent with these heads of terms, the Sponsors and Network Rail proposed that certain capital costs from the ONW will be met through a Crossrail Supplementary

<sup>1</sup> <http://www.publications.parliament.uk/pa/ld200708/ldhansrd/text/71126-wms0001.htm>.

Access Charge (CSAC) paid by the option holder of the Crossrail track access option dated 22 September 2008 (the TAO). Subject to any buy back as described in paragraphs 23 and 24 below, the option holder will remain liable for the payment of the CSAC to Network Rail.

6. For the period when the CSAC is in operation, ORR, having calculated Network Rail's total revenue requirement taking into account the value of the RAB, will offset from that total the anticipated value of CSAC payments from the option holder under the TAO, as well as the value of any Network Grant, before it determines the income that Network Rail is entitled to recover through the usual fixed and variable track access charges levied on passenger and freight train operators.
7. The CSAC payments will be calculated net of an amount (the User Pays Offset) which reflects the benefit of the ONW to other network users and not on the basis of the total ONW programme costs (as determined by the Protocol). Network Rail will be remunerated for the User Pays Offset through the regulatory framework. This is to ensure that the ONW benefits received by passengers on the wider network will be paid for from passenger revenues from that wider network.
8. The TAO grants the SoS a 30 year option to exercise access rights over the Crossrail route and the CSAC payment would be paid throughout this period. It is anticipated that the SoS will novate his rights and obligations under this TAO to TfL.
9. Any element of the net value originally logged to the RAB as a result of the investment in the ONW but implied by the calculation method of the CSAC to remain unamortised will fall to be remunerated as part of the normal process for determining Network Rail's regulated income. On expiry of the TAO, a second generation CSAC or some other Crossrail related mechanism may be agreed.
10. In relation to the ongoing operational costs of the ONW, a Crossrail Track Access Agreement is expected to be based on the Model Clauses published by the ORR. This would require the Crossrail passenger train operator to pay access charges determined by ORR in a similar manner as those for other passenger train operators.

### **Characterisation of the CSAC under the Railways Infrastructure (Access and Management) Regulations 2005 (the 2005 Regulations)**

11. Paragraphs 1(3) and 3 of schedule 3 of the 2005 Regulations provide an exception to general charging principles and allow an infrastructure manager to set or continue to set higher charges on the basis of the long-term costs of a project, in relation to "specific investment projects completed...following the coming into force of these Regulations".
12. For this exception to apply paragraph 3(2) requires that:-
  - (a) the project must increase efficiency or cost effectiveness; and
  - (b) the project could not otherwise have been undertaken without the prospect of such higher charges.

13. Network Rail and the Sponsors regard the CSAC as falling within the exception in paragraphs 1(3) and 3 of schedule 3 of the 2005 Regulations for the reasons set out below.

*The On-Network Works amount to a qualifying “specific investment project” (Paragraph 3(1) of schedule 3 of the 2005 Regulations)*

14. The ONW are self-evidently part of a specific investment project. The works are well defined involving infrastructure construction works which required considerable up-front investment prior to new rail services becoming operational. The overall capital cost of the ONW is expected to be in the region of £2 billion.

15. Neither the ONW nor the wider Crossrail Project, of which the ONW form part, are yet completed. It is expected that those works will be fully operational by December 2019.

*The CSAC is based on the long term costs of the project (Paragraph 3(1) of schedule 3 of the 2005 Regulations)*

16. The CSAC relates wholly to part of the capital costs incurred by Network Rail in carrying out the construction works which are required for the ONW. These costs include major capital expenditure which is expected to be recovered over a period of up to 50 years. The mechanism by which the CSAC would be paid is described in paragraphs 6-8 above. The CSAC is based on the remuneration of Network Rail for these long term costs for the duration of the 30 year TAO access rights. Thereafter the arrangements described in paragraph 9 above will apply.

17. Network Rail will recover its operational, maintenance and renewals costs related to the ONW incurred after the CSAC comes into operation through the Track Access Charges determined by the ORR as part of the normal regulatory process.

*The project increases efficiency or cost effectiveness (paragraph 3(2)(a) of schedule 3 of the 2005 Regulations)*

18. Connecting the railways to the east and west of London by means of the Crossrail Project clearly increases the efficiency of the railway network. The ONW are a necessary part of the overall Crossrail Project, without which this cannot be achieved.

19. The case that Crossrail improves efficiency and cost effectiveness has been made in detail through the Crossrail business case. ORR has recognised that the Crossrail Project fulfils this condition in our Regulatory Statement in respect of the Crossrail Central Section published in November 2008<sup>2</sup>. In paragraph 15 of that statement we said “[a]t this stage we are satisfied in principle that the Crossrail Project should increase the efficiency of London’s Transport network through the additional capacity generated and reduction in journey times and, on the basis of evidence put forward, should make substantial contribution to the wider economic growth.” It follows therefore that this condition would be met.

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<sup>2</sup> [http://orr.gov.uk/\\_data/assets/pdf\\_file/0017/10745/crossrail-reg-statement-131108.pdf](http://orr.gov.uk/_data/assets/pdf_file/0017/10745/crossrail-reg-statement-131108.pdf)

*The project could not otherwise have been undertaken without the prospect of such higher charges (paragraph 3(2)(b) of schedule 3 of the 2005 Regulations)*

20. ORR understands that the Sponsors always considered it necessary to implement higher charges in order to fund the Crossrail Project. Sponsors have highlighted Heads of Terms between the SoS and TfL agreed on 26 November 2007 which set out the intention (at clause 8.3.5) that *“TfL and/or the Crossrail TOC will be responsible for the payment of any charges payable for the use of the Central Tunnel Section and subject to [a cap of £2.3bn] any additional access or other charges payable to Network Rail for use of the enhanced capacity of the NR Network following completion of the Crossrail Project”* and stated (at clause 8.3.10) that *“TfL will be entitled to receive farebox revenue from the Crossrail Services...”*.
21. Our November 2008 Regulatory Statement in respect of the central Crossrail section states, in paragraph 5, that *“Network Rail has agreed in principle to finance the costs of the on-network works, which subject to [ORR] approval would be added to the RAB and amortised over time, through track access charges paid by the Crossrail train operator.”*
22. Given the well-publicised level of investment required for Crossrail it is clear from this statement that the access charges for use of the parts of Network Rail’s network that form part of the Crossrail Project route would need to be considerably higher than the default charges under the 2005 Regulations. While this statement refers to access charges paid by the Crossrail train operator, the CSAC will, in fact, be paid by the option holder of the TAO, principally to deal with Network Rail’s concerns over the creditworthiness of the payer and the need to secure a long term contractual commitment to pay the CSAC recognising that track access agreements may be of a shorter duration. This does not alter the underlying principle, implicit in our statement, that higher charges would be payable.

**Transfer of CSAC payment obligation in the event of buy back**

23. The TAO includes provisions (in Part B of schedule 11) which envisage that in certain circumstances the option holder may be deprived of some or all of the track access rights granted by Network Rail under that TAO if the ORR considers that the public interest is better served by Network Rail granting those rights to a third party. These provisions include the payment to the Option holder by Network Rail of a *“Compensation Amount”* (as amended to reflect both changes that are consequential to the implementation of the CSAC and any relevant variances in the outturn scheme cost), with Network Rail in turn receiving *“Buy Back Reimbursement Payment(s)”* from the third party.
24. In addition, where any rights are transferred by the Option holder, Network Rail and the Sponsors envisage that (i) the Option holder will cease paying the portion of the CSAC which corresponds to the rights which have been allocated to the third party and (ii) any third party to whom such rights are allocated will be required to pay the corresponding portion of the CSAC. This ensures that the CSAC is borne by the beneficiary of the access rights. If this did not occur the shortfall would then form part of the unamortised element of the value originally logged to the RAB which would fall to be remunerated as part of the normal process for determining Network Rail’s regulated income.

## **Conclusion**

25. ORR is content that the CSAC, as currently envisaged, complies with all the conditions for it to be characterised as a charge levied under paragraph 3 of schedule 3 to the Railways Infrastructure (Access & Management) Regulations 2005.

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**Annex 3**

**Sponsors' letters dated 2 May 2018**





John Larkinson  
Director, Railway Markets and Economics  
Office of Rail and Road  
One Kemble Street  
London  
WC2B 4AN

Transport for London  
Strategy & Network  
Development

11<sup>th</sup> Floor  
197 Blackfriars Road  
London  
SE1 8NJ

  
tfl.gov.uk

02 May 2018

Dear John

## **Security of access for Elizabeth Line services on the Crossrail Central Operating Section**

### *Introduction*

- 1 In November 2008, the Office of Rail and Road (the Office of Rail Regulation, as it then was) (the "**ORR**") issued a regulatory statement (the "**Crossrail Regulatory Statement**")<sup>1</sup> in respect of the Crossrail Central Operating Section (the "**CCOS**"). As part of the Crossrail Regulatory Statement, the ORR acknowledged that Transport for London ("**TfL**") and the Secretary of State for Transport ("**SoST**") as joint sponsors of the Crossrail project – and in line with the business case for the Crossrail project – sought access rights to the CCOS for a 50-year period to underpin the funding commitment for the project.
- 2 However, the Sponsors were not, at that stage, in a position to seek formal approval for the relevant access rights. The ORR acknowledged that there was no reason in principle why the duration of access rights approved for the CCOS should be limited to the duration of access rights for the Network Rail network which it had already approved (30 years).
- 3 Since then, TfL (and the infrastructure manager for the CCOS, Rail for London (Infrastructure) Limited ("**RfL(I)**")), working with the ORR, have developed the proposed charging, contractual and regulatory structure for the CCOS. The work which has been undertaken to date will promote the use of the railway network, whilst ensuring that the interests of users of railway services are protected. We are now in the position to be able to seek the security of access contemplated by the Crossrail Regulatory Statement.

<sup>1</sup> [http://orr.gov.uk/data/assets/pdf\\_file/0017/10745/crossrail-reg-statement-131108.pdf](http://orr.gov.uk/data/assets/pdf_file/0017/10745/crossrail-reg-statement-131108.pdf)

*Access Option and further regulatory statement*

- 4 As you know, we initially prepared and presented for informal discussion a draft application for a track access option. Following discussions with the ORR, we now understand that policy has evolved since the ORR's guidance on track access options<sup>2</sup> and the Crossrail Regulatory Statement were published in 2008. We understand from ORR that there may be other ways in which the Sponsors can take comfort that they will be able from time to time to secure the relevant access rights to the CCOS to deliver the benefits of the Crossrail project.
- 5 Our discussions with the ORR suggest that a further regulatory statement concerning security of access may be a suitable alternative to a track access option in respect of the CCOS.
- 6 Those discussions have covered:
- the significance of the Crossrail project;
  - the need to deliver securely the benefits of the business case that funders have paid for;
  - the need for TfL to be able to finance its activities;
  - the Crossrail Regulatory Statement;
  - the statutory framework within which i) the Mayor and TfL operate and ii) the Crossrail project has been developed; and
  - the statutory and policy framework within which the ORR operates,
- and we provide information in relation to each of the above in this letter and the accompanying annexes.
- 7 We would be grateful if the ORR could provide certainty and clarity by way of a further regulatory statement, complementary to the Crossrail Regulatory Statement, of the approach it will take to handling track access applications relevant to the delivery of Elizabeth Line services.
- 8 With passenger services scheduled to commence on the CCOS from December 2018, it is important to ensure that security of access (with the associated regulatory statement) is delivered well in advance of this date.

*Significance of the Crossrail project*

- 9 The Crossrail project is of national importance. The CCOS has been designed and constructed to facilitate high capacity metro passenger rail services, moving high numbers of people more easily, more quickly and more directly across London. Once open, the CCOS will add ten

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<sup>2</sup> [http://orr.gov.uk/\\_data/assets/pdf\\_file/0014/2066/350.pdf](http://orr.gov.uk/_data/assets/pdf_file/0014/2066/350.pdf)

per cent. to the overall capacity of London's rail network and will offer crowding relief on the Underground and DLR networks, as well as at congested stations. It will also transform the ease with which disabled and older people can access central London. A summary of why the Crossrail project is so significant – and the business case upon which the project was approved – is set out in Annex 1.

- 10 Elizabeth Line services (as Crossrail services will be known) are an integral part of the Transport Strategy prepared by the Mayor of London (the "**Mayor**"), not only in the short term, but in the context of the future transport needs of the capital. London is expected to continue to grow rapidly with an additional 3.1 million people and 1.4 million jobs by 2050, adding further strain to a transport network that is already under pressure. The contribution of Elizabeth Line services to the delivery of the Mayor's Transport Strategy is summarised in Annex 2.

*Delivering securely the benefits of the business case that funders have paid for*

- 11 The business case which supported the decision to proceed with the Crossrail project was predicated on its use of the CCOS for high capacity metro passenger rail services with a peak frequency of 24 trains per hour between Paddington and Whitechapel. The CCOS has been designed, funded, and is being constructed, to deliver this.
- 12 In order to realise the expected benefits of the Crossrail project and service the financing raised, TfL need to secure access to the CCOS for a minimum of 30 years (and preferably 50 years if the full business case benefits are to be realised). Initially, TfL had expected to achieve this security of access through the grant of a track access option, a position reflected in the Crossrail Regulatory Statement.
- 13 TfL will not operate the Elizabeth Line services itself. Instead, a subsidiary of TfL (Rail for London Limited ("**RfL**")) will undertake a competition to appoint a Crossrail concessionaire. RfL has initially appointed MTR Corporation (Crossrail) Limited ("**MTRC**") to operate the Elizabeth Line services.
- 14 The Crossrail Act 2008 did not change the industry processes under which track access agreements are made and regulated. The Crossrail concessionaire must conclude a track access agreement with RfL(l) and such agreement will need to be approved by ORR. The ORR therefore will play an important role in regulating the CCOS and applications for track access to the CCOS.
- 15 In keeping with accepted regulatory practice we understand that RfL(l) will offer a track access agreement to the MTRC for the duration of its concession agreement, plus an overhang period (with MTRC holding complementary rights to access the Network Rail and Heathrow Airport Limited networks).

- 16 Following the expiry of this track access agreement, there would potentially be a gap of up to 25 years (if the business case break-even point is to be achieved) or up to 40 years (if the expected business case is to be achieved).
- 17 The ORR has approved a 30-year Crossrail Track Access Option between Network Rail and SoST (which has been novated to TfL) (the "NR TAO"). The NR TAO sets out a package of train paths on both the Network Rail Great Western Main Line and the Network Rail Great Eastern Main Line, which it is intended will connect into paths on the CCOS, to allow through running of Elizabeth Line services.
- 18 Connection between train paths on the Network Rail network and on the CCOS will be a key element of the success of the Crossrail project. We are very concerned that if complementary access rights to the CCOS cannot be secured for at least an equivalent term to the NR TAO then delivery of the business case is put at risk with a potentially material adverse financial impact on TfL (see 21 below).

*Ability of TfL to finance its activities*

- 19 TfL is reliant on the revenue generated from Elizabeth Line services on the CCOS to service the debt it raised to finance the Crossrail project; to fund access charges payable to Network Rail in relation to enhancements to its network to facilitate Elizabeth Line services; and more generally to finance delivery of its business plan.
- 20 The latter point assumes considerably greater significance in the light of the phasing out of the resource grant payable to TfL announced as part of Spending Review 2015.
- 21 There is the possibility that the Network Rail access rights could be lost, under either the "use it or lose it" or "Better Use" regimes set out in the Network Rail access documentation. The loss of paths under "use it or lose it", for which there would be no right to compensation, would have a material impact on the financing of TfL.
- 22 More information on the financial implications of not having security of access for Elizabeth Line services is set out in Annex 3.

*Crossrail Regulatory Statement and 2008 Track Access Option Policy*

- 23 The Crossrail Regulatory Statement published in 2008 makes clear that, at the time, the Sponsors contemplated that long term access arrangements would be put in place for the CCOS (which could be in excess of the duration of the NR TAO). The ORR noted in particular the distinction between the construction of new infrastructure with a specific purpose in mind and for which there are no current users, and enhancements to existing infrastructure for which there are multiple existing users. It also took into account the benefits of passenger services being able to run through the CCOS and indicated that it would

not expect to approve access rights for third parties to the CCOS which would undermine the benefits of the Crossrail project from being realised.

- 24 We note the ORR's January 2008 Track Access Option Policy remains in effect. We appreciate that this was published in a different economic, operational and regulatory environment. The ORR has recently published Investing in the Railway: Securing Access and we understand from this policy document and discussions with ORR officials that the ORR is now of the view that other mechanisms are available which could offer equivalent comfort that there will be security of access (for instance for Elizabeth Line services on the CCOS) in the longer term.
- 25 For similar reasons to those set out in the Crossrail Regulatory Statement in 2008, as well as those set out in this letter, security of access remains a concern. At the same time, we recognise that there is a need for fairness and efficiency in the interests of the industry and customers of the industry. It would therefore be helpful to understand the approach which the ORR will take to handling track access applications (both from TfL or the Crossrail concessionaire and other potential future operators) for use of the CCOS, particularly where capacity is constrained (as it is expected to be). We believe this approach could be set out in a further Regulatory Statement that complements the Crossrail Regulatory Statement.

*Statutory framework: the Mayor, TfL and the Crossrail project*

- 26 Although we have previously discussed (in other contexts) the specific framework which applies to the Mayor and to TfL, we thought it would be helpful to briefly set out a reminder, as this is an important aspect relevant to the matters set out in this letter.
- 27 The Mayor and TfL were established and are governed by the Greater London Authority Act 1999 (the "GLA Act"). The Mayor is required to develop and implement policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within Greater London. Powers are to be used for the purpose of securing the provision of such transport facilities and services. The Mayor is required to prepare and publish a transport strategy setting out his policies and proposals, including accessible transport for persons with mobility problems. The Mayor has recently published his transport strategy<sup>3</sup>.
- 28 Under the GLA Act, TfL has various statutory duties, including to facilitate the implementation of the transport strategy and the duties of the Mayor described above. It must do so in accordance with guidance and directions issued to it by the Mayor from time to time.

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<sup>3</sup> <https://www.london.gov.uk/what-we-do/transport/our-vision-transport/mayors-transport-strategy-2018>

- 29 The CCOS (and Elizabeth Line services operating on the CCOS) is an essential element of the strategy for transport to, from and within Greater London in the long term (please see Annex 2). In line with TfL's duties under the GLA Act, TfL would like assurance that this essential component of transport services will, in principle, be available in the long term.

*Statutory and policy framework: ORR*

- 30 We recognise that the ORR operates within a specific statutory and policy framework. There are a number of duties which TfL is confident the ORR will have due regard to in considering the approach it is likely to adopt to considering track access applications for use of the CCOS. These include, for example, facilitating the Crossrail project (and ensuring value for money can be derived from the project), promoting efficiency and economy, promoting the use of the railway network, promoting competition in the rail services markets, as well as allowing TfL to plan its business with a reasonable degree of assurance. More information is set out in Annex 4.
- 31 We note that recent regulatory decisions issued by the ORR (including the most recent in relation to HS2 track access issues) indicate that the ORR has a strong presumption that existing track access rights which are being utilised by a train operator will be rolled over into a subsequent track access agreement. In light of the Mayor's Transport Strategy, TfL considers that the strongest possible presumption of the continuation of the Crossrail concessionaire's track access rights should apply.

*Next steps*

- 32 We would be grateful if, as a possible acceptable alternative to seeking a track access option in respect of the CCOS, you could set out the approach the ORR will take to handling track access applications relevant to the delivery of Elizabeth Line services in a further regulatory statement, complementary to the Crossrail Regulatory Statement.
- 33 For completeness, we note that:
- the above has been discussed with RfL(I) who have confirmed they are content with the approach set out; and
  - this may also be relevant to track access applications for connecting paths in respect of the Network Rail network following the expiry of the NR TAO. It would therefore be helpful if the ORR could consider this request in the context of the broader Elizabeth Line services.
- 34 We would like to thank you and your team for the helpful and constructive discussions which we have had to date in connection with the contractual and regulatory arrangements for services using the

CCOS. We look forward to working with you to provide the security of access contemplated by the Crossrail Regulatory Statement. If you have any further questions, or if there is anything else which you might need to progress this, please do not hesitate to get in touch with us.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D Hughes', with a horizontal line underneath.

David Hughes  
**Director of Strategy & Network Development, London Underground**

for and on behalf of  
**Transport for London**

## **Annex 1**

### **Significance of the Crossrail project and the business case**

- 1 Crossrail is among the most significant infrastructure projects ever undertaken in the UK requiring £15 billion of public investment. From improving journey times across London, to easing congestion and offering better connections, Crossrail will change the way people travel around the capital.
- 2 Crossrail will connect Reading and Heathrow to the west of London with Shenfield and Abbey Wood to the east, running through a new 13 mile (21 km) twin-bore tunnel under central and east London. As well as linking commuter and suburban services, it will provide a high-frequency, high-capacity and accessible link between Heathrow Airport, the West End, the City of London and Canary Wharf. 10 new stations will serve the CCOS including Paddington, Bond Street, Tottenham Court Road, Farringdon and Liverpool Street in Central London with Whitechapel, Canary Wharf, Custom House, Woolwich and Abbey Wood serving the wider London area.
- 3 When fully delivered Crossrail will play a vital role in meeting London's current and future transport needs and in turn help to secure the future economic growth of the UK. Crossrail will facilitate easier, faster, and direct journeys by public transport from Heathrow to Canary Wharf, as well as better links to London's other central business areas, helping to improve London's international links. Crossrail will deliver the capacity needed to support more jobs in Central London and the Isle of Dogs and support new jobs in growth areas such as the Thames Gateway.
- 4 London is expected to continue to grow rapidly with an additional 3.1million people and 1.4million jobs by 2050 adding further strain to a transport network that is already under pressure. Much of this growth will be located in areas that will be served by Crossrail. Crossrail will add 10 per cent. to the overall capacity of London's rail network through the provision of twenty four high capacity trains per hour in each direction in the central section during peak periods. Crowding relief will result on the Underground and DLR networks as well as at congested stations.
- 5 The decision to proceed with the Crossrail project was supported by a business case. A summary of the benefits to be delivered by the Crossrail project included in the above business case was set out as



part of the SoST's submission to ORR to support the granting of the NR TAO<sup>4</sup>.

- 6 These have been reconfirmed in subsequent Crossrail business case updates<sup>5</sup> and principally derive from:
  - Time savings from the more direct Elizabeth Line services and the removal of the need to interchange at the current mainline terminals;
  - Congestion relief on London Underground services resulting from the transfer of passengers to the Elizabeth Line; and
  - Agglomeration benefits resulting from the increased commuting capacity into central London and the better links within central London (West End, Canary Wharf).
- 7 The benefit cost ratio (BCR) has been assessed over a 60 year appraisal period and equates to 1.8.
- 8 For a "break-even" BCR of 1 to accrue requires a period of approximately 30 years. To achieve a BCR of 1.5, medium value for money under the Sponsors' appraisal criteria<sup>6</sup>, requires a period considerably in excess of 30 years.
- 9 Subsequent to the most recent business case update TfL have announced an increase in Elizabeth Line service frequencies<sup>7</sup>. This represents an increment to the Crossrail business case.
- 10 The off peak frequency on the CCOS is increased to 20 trains per hour from the 16 trains per hour in the extant business case. Access rights for these additional services will be sought by MTRC in its track access contract with RfL(I).
- 11 This increase in services ensures that the maximum value is extracted from the investment in the CCOS. It forms part of a wider package of service enhancements including changes to the number of services continuing onto the Network Rail network and their ultimate destination on that network or the Heathrow Airport Limited network. This package has a BCR of 10.0<sup>8</sup>.

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<sup>4</sup> [http://webarchive.nationalarchives.gov.uk/20110906181957/http://www.rail-reg.gov.uk/upload/pdf/s18-xrail-benefits\\_rep.pdf](http://webarchive.nationalarchives.gov.uk/20110906181957/http://www.rail-reg.gov.uk/upload/pdf/s18-xrail-benefits_rep.pdf) - Crossrail Benefits Report

<sup>5</sup> <http://www.crossrail.co.uk/route/wider-economic-benefits>

<sup>6</sup> TfL Business Case Development Manual, DfT Transport Analysis Guidance

<sup>7</sup> <http://content.tfl.gov.uk/16-elizabeth-line.pdf>

<sup>8</sup> Basis of appraisal consistent with the Crossrail business case eg 60 year appraisal period and using nationwide (DfT) values of time

## Annex 2

### The Mayor's Transport Strategy

- 1 On 13<sup>th</sup> March 2018 the Mayor issued the Mayor's Transport Strategy (MTS)<sup>9</sup> setting out his policies and proposals to reshape transport in London over the next 25 years.
- 2 The MTS:
  - assumes full Elizabeth Line services commence in December 2019 and thus Elizabeth Line services operating on the CCOS (and to destinations beyond the CCOS) are part of the base transport capacity for the period covered by the MTS<sup>10</sup>;
  - emphasises the increase in capacity to central London delivered by the Elizabeth Line services operating on the CCOS and their contribution to relieving crowding, reducing congestion, creating new direct journey opportunities and transforming the ease with which disabled and older people can access central London<sup>11</sup>;
  - recognises that as London grows over this period to manage crowding and congestion, further investment will be required to increase capacity. It notes that such investment should include capacity enhancements to the CCOS in addition to investment in the tube network and major schemes such as Crossrail 2; and
  - also recognises the role of Elizabeth Line services, through the proposed transport Hub at Old Oak Common, in ensuring that HS2 is fully integrated into the capital's public transport network. This will ensure access to central London from the rest of the UK and help to spread the benefits of the HS2 investment across the country<sup>12</sup>.

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<sup>9</sup> <https://www.london.gov.uk/what-we-do/transport/our-vision-transport/mayors-transport-strategy-2018>

<sup>10</sup> How Elizabeth Line services operating on the CCOS contributed to the goals set out in the previous Mayor's Transport Strategy is set out here [https://consultations.tfl.gov.uk/rail/crossrail-cos/user\\_uploads/16.08.09\\_specialised\\_infrastructure\\_designation\\_consultation.pdf](https://consultations.tfl.gov.uk/rail/crossrail-cos/user_uploads/16.08.09_specialised_infrastructure_designation_consultation.pdf) - paragraphs 6.8 – 6.10

<sup>11</sup> Pages 148, 174-175 MTS

<sup>12</sup> Page 202, MTS

### Annex 3

#### Financial implications of not having security of access

- 1 TfL is reliant on the revenues from Elizabeth line services on the CCOS to:
  - Service the debt raised to finance Crossrail;
  - Fund the Crossrail Supplementary Access Charge payable to Network Rail in relation to enhancement to its network to accommodate Elizabeth line services; and
  - Contribute to the overall funding of the provision of the TfL Business Plan.
- 2 In addition TfL has entered into a number of long term financial commitments in relation to the provision of Elizabeth Line services on the CCOS.

#### *TfL Debt raised to fund Crossrail*

- 3 TfL raised a £1bn loan from the European Investment Bank to part finance its commitment to funding the Crossrail project<sup>13</sup>.
- 4 This loan is repayable up to 2048 (ie 30 years from service commencement).
- 5 The balance of TfL's commitment of approx. £2.4bn has been raised as part of its general borrowing programme. This programme includes borrowings with a range of maturities up to 2064<sup>14</sup>. Approximately £0.4-£0.5bn of this amount is to serviced though proceeds from over site developments at sites on the CCOS.

#### *Funding of enhancements to Network Rail network to accommodate Elizabeth Line services*

- 6 Network Rail have carried out works (the ONW) to enhance their network to accommodate Elizabeth Line services.
- 7 The ONW are funded by Network Rail and their cost added to Network Rail's Regulatory Asset Base (RAB).
- 8 Network Rail is remunerated for the ONW by a Crossrail Supplementary Access Charge (CSAC) payable by TfL. This is payable pursuant to a 30 year<sup>15</sup> Track Access Option TfL has been granted by Network Rail for access rights to run Elizabeth Line services on its network.

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<sup>13</sup> <http://www.crossrail.co.uk/news/articles/tfl-agrees-1bn-loan-for-crossrail-from-european-investment-bank>

<sup>14</sup> Source: TfL Group Treasury

<sup>15</sup> The CSAC charge is based on an average 50 year asset life with NR assumed to recover the unremunerated amount at expiry of the TfL Track Access Option through successor access contract(s).

- 9 The total cost of the ONW to be so funded by TfL is approximately £2bn.
- 10 The CSAC is to be funded out of revenues generated by Elizabeth Line services.

#### *Funding of the TfL Business Plan*

- 11 As part of the Spending Review 2015 the Government announced the phasing out of the resource grant made to TfL, which represented 6% of TfL's annual budget<sup>16</sup>. The removal of this grant from 18/19 will see London become one of only a handful of major cities in the world to operate a public transport network without any Government funding to cover day-to-day running costs.
- 12 Revenues from the Elizabeth Line services are a significant contribution to TfL's funding. The current Business Plan<sup>17</sup> forecasts Elizabeth Line services generating revenue of £2.6bn for the first three years of the full service (20/21 to 22/23) contributing an operating surplus (after payment of the CSAC but before debt interest) of £1bn.

#### *Long term financial commitments*

- 13 TfL (or its wholly owned subsidiaries) have entered into a number of long term contractual commitments in relation to the operation of passenger train services on the CCOS infrastructure as set out below.
- 14 In February 2014 RfL entered into a 32 year Rolling Stock and Depot Provision Agreement with Bombardier Transportation (UK) Limited to support the provision of Elizabeth Line passenger train services<sup>18</sup>. This contract involves the purchase of 65 trains<sup>19</sup>, the construction of a dedicated maintenance facility for this train fleet and the provision of rolling stock and depot maintenance services for the duration of the agreement.
- 15 The SoST has given a commitment to Heathrow Airport Limited ("HAL") that a certain number of Elizabeth Line services will serve Heathrow airport. This commitment runs for a period of 15 years from the date Elizabeth Line services commence to the airport. In return for this commitment HAL has agreed with SoST to make a £70m contribution (February 2014 prices) towards the Crossrail project. One condition of this payment is that there is security of access to the CCOS to enable Elizabeth Line services to be timetabled. Failure to timetable the service commitment results in a liability for the Sponsors to repay an element of the contribution received from HAL.

<sup>16</sup> <https://www.gov.uk/government/news/department-for-transport-settlement-at-the-spending-review-2015>

<sup>17</sup> <http://content.tfl.gov.uk/fc-20171205-item10-draft-business-plan.pdf>

<sup>18</sup> This includes services on the CCOS from December 2018.

<sup>19</sup> Five of these trains were procured to run residual services on the Network Rail Great Eastern line between Gidea Park and Liverpool Street high level

*Implications of failure to grant / roll over some or all of the access rights to the CCOS necessary to run the Elizabeth Line services*

- 16 In November 2008 the Crossrail Sponsors obtained agreement in principle from the ORR that an Investment Recovery Charge (IRC) could be levied on operators utilising the CCOS to recover up to the publicly funded capital cost of the CCOS infrastructure<sup>20</sup>.
- 17 TfL has developed principles for the levying of an IRC and consulted on its proposals as part of the consultation on the draft 2019 CCOS Network Statement.
- 18 Consultation responses received raised no material issues with the above proposals and principles and as a result in its Consultation (Conclusions) Report TfL concluded it should proceed with implementing the principles set out in the Consultation<sup>21</sup>.
- 19 The IRC recovers that element of the project cost directly funded by the Sponsors and thus includes recovery of the TfL debt funding.
- 20 If CCOS paths were lost to another operator then receipt by TfL of the IRC would allow service the TfL debt. However receipt of the IRC would potentially not fully compensate for the loss of revenue required to fund the TfL Business Plan including payment of the CSAC.
- 21 In extremis it is possible that if TfL (or its Concession Operator) were to lose rights to access the CCOS during the term of the NR TAO then it would lose the Network Rail paths under the “use it or lose it” provisions of the TAO. TfL understands that this is unless it (or its Concession Operator) could use the Network Rail paths, to which the CCOS paths connected, for other services (which it could not without negotiating with Network Rail for further paths and access to service facilities). TfL understands that this would result in it losing these paths without any compensation from Network Rail.
- 22 The loss of paths could potentially trigger liabilities for TfL in relation to:
- Repayment of some or all of the HAL contribution to the cost of constructing Crossrail (see 15 above); and
  - Surplus rolling stock – if costs cannot be recovered through leasing stock to the replacement operator then significant sums may need to be expended to make surplus stock suitable for use on the wider UK rail network or elsewhere.

<sup>20</sup> [http://orr.gov.uk/data/assets/pdf\\_file/0017/10745/crossrail-reg-statmnt-131108.pdf](http://orr.gov.uk/data/assets/pdf_file/0017/10745/crossrail-reg-statmnt-131108.pdf)

<sup>21</sup> Consultation Report on the 2019 Network Statement, including response to issues raised: [https://consultations.tfl.gov.uk/rail/ccos-network-statement/user\\_uploads/ccos---consultation-report-on-the-2019-network-statement--including-response-to-issues-raised.pdf](https://consultations.tfl.gov.uk/rail/ccos-network-statement/user_uploads/ccos---consultation-report-on-the-2019-network-statement--including-response-to-issues-raised.pdf)



## Annex 4

### Statutory and policy framework: ORR

We consider that there are a number of relevant duties which the ORR should take into account in considering the CCOS, Elizabeth Line services operating on the CCOS and applications for track access. Unless otherwise specified, references to "sections" in this Annex are to sections of the Railways Act 1993.

In particular:

- **Promote the use of the railway network (section 4(1)(b)):** The CCOS is a significant development of the railway network. As well as facilitating new journey opportunities, it will create additional capacity to encourage the use of the railway network into the future, with connections to/from the west, east and south east. Taken alone, the opening of the CCOS will be a significant opportunity to promote the use of the railway network. In the wider context, the benefits are considerably greater – with connections into the Network Rail network increasing journey opportunities, as well as freeing up capacity at key London terminal stations. Ensuring there is security of access for a longer period than the 7-10 years of a typical track access agreement will allow these benefits to be realised and is therefore consistent with the duty to promote the use of the railway network.
- **Protect the users of rail services (section 4(2)(a)):** Securing the ongoing provision of high capacity metro passenger rail services will ensure the benefits of the Crossrail project and, specifically, the Elizabeth Line services to/from and within Greater London can continue to be delivered for users of those services. The CCOS is expected to offer a number of benefits for the passenger – with new rolling stock, new stations and, as mentioned above, new journey opportunities (as well as providing valuable competition, to the benefit of passengers). The performance of the CCOS is also expected to offer benefits to performance of the Network Rail network and improve end-to-end journey times, all of which will protect passengers. Elizabeth Line services – both on the CCOS and the wider Network Rail network – are expected to be more reliable and will reduce passenger overcrowding. Providing certainty that the services will be permitted to continue over a longer period of time is therefore a key protection for the users of rail services – both the Elizabeth Line services and other services using the Great Western Main Line and the Great Eastern Main Line.
- **Mayor, TfL and the SoST (sections 4(5)(a) and (d)):** In exercising the functions assigned to it, the ORR is to have regard to the ability of the Mayor and TfL to carry out the functions conferred or imposed upon them, as well as to funds (and the availability of funding) to be provided in whole or in part by TfL likely to become available to be applied for

purposes connected with a particular matter. This is in addition to having regard to any general guidance given to it by the SoST. As the ORR will see, the SoST, as co-sponsor of the Crossrail project, supports TfL seeking the security of access contemplated by this letter. As will be evident from the remainder of this letter, TfL's ability to finance its activities including the ability to recover its investment and repay borrowings is a key factor which would support assurances of security of access being given.

- ***Planning the future of business with a reasonable degree of assurance (section 4(1)(g))***: Providing guidance on the security of access policy for Elizabeth Line services will allow TfL, RfL(l) and TfL's Crossrail concessionaire to plan their respective businesses with a reasonable degree of assurance in the medium to long term as there will be greater clarity over the rights sold, the services which can be offered and the ability to recoup the significant investment costs. These investment costs not only relate to the construction of the CCOS itself but also the significant investment in the Network Rail network to facilitate Elizabeth Line services and in new rolling stock to operate these services.
- ***Integrated system of transport (section 4(1)(ba))***: Elizabeth Line services will actively promote an integrated system of passenger transport and the use of more than one passenger operator's services. Stations development as part of the Crossrail project will assist with this integration. There will be key interchanges across much of London (with services operated by London Underground, London Overground and Docklands Light Railway) and from mainline rail stations such as Paddington, Liverpool Street, Farringdon, Stratford and Abbey Wood. Of course, the Elizabeth Line services will also form part of an integrated system of passenger transport services by linking into air services at Heathrow, through connections at Farringdon to Gatwick and Luton airports and through connections at Liverpool Street to Stansted and Southend airports. Elizabeth Line services will be integrated into TfL's zonal fares policy and smart ticketing systems (Oyster, contactless).
- ***Crossrail (section 22 of the Crossrail Act 2008)***: Of course, there is a specific Crossrail-related objective imposed upon the ORR under the Crossrail Act 2008 to facilitate the construction of Crossrail. Security of access will form an important part of realising the benefits – and therefore facilitating – the Crossrail project.





# Department for Transport

John Larkinson  
Office of Rail and Road  
1 Kemble Street  
Westminster  
London  
WC2B 4AN

**Matthew Lodge**  
Rail Major Projects  
Department for Transport

GREAT MINSTER HOUSE  
33 HORSEFERRY ROAD  
LONDON SW1P 4DR

Web Site: [www.dft.gov.uk](http://www.dft.gov.uk)

2<sup>nd</sup> May 2018

Dear John,

## **Third Crossrail Regulatory Statement**

After 10 years of project delivery, Crossrail is now over 90 per cent complete, and it will deliver a transformation to London's connectivity and capacity when it fully completes in 2019. It will increase capacity on rail transport in London by up to 10%, support regeneration and cut journey times across the city.

As a joint Sponsor of the Crossrail project, alongside Transport for London (TfL), the Department for Transport (DfT) considers it crucial to ensure security of access to the Crossrail Central Operating Section (CCOS) in order that the project can fully realise the benefits as set out in the business case. With Crossrail services running through the CCOS between Paddington and Abbey Wood due to commence in December 2018, establishing this security of access has become critical. TfL has therefore written to you requesting a regulatory statement setting out how the Office of Rail and Road (ORR) will handle track access applications to secure the continued delivery of Elizabeth Line services into the future.

We understand that TfL originally put forward a proposal for an access option in respect of the CCOS to obtain comfort in this regard. However we acknowledge that the ORR's policy around access has evolved over time, reflecting changes in the rail industry. We therefore consider that this further regulatory statement, alongside the long term access option for Elizabeth Line services on the Network Rail network that has already been secured, will provide the level of comfort required by joint Sponsors, and will allow the project to realise the benefits of the investment that has been made.

As a joint Sponsor of the Crossrail Project, alongside TfL, we therefore request the ORR to provide such a statement at the earliest convenient opportunity.

Yours sincerely,

**Matthew Lodge**  
Director – Rail Major Projects, Department for Transport