

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2579

Title: Crossrail Business Rates Supplement – Approval of Policies for 2020-21

Executive Summary:

This proposal asks the Mayor to approve the policies for the Crossrail Business Rate Supplement (BRS) for 2020-21 including the multiplier (or tax rate) and the rateable value threshold above which it will apply having regard to the contents of the final prospectus for the BRS published in January 2010. The rateable value threshold above which the BRS will apply remains at £70,000 and the multiplier will be 2p. The BRS policies for 2020-21 will not be affected by any additional contributions the GLA may be required to make towards the Crossrail project over and above the £1.4 billion sum announced in December 2018.

The Crossrail BRS is collected by the 32 London boroughs and the City of London Corporation on behalf of the GLA. The Mayor is also asked to authorise the Executive Director, Resources to issue a notification to each London billing authority under section 18 of the Business Rate Supplements Act 2009 ('the BRS Act') setting out the final policies for the Crossrail BRS in 2020-21 and the supporting explanatory text for ratepayers. This will enable billing authorities to make the necessary arrangements for the inclusion of the Crossrail BRS on 2020-21 non domestic rates bills which are due to be issued in March 2020.

The BRS is projected to raise around £268 million in 2020-21 before estimated losses due to appeals. The GLA will apply up to an estimated £132.7 million of this in 2020-21 on interest payments with the balance being set aside to repay the GLA's Crossrail related debt and associated administration costs.

Decision:

The Mayor approves the following policies for the Crossrail BRS for the 2020-21 financial year:

- the Crossrail BRS will apply for the full 2020-21 financial year across the entire GLA area;
- the Crossrail BRS multiplier (or tax rate) shall be set at 2p per pound of rateable value;
- the rateable value threshold above which the Crossrail BRS applies shall be £70,000; and
- any reliefs for the Crossrail BRS will continue to apply on the same basis at the same percentage rate as for National Non Domestic Rates (NNDR) having regard to the local policies in place in the 33 London billing authorities and those set by central government. Section 45 ratepayers (that is, those owning or entitled to occupy empty properties) will not be exempt from the Crossrail BRS as a class. The same automatic empty property reliefs will apply, however, at the same percentage rate to the Crossrail BRS as for NNDR. The GLA will not exercise its powers under section 16 of the BRS Act to apply an offset for eligible ratepayers liable to pay a levy towards a Business Improvement District.

The Mayor authorises the Executive Director, Resources to issue a notification of the above policies to the 33 London billing authorities as required by section 18 of the BRS Act and the explanatory note for non domestic ratepayers for 2020-21 as set out in Appendix A.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority. The above request has my approval.

Signature



Date

29/1/20

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 Between 2010-11 and 2015-16 the GLA made a contribution of £4.1 billion towards the Crossrail project by means of a capital grant paid to Transport for London. This was financed by a business rate supplement on non domestic ratepayers in London (“the Crossrail BRS”) introduced in April 2010 following the publication of a final prospectus in January 2010 which set out the policies for and intended application of the revenues generated. This £4.1 billion contribution comprised two elements: around £3.3 billion of borrowing by the GLA (the interest on and repayment of which is being financed by the revenues from the BRS) and an additional £0.8 billion direct contribution towards construction costs. The GLA has also made a separate contribution through revenues raised by the Mayor’s Community Infrastructure Levy (MCIL) towards Crossrail since 1 April 2012.
- 1.2 In MD2398 published in December 2018 the Mayor agreed that the GLA would provide a further £1.4 billion contribution towards the Crossrail project in order to fund the then forecast cost overrun arising from the delay in the opening of the Elizabeth line. Of this sum all but £76 million is forecast to have been paid by 31 March 2020. The £1.4 billion contribution comprises £100 million of unapplied BRS revenues held as a provision against revaluation, financing cost and business rates appeals risks from prior years and a £1.3 billion loan from the Department for Transport. This loan is being financed and repaid over an agreed period of 10 years using revenues from the Crossrail BRS and MCIL. The use of MCIL to finance and repay this debt was made possible by a change in secondary legislation which the Government made in May 2019. It was also agreed that TfL would also make a separate contribution of up to £750 million financed from its own revenues towards the project in addition to the GLA’s.
- 1.3 Under this December 2018 agreement it was anticipated that the GLA would therefore contribute £6.1 billion in total towards the cost of the Crossrail BRS from BRS and MCIL revenues. This comprises £4.1 billion paid prior to 2015-16 via the BRS, a £0.6 billion direct contribution from MCIL and other developer contributions already received and the additional £1.4 billion contribution agreed in MD2398. The GLA has estimated that the BRS for Crossrail 1 will need to run for a further three years compared to the position prior to the announcement of this additional contribution.
- 1.4 In November 2019 it was announced that the estimated Crossrail project capital costs had increased and additional sums would need to be provided to enable its completion. Discussions are taking place between the GLA, TfL and Department for Transport as to how this additional contribution could be funded and financed. It is possible that any agreement reached might result in a further call on BRS revenues thus requiring the duration of the supplement for Crossrail 1 to run for an additional time period beyond that expected under the December 2018 funding package. The terms of the agreement once reached will be confirmed in a separate Mayoral Decision.
- 1.5 The final Crossrail BRS prospectus published in January 2010 stated that the supplement would operate for a period of 24 to 31 years (i.e. up to March 2041) with a target end date during the 2037-38 financial year, be set at a rate no higher than 2p per pound of rateable value (the maximum permitted under the Business Rate Supplements Act 2009 (the “BRS Act”), would raise no more than £8.1 billion and only apply to ratepayers of hereditaments which exceeded a rateable value threshold – currently £70,000 – which would be revised at each business rates revaluation.
- 1.6 Due to the lower interest rates achieved by the GLA on its original £3.3 billion of borrowing, the marginally higher than anticipated revenues generated from the BRS since it was introduced and the rate agreed with Government for the new £1.3 billion of DfT borrowing the GLA remains confident that it will be able to accommodate the financing and repayment costs arising from any additional contribution while remaining within the overall parameters set out in the 2010 prospectus.

- 1.7 Any additional contribution required will not affect the Crossrail BRS policies for 2019-20 or 2020-21 as the GLA is levying the maximum 2p charge permitted under the BRS Act and cannot vary the rateable value condition under the Crossrail BRS prospectus except in a revaluation year.
- 1.8 This Decision asks the Mayor to approve the BRS policies for 2020-21 which are unchanged from 2019-20. Additional supporting background and information is set out in this Decision.

2. Objectives and expected outcomes

- 2.1 The power for the GLA to levy the Crossrail BRS was granted under the Business Rate Supplements Act 2009 ("the BRS Act"). Under the BRS Act and associated regulations, the GLA may only levy the Crossrail BRS on hereditaments on the 33 local billing authority rating lists in London where the rateable value exceeds £50,000 – although a higher qualifying threshold can be set - and charge a multiplier (or tax rate) of no more than 2p.
- 2.2 This report asks the Mayor to approve the proposed policies for the Crossrail BRS for 2020-21 having regard to the final prospectus issued in January 2010: 'Intention to levy a business rate supplement to finance the Greater London Authority's contribution to the Crossrail Project – Final Prospectus' ("the Final Prospectus").
- 2.3 The policies may be varied annually having regard to section 10 of the BRS Act and the variations policies set out in section 9 of the final prospectus. The policies proposed to apply in 2020-21 are consistent with those set out in the final prospectus and are unchanged from 2019-20. Following the 2017 revaluation the qualifying threshold (the 'rateable value condition' under section 12 of the BRS Act) was increased from £55,000 to £70,000 in line with the average change in rateable values for properties liable to the BRS – this being the variation policy set out in the final Crossrail BRS prospectus in a revaluation year. This threshold is expected to be maintained for the length of the 2017 rating list in line with the policy set out in the final prospectus. The Government has stated that the next revaluation will take place in 2021-22 and therefore this threshold is expected to be revised from April 2021. The supporting arguments for the proposed policies are set out in section 4.
- 2.4 The Decision asks the Mayor to agree the following policies for the Crossrail BRS in 2020-21:
- The Crossrail BRS will apply for the full 2020-21 financial year across the entire GLA area;
 - The Crossrail BRS multiplier (or tax rate) shall be set at 2p per pound of rateable value for the 2020-21 financial year;
 - The rateable value threshold above which the Crossrail BRS shall apply in the 2020-21 financial year will be set at £70,000. This represents a relief granted by the GLA under section 15 of the BRS Act as the proposed threshold exceeds the minimum £50,000 rateable value threshold specified in the Business Rate Supplements (Rateable Value Condition) (England) Regulations 2009;
 - Any reliefs for the Crossrail BRS will apply on the same basis and at the same percentage rate as for National Non Domestic Rates (NNDR) having regard to any national policies set by the Secretary of State and any discretionary local policies in place in the 33 London billing authorities;
 - Section 45 ratepayers (that is, those owning or entitled to occupy empty properties) will not be exempt from the Crossrail BRS as a class. However, the same empty property reliefs and exemptions for certain categories of ratepayer or property (e.g. the majority of listed buildings, empty properties occupied by registered charities and newly empty properties for between 3- 6 months) will apply at the same percentage rate to the Crossrail BRS as for NNDR; and

- The GLA will not exercise its powers under section 16 of the BRS Act to apply an offset for eligible ratepayers liable to pay a levy towards a Business Improvement District (BID).

2.5 The Mayor is also asked to agree that the Executive Director, Resources be authorised to issue a formal notification of the above policies to the 33 London billing authorities as required by section 18 of the BRS Act (Appendix A). The Mayor is also asked to agree the proposed communication to non domestic ratepayers for 2020-21 as set out in Annex F to that notification. This will either be circulated to ratepayers alongside their 2020-21 rates bills or alternatively made available on billing authority websites depending on the mechanism by which the authority has decided to communicate explanatory supporting information using their discretion under the Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended by the Non Domestic Rating (Electronic Communications) (England) Order 2012).

2.6 The GLA expects to apply up to £132.7 million of the BRS revenues collected in 2020-21 to fund interest due on its outstanding Crossrail debt although part of this may be financed from Mayoral Community Infrastructure levy revenues having regard to the powers granted to the GLA to apply these revenues for Crossrail related borrowing under the Community Infrastructure Levy (Amendment) (England) Regulations 2019. The balance of the BRS income collected will be applied to finance the repayment of the GLA's debt in future years and the costs associated with the administration of this.

3. Equality comments

3.1 Public authorities such as the GLA must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not, under section 149 of the Equality Act 2010. This involves having due regard to the need to removing or minimising any disadvantage suffered by those who share a relevant protected characteristic that is connected to that characteristic, taking steps to meet the different needs of such people; and encouraging them to participate in public life or in any other activity where their participation is disproportionately low.

3.2 The "protected" characteristics and groups are: age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation and marriage/ civil partnership status. Compliance with the Equality Act may involve treating people with a protected characteristic more favourably than those without the characteristic. The duty must be exercised with an open mind and at the time a decision is taken in the exercise of the GLA's functions. Conscientious regard must be had that is appropriate in all of the circumstances.

3.3 The Crossrail BRS is applied on a consistent basis across the Greater London Authority area and is subject to the provisions of the BRS Act and parallel national non domestic rating legislation. In 2020-21 the BRS will only be levied on large assessments on the local non domestic rating list with a rateable value above £70,000. As a result around 85 per cent of non domestic hereditaments – including the vast majority of premises occupied by small and medium sized enterprises – in London will be exempt from the supplement. It is considered that the proposed BRS policies are consistent with the GLA's statutory duties and non domestic rating legislation. Given that the BRS is restricted to larger business premises only, is applied consistently across the GLA area, amounts in 2020-21 to an average of less than 5 per cent of affected ratepayers total business rates bill and is collected and enforced through existing non domestic rating legislation no specific and additional adverse equalities impacts are considered to arise from it.

4. Other considerations

Links to Mayoral Strategies

- 4.1 As highlighted in the Mayor's Transport Strategy published in March 2018 Crossrail will bring huge economic benefits to the whole of London and the UK in the long term. It will provide additional transport capacity to enable the concentration of highly productive economic activity in central London to continue to grow and add 10 per cent to central London's rail capacity. Research estimates have forecast that Crossrail will generate around £42 billion for the UK economy through faster journey times, job growth and increased productivity. London's growth aids the national economy, not least through the taxes generated for the Exchequer.
- 4.2 The Crossrail BRS, either directly or to support the financing and repayment of GLA borrowing, funded £4.1 billion of the costs of the Crossrail project between 2010-11 and 2015-16 comprising £3.3 billion of GLA borrowing and a £0.8 billion direct contribution from BRS revenues. In addition it was agreed in Mayoral Decision 2398 in December 2018 that the GLA would provide an additional £1.4 billion contribution to the Crossrail project – comprising £1.3 billion of GLA borrowing and a £100 million direct contribution from BRS revenues – paid as a capital grant to TfL. The financing and repayment of the GLA's second tranche of borrowing will be financed and repaid from a combination of MCIL and BRS revenues whereas the first tranche is expected to be repaid and financed solely from BRS revenues. It is possible that the GLA may be required to make a further contribution towards the Crossrail project in 2020-21 and 2021-22 financed from MCIL and BRS revenues as set out in section 1 but this will not affect the BRS tax policies in either year. The impact would only be to increase the potential duration of the use of the BRS for Crossrail 1 in the mid to late 2030s.
- 4.3 Without the funding provided through the BRS it would not be possible to deliver the entire Crossrail project on its agreed route and using the revised financing and funding package.

Impact Assessments and Consultation

- 4.4 Under the BRS Act the GLA may only levy the Crossrail BRS if:
- it has published a document that sets out the proposal for the imposition of the BRS ("the Initial Prospectus");
 - it has consulted the relevant persons on the proposal;
 - where there is to be a ballot on the imposition of the BRS, the ballot has been held and the imposition of the BRS approved; and
 - it has published a document that sets out the arrangements for the imposition of the BRS ("the Final Prospectus").
- 4.5 The Initial Prospectus for the Crossrail BRS was published in July 2009. A summary of the Initial Prospectus was also sent to named ratepayers of all business premises at that date with a rateable value of £30,000 or higher on the London rating list at that time on the basis that properties below the £50,000 statutory minimum could have become liable for the BRS following the 2010 rating revaluation or at some time in the future.
- 4.6 The Final Prospectus for the Crossrail BRS - 'Intention to levy a business rate supplement to finance the Greater London Authority's contribution to the Crossrail Project' – was published in January 2010. In developing its policies for the Final Prospectus the GLA had regard to the following factors:
- the responses submitted to the Initial Prospectus;
 - the agreed contributions to be made by the GLA to the Crossrail project and its financing costs associated with those contributions;

- the publication of the draft 2010 draft valuation list of non domestic properties in London and the resulting changes to the projected income from the Crossrail BRS over the period of the next revaluation; and
- the BRS Act (and any regulations laid or expected to be laid in relation to it) and relevant existing business rates legislation and regulations.

- 4.7 One material change to the proposals in the Initial Prospectus which was included in the Final prospectus for the Crossrail BRS was to raise the rateable value threshold for the Crossrail BRS from the statutory minimum specified in the Business Rate Supplements (Rateable Value Condition) (England) Regulations 2009 of £50,000 to £55,000 using the reliefs powers granted to the GLA under section 15 of the BRS Act. The effect of this change was to exempt around 4,000 properties on the 2010 rating list from the Crossrail BRS thus targeting relief mainly at small and medium sized businesses as well as smaller not for profit assessments such as nurseries and primary schools. This meant only hereditaments with a rateable value of £55,001 or more would be liable for the Crossrail BRS for the duration of 2010 rating list. The Final Prospectus made clear that it was the GLA's intention to retain the same policies until the next revaluation of non domestic rating assessments. Following the 2017 revaluation the threshold was increased to £70,000 by uprating the previous £55,000 figure by the average change in rateable values for properties liable to the BRS in line with the variations policies set out in the prospectus in a revaluation year.
- 4.8 The GLA did not hold a ballot prior to the introduction of the Crossrail BRS. This decision was taken having regard to section 27(6) of the BRS Act which provided an exemption from the ballot requirements for a BRS introduced prior to 1 April 2011. Section 68 of the Localism Act 2011, which amended the BRS Act to make ratepayer ballots mandatory before a BRS could be introduced, does not apply to the Crossrail BRS as it has no retrospective effect. If variations are made which are not in compliance with these policies a revised prospectus would also need to be published for consultation with ratepayers and other stakeholders before any changes could be made. At the date this Decision was approved the GLA considers that no such variations outside the scope of the final prospectus have been made.
- 4.9 The Final Prospectus made clear that the reliefs policies for the Crossrail BRS would apply on the same basis as for National Non Domestic Rates ("NNDR") as required under the BRS Act. This also applies on a pro rata basis to any discretionary relief powers introduced under the legislative changes made through section 69 of the Localism Act. The Localism Act amended section 47 of the Local Government Finance Act 1988 to permit billing authorities to grant discretionary relief to any ratepayer subject to state aid rules including those reliefs, if applicable, which the Government has committed to fund the costs of in 2020-21 in respect of retained business rates. In respect of the BRS the GLA bears the losses via reduced levels of income.
- 4.10 The final prospectus also confirmed that section 45 ratepayers (i.e. those occupying or entitled to occupy empty properties) would be liable for the BRS except where they were eligible for empty property relief under NNDR (e.g. newly empty properties, certain listed buildings and those where the ratepayer is a registered charity). The Final Prospectus stated that the GLA would not exercise its powers under section 16 of the BRS Act to apply an offset for eligible ratepayers liable to pay a levy towards a Business Improvement District (BID). It was considered that this would be inequitable as many of the largest Business Improvement Districts are directly on the Crossrail route or close to it.

Varying the Crossrail BRS

- 4.11 The final Crossrail BRS prospectus published in 2010 set out the policies for revising the BRS at each revaluation and 2017 was the first revaluation which has occurred since the supplement was introduced.

- 4.12 The prospectus wording committed the Mayor to uprate the initial £55,000 qualifying rateable value threshold 'in line with' or 'having regard to' the average percentage change in rateable values in a revaluation year. The estimated average increase in rateable values for all properties with a rateable value above £55,000 – those potentially liable to the BRS – was estimated by the GLA to be 27 per cent based on the 2017 rating list.
- 4.13 Uprating £55,000 by 27 per cent delivered a threshold of £69,850 – which in line with convention that the threshold should be rounded to the nearest £1,000 – resulted in a revised threshold for the 2017 rating list of £70,000. It was therefore agreed by the Mayor – in compliance with the prospectus – that the qualifying threshold be set at £70,000 – £15,000 higher than the level in 2016-17 (the final year of the 2010 rating list). In line with the variation policies set out in the final Crossrail BRS prospectus the threshold will be maintained at £70,000 in 2020-21. As required under the final prospectus this threshold will be reviewed for the 2021-22 financial year as new rating list is expected to be introduced on 1 April 2021. This is dependent on the Government introducing primary legislation during 2020 to bring forward the revaluation by one year from the current statutory date of April 2022.
- 4.14 Annex D to the draft section 18 notice at Appendix A sets out the estimated number of properties which will be liable to the BRS in 2020-21 using the £70,000 threshold based on the most recent data supplied by London billing authorities. It is estimated that around 48,170 properties would be liable to pay the BRS in 2020-21 – equivalent to around 15 per cent of assessments on the current local rating list across the GLA's area.
- 4.15 Around 85 per cent of assessments are forecast to be exempt from the BRS across London in 2020-21 ranging from 69 per cent in Westminster to 94 per cent in Harrow, Lewisham, Redbridge and Waltham Forest.
- 4.16 The prospectus also states in (section 9) that while it is the intention to apply a 2p rate throughout the life of the BRS *'It is not, however, impossible that if interest rates were to be lower than expected or the BRS taxbase higher than expected following a future revaluation the GLA could levy a lower multiplier than 2p in one or more (five year) valuation period'*. Page 96 of the prospectus outlines the six factors that the GLA will take into account when deciding to make variations to the BRS policies. Under section 10 of the BRS Act any variations made to the policies for the BRS which are not made in accordance with the final prospectus would require the GLA issue a revised prospectus for consultation before making any changes. These six factors are:
- a) the economic position at that time;
 - b) the level of reliefs applying for different categories of ratepayer at that time under NNDR (which might also impact on the Crossrail BRS);
 - c) the GLA's projections at this stage assume rates of relief will remain broadly constant over the lifetime of the Crossrail BRS;
 - d) the impact of each (five year) revaluation on London's NNDR taxbase;
 - e) variations to the length of the Crossrail BRS arising from changes in interest rates, the cost of the project and the taxbase where this meant that the chargeable period would be less than 24 years or more than 31 years; and
 - f) the views of London's business community, the 33 London billing authorities and other non domestic ratepayers.
- 4.17 In considering the above criteria in determining whether to vary the policies for the BRS in 2020-21, the GLA notes the ongoing impact of increases in national non domestic rating bills which many larger ratepayers in London have faced since the 2017 revaluation. There is no provision, however, for a transitional relief scheme to be applied for the BRS under existing legislation and therefore a ratepayer's BRS liability increases or decreases proportionately in line with their change in rateable value following each revaluation.

- 4.18 In determining the final BRS policies for 2020-21 the Mayor has again had to balance the impact on ratepayers against the need to ensure that the GLA's Crossrail debt is financed and repaid in line with the agreed profile set out in the final prospectus taking into account the impact of the additional GLA contribution required to be made towards the Crossrail project.
- 4.19 The GLA estimates that a 2p BRS multiplier will raise approximately £268.2 million in 2020-21 based on a rateable value threshold of £70,000. This represents the sum expected to be collected from ratepayers during the financial year. This figure is reduced to £267.8 million once allowable billing authority administrative expenses are deducted. The apportionment of this by billing authorities is set out in Annex E to Appendix A. This £267.8 million figure is the sum that is estimated to be received by the GLA in 2020-21 from the 33 local billing authorities.
- 4.20 Unlike National Non Domestic Rates (NNDR) where provisions are applied for expected appeals BRS income in each financial year operates on a cash receivable basis with refunds arising from successful appeals being accounted for in the year in which they occur. After applying an assumed 5 per cent loss on the 2017 rating list in line with the Government's estimate and a provision for outstanding appeals on the 2010 list in line with billing authority estimates for NNDR the GLA estimates that the actual sum which will ultimately be received in respect of 2020-21 net of appeals will be only £247.8 million - £20 million less than the sum which it is estimated will be received during the year.
- 4.21 Alternative options for the multiplier have been examined but in light of the potential uncertainty around rateable value growth at future revaluations and the need to ensure the GLA's Crossrail debt is repaid as soon as practical within the time horizons set out in the final prospectus it would not be prudent at this stage to vary the multiplier and lower the 2p rate in 2020-21. The Mayor will of course need to keep the policies for the BRS under review each year as the final prospectus permits the multiplier to be varied in any financial year albeit it can be no higher than 2p under the BRS Act.

Other Relevant Information Relating to the Billing and Administration of the BRS

- 4.22 The Crossrail BRS is collected and enforced in parallel with NNDR bills. NNDR is collected on behalf of central government by lower tier (district) authorities. In London these are the 32 London boroughs and the Common Council of the City of London. Both charges are included on the same bills which, for 2020-21, will be sent out to Non Domestic ratepayers by the 33 London billing authorities before the end of March 2020. The BRS is administered in line with regulations issued by the Secretary of State for Communities and Local Government under the BRS Act.
- 4.23 Billing authorities are permitted to recover ongoing collection and recovery costs (their further administrative expenses) for each year that the Crossrail BRS is levied subject to any limits which may be prescribed by the relevant BRS regulations i.e. the Business Rate Supplements (Administrative Expenses) (England) Regulations 2010 (the 'administrative expenses' regulations).
- 4.24 Billing authorities' further administrative expenses for the eleventh year of the BRS (2020-21) will equate to 0.15 per cent of the BRS income collectable by the GLA (provisionally estimated at £0.43 million across all 33 authorities) as prescribed by the administrative expenses regulations. For 2020-21 it is proposed that the GLA guarantees that no billing authority receives a collection allowance below £6,000 to provide additional capacity to billing authorities with low taxbase – the costs of which are met by the GLA. Billing authorities deduct any ongoing collection costs from the sums they pay to the GLA during the course of the financial year in equal monthly instalments.
- 4.25 Under section 18 of the BRS Act the GLA is required to issue a formal notification to each billing authority setting out the final policies, including the information specified in the BRS Act, for the BRS by 1 March although in practice this must be published by mid-February to facilitate billing. This will enable billing authorities to make the necessary arrangements for the inclusion of the BRS

on 2020-21 rates bills which are due to be circulated to ratepayers from early March 2020. The proposed text for this notice is set out at Appendix A.

- 4.26 The Mayor is also asked to authorise the proposed explanatory note for non domestic ratepayers as set out in Annex F to the proposed section 18 letter at Appendix A. At the discretion of each billing authority this will either be circulated to all non domestic ratepayers in London as part of the communications supplied with their initial rates bill for 2020-21 or alternatively made available for inspection on that authority's website. It will also be placed on the Crossrail BRS homepage on the GLA website: www.london.gov.uk/crossrail-brs.

Risks

- 4.27 The potential risks associated with the BRS were addressed in the final prospectus published in January 2010. Section 9 of the final prospectus addressed the implications for the BRS of the Crossrail project being delayed or the costs increasing above those budgeted and set out the circumstances under which the BRS policies may be varied.
- 4.28 Section 10 of the BRS Act as amended by the 2011 Localism Act exempts the Mayor from having to hold a ballot of ratepayers to approve variations made outside the scope of the prospectus as the Crossrail BRS was introduced before their legislative change was made. This limits the risk associated with a potential challenge if a change to the BRS policies is made which cannot be justified within these parameters. In any case, however, should such an eventuality arise a revised prospectus would need to be published and consulted on before any changes could be made.
- 4.29 The GLA contributed £4.1 billion towards the Crossrail project through the BRS between April 2010 and 31 March 2016. Of this £0.8m was a direct contribution from BRS revenues towards the project cost and the remaining £3.3 billion has been met through borrowing. In addition the Mayor agreed a further contribution of £1.4 billion towards Crossrail in 2018-19 and 2019-20 which is intended to be financed by BRS and MCIL revenues. This includes £1.3 billion of borrowing which is intended to be financed and repaid over a 10 year period. It is possible that a further GLA contribution may be required in light of the additional cost overrun announced in November 2019 and this will be confirmed via a separate Mayoral Decision. The impact of these additional contributions is not anticipated by the GLA to result in the maximum duration, total proceeds raised or the tax rate applied exceeding the parameters set out in the final prospectus.
- 4.30 The BRS is expected to end for Crossrail 1 during the mid to late 2030s in line with the final prospectus – with a target end date of 2037-38 – although this could be earlier or later depending on the change in the taxbase at future revaluations including the next one which is currently expected in April 2021. The final prospectus assumed the BRS would run for a period of 24 to 31 years (i.e. ranging from an end date of 2033-34 to 2040-41) and raise no more than £8.1 billion. These prospectus assumptions remain valid as the financing and repayment of the additional GLA contributions is not expected to result in the BRS being extended beyond the current 2037-38 target end date or the GLA having to raise more than £8.1 billion through it. As the tax policies, collectable amount and duration remain unchanged there is no variation therefore to the BRS itself. In the event that these circumstances change the Mayor will consider the case for issuing a revised prospectus for consultation prior to approving the tax policies for the subsequent financial year.

Application of BRS revenues in 2020-21

- 4.31 The GLA is forecast to incur £132.7 million in interest costs on its current estimated accumulated Crossrail related borrowing during 2020-21 based on the December 2018 funding package which will be financed via the BRS and will set aside the balance to repay its Crossrail debt. The interest costs financed by BRS revenues exceed 25 per cent of the GLA's estimated gross revenue expenditure in 2020-21 on services if expenditure funded by Government specific grants (e.g. Adult Education) is excluded. The successful ongoing implementation of the Crossrail BRS is critical to the GLA's medium-term planning.

4.32 The GLA is actively managing its Crossrail debt portfolio and monitoring its BRS revenues from London billing authorities to ensure the risks to the GLA budget arising from this are mitigated. As identified above the GLA will also set aside a proportion of the expected BRS revenues for 2020-21 – currently estimated at £20 million – to manage future risks in relation to rating appeals during the period of the 2010 rating list. It is estimated that by 31 March 2021 over £2.6 billion of BRS revenues will have been collected since the supplement was introduced in 2010-11.

5. Financial comments

- 5.1 The income raised through the Crossrail BRS in the 2020-21 financial year net of billing authority administrative expenses and rating reliefs is estimated at this stage to be £267.4 million before appeals and £247.4 million after an allowance for appeals. As outlined above, up to £132.7 million of this is expected to be used to finance the GLA's estimated interest costs with the balance applied to repay its Crossrail debt. The actual sums collectable in 2020-21 taking into account reliefs and losses on collection will be forecast by London billing authorities before the end of March 2020.
- 5.2 In line with the final prospectus It is estimated that the BRS for Crossrail will run for a period of 24 to 31 years with a current target end date of 2037-38 and raise no more than £8.1 billion to finance and repay debt and/or provide a direct contribution towards Crossrail construction costs.

6 Legal comments

- 6.1 The GLA was granted the power to levy a Business Rate Supplement (BRS), for purposes such as Crossrail, under section 1 of the Business Rate Supplements Act 2009 (the BRS Act). Section 3 of the BRS Act provides that the 32 London boroughs and the Common Council of the City of London – as the billing authorities for national non domestic rates in the capital – are required to collect the Crossrail BRS following a direction from the GLA.
- 6.2 The GLA introduced the Crossrail BRS, commencing in April 2010, in accordance with the conditions under section 4 of the BRS Act as it then was (and section 7 as modified by section 27 of the BRS Act).
- 6.3 The Final Prospectus (required under the BRS Act) published in January 2010 set out the proposed policies for the Crossrail BRS in more detail. In preparing those policies the GLA had regard to: the BRS Act and the relevant applicable secondary legislation.
- 6.4 The GLA is required to comply with the requirements of the abovementioned legislation and ensure consistency with the policies contained in the Final Prospectus when setting the policies that will apply to the Crossrail BRS in 2020-21.
- 6.5 The GLA is required to issue a formal written notification under section 18 of the BRS Act to the 33 billing authorities in London, authorising them to collect a BRS on its behalf. This report asks the Mayor to agree to this formal notice being issued. The proposed text for the section 18 notice – including supporting Annexes and the ratepayer communication – is set out at Appendix A.

7 Planned delivery and next steps

- 7.1 The 2020-21 BRS policies will be formally notified to billing authorities through the issuing of the section 18 notice required under the BRS Act. The statutory deadline for issuing this is 1 March but in practice this must be issued in early February in order that they can make the necessary

arrangements for billing. Those authorities will then issue bills to ratepayers during March 2020 for 2020-21 on which the Crossrail BRS liability due – if applicable – will be set out.

- 7.2 Billing authorities will also provide forecasts of the actual income they expect to collect in 2020-21 by 31 March 2020. These forecasts will represent the instalments paid to the GLA during the year net of a 5 per cent contingency as required by the BRS regulations. The actual amounts collected in 2020-21 will be confirmed by billing authorities by 30 April 2021 after which a reconciliation payment adjustment will be made by the end of June 2021.

Appendices:

Appendix A: Notice to Billing Authorities under Section 18 of the Business Rate Supplements Act 2009

Background/supporting papers:

'Proposal to levy a business rate supplement to finance the Greater London Authority's contribution to the Crossrail project – Initial prospectus' (GLA July 2009) – Available at www.london.gov.uk/crossrail-brs

'Intention to levy a business rate supplement to finance the Greater London Authority's contribution to the Crossrail project – Final prospectus' (GLA January 2010) – Available at www.london.gov.uk/crossrail-brs

MD2398 - Crossrail further funding update and related matters

MD2430 - Crossrail Business Rates Supplement - Final Policies for 2019-20

Proposed Section 18 Notice Under the BRS Act 2009 to the Director of Finance/Borough Treasurers of the 32 London Boroughs and the Chamberlain of the City of London Corporation (Appendix A)

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Martin Mitchell has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Martin Clarke has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

David Bellamy has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal. The proposal originates from Finance.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 27 January 2020

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

M. D. Clarke

Date

27.1.20

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

D. Bellamy

Date

27/1/2020.