

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2943

Title: Crossrail Business Rates Supplement – Approval of Policies for 2022-23

Executive summary:

This proposal asks the Mayor to approve the policies for the Crossrail 1 Business Rate Supplement ("Crossrail BRS") for 2022-23 including the multiplier (or tax rate) and the rateable value threshold above which the supplement will apply having regard to the contents of the final prospectus for the BRS published in 2010. The rateable value threshold above which the BRS will apply remains at £70,000 and the multiplier will be 2p. The policies are not affected by the additional £825 million contribution the GLA will make to the Crossrail project under the funding deal agreed with the Government in November 2020.

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 ('BRS Act') setting out the final policies for the Crossrail BRS in 2022-23 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 2022-23 non-domestic rates bills which are due to be issued in March 2022.

The GLA expects to apply c£150 million of BRS and Mayoral Community Infrastructure Levy revenues in 2022-23 to fund the financing costs on its Crossrail related borrowing with the balance set aside for debt repayment. The GLA's residual Crossrail debt is expected to be around £4.5 billion by 31 March 2023.

Decision:

That the Mayor

- i. approves the following policies for the Crossrail BRS for the 2022-23 financial year:
 - the Crossrail BRS will apply for the full 2022-23 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.
 - any reliefs for the Crossrail BRS will continue to apply on the same basis and 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.
- ii. 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 2022-23 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

16/2/22

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 (now named the “Elizabeth line”) by means of a capital grant paid to Transport for London. This was financed by a business rate supplement (“the BRS”) 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 also made a separate notional direct contribution through revenues raised by the Mayoral Community Infrastructure Levy (MCIL) towards Crossrail between 1 April 2012 and 31 March 2018 although in practice TfL collected and retained these funds directly from the 35 local planning authorities.
- 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 completion of its construction. This entire contribution has now been transferred to TfL. That £1.4 billion contribution comprised £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 (DfT). This loan is being financed and repaid 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 In November 2019, Crossrail Limited announced that the opening of the central section of the Elizabeth line would not occur until 2021 and that between £400 million and £650 million additional funding might be required to complete the project (at P50 and P80 confidence levels respectively). In August 2020, it announced that the opening of the central section would likely not occur until 2022 and that about £450 million further additional funding might be required to complete the project, taking the total new funding shortfall to about £1.1 billion (at a P80 confidence level).
- 1.4 In MD 2702 published on 30 November 2020 it was agreed that the GLA would provide up to a further £825 million contribution to TfL to allow the completion of the Crossrail project. This additional sum is being borrowed from the DfT and financed and repaid using Crossrail BRS and MCIL revenues. Of the £825 million, £325 million is borrowing which will, ultimately, be forgiven by the government if BRS and MCIL revenues (or any replacement revenues made available to the GLA by the government should future legislative changes mean the BRS or MCIL can no longer be levied) are insufficient to fund its repayment. Under the terms of the November 2020 agreement the government committed to amend the CIL regulations to permit the GLA to use MCIL revenues to finance and repay its Crossrail debt up to 31 March 2043 (from the previous 2033 end date). The required change to secondary legislation under the Community Infrastructure Levy (Amendment) (England) Regulations 2019 came into force on 17 March 2021.
- 1.5 Following the December 2018 and November 2020 funding agreements it is now anticipated that the GLA will contribute £6.925 billion in total towards the cost of the Crossrail project 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 received prior to 2018-19, the additional £1.4 billion contribution agreed in MD2398 and the most recent £825 million contribution approved in MD2702.

- 1.6 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; and be set at a rate no higher than 2p per pound of rateable value. (The maximum permitted by the BRS Act would raise no more than £8.1 billion and only apply to ratepayers of hereditaments that exceeded a rateable value threshold – currently £70,000 – which would be revised at each business rates revaluation.)
- 1.7 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, the rate agreed with the government for the first £1.3 billion tranche of DfT borrowing and the rate agreed for the additional £825 million of DfT borrowing, despite the impact of the pandemic the GLA remains confident that it will be able to accommodate the financing and repayment costs arising from its additional contribution while remaining within the overall parameters set out in the 2010 prospectus.
- 1.8 The GLA now estimates that the BRS for the Crossrail 1 project may need to run until 31 March 2041 which is the latest envisaged end date set out in the Crossrail BRS final prospectus. The precise end date will be dependent on a number of factors including the sums raised in BRS and MCIL over the next two decades. The GLA remains of the view, however, that the total sums needed to be raised from the BRS will remain within the £8.1 billion envelope set out in the prospectus. Similarly, the Executive Director, Resources is confident that the additional borrowing is sustainable, affordable and is in compliance with the requirements of the CIPFA Prudential Code.
- 1.9 The additional contributions set out above will not affect the Crossrail BRS policies for 2022-23 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.
- 1.10 This Decision asks the Mayor to approve the BRS policies for 2022-23 which are unchanged from 2021-22. Additional supporting background and information is set out in this Decision at paragraphs 2.3 to 2.6 below.

2. Objectives and expected outcomes

- 2.1 The power for the GLA to levy the Crossrail BRS was granted under the BRS Act. Under that 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 2022-23 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”). The supporting arguments for the proposed policies are set out in section 4.
- 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 2022-23 are consistent with those set out in the final prospectus and are unchanged from 2021-22. 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.
- 2.4 The current threshold has been maintained for the length of the 2017 rating list in line with the policy set out in the final prospectus. The government has legislated for the next revaluation to take place in 2023-24 and therefore this threshold is likely to change from April 2023.

- 2.5 There remain potential downside risks in relation to business rates valuations and thus BRS income arising from backdated challenges to the current rating list as well as on Material Change of Circumstances grounds albeit these have been partly mitigated in relation to the impact of the Covid-19 pandemic by the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021.
- 2.6 The Decision asks the Mayor to agree the following policies for the Crossrail BRS in 2022-23:
- The Crossrail BRS will apply for the full 2022-23 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 2022-23 financial year.
 - The rateable value threshold above which the Crossrail BRS shall apply in the 2022-23 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 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 three and six months) will apply at the same percentage rate to the Crossrail BRS as for National Non-Domestic Rates (“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 (BID).
- 2.7 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 2022-23, as set out in Annex F, to that notification. This will either be circulated to ratepayers alongside their 2022-23 rates bills or alternatively made available on billing authority websites depending on the mechanism by which the billing 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).
- 2.8 The GLA expects to apply around £150.0 million of the BRS and MCIL revenues collected in 2022-23 to fund interest due on its current and future Crossrail debt. This recognises that part of this cost will be financed from MCIL 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 and MCIL income collected not applied for interest payments will be applied to finance the repayment of the GLA’s debt and the costs associated with the administration of this debt as well as the BRS and MCIL.

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 remove or minimise 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, sex, 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 GLA area and is subject to the provisions of the BRS Act and parallel national non-domestic rating legislation. In 2022-23 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, under 85 per cent of non-domestic hereditaments – including the vast majority of premises occupied by small and medium-sized enterprises – in London are expected to 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 2022-23 to an average of less than 5 per cent of affected ratepayers total business rates bill per hereditament on the local rating list 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 prior to the COVID-19 pandemic forecast that Crossrail would 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 Decisions 2398 and 2702 in December 2018 and November 2020 respectively that the GLA would provide an additional £2.225 billion contribution to the Crossrail project – comprising £2.125 billion of GLA borrowing and a £100 million direct contribution from BRS revenues – paid as a capital grant to TfL. The GLA’s outstanding Crossrail borrowing will be financed and repaid from a combination of MCIL and BRS revenues.
- 4.3 The impact of these additional tranches of borrowing as outlined above is that the potential end date for the use of the BRS for the Crossrail 1 project may now be as late as March 2041 or 31 years from the introduction of the BRS. The total sum raised in BRS is estimated, however, to remain below £8.1 billion. This remains consistent with the parameters set out in the final prospectus.
- 4.4 Without the funding provided through the BRS it would not be possible to deliver the entire Crossrail project under the revised financing and funding package.

Impact assessments and consultation

- 4.5 Under the BRS Act the GLA may only levy the Crossrail BRS if:
- a) it has published a document that sets out the proposal for the imposition of the BRS ("the Initial Prospectus").
 - b) it has consulted the relevant persons on the proposal.
 - c) 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.
 - d) it has published a document that sets out the arrangements for the imposition of the BRS ("the Final Prospectus").
- 4.6 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.
- 4.7 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.
 - the BRS Act (and any regulations laid or expected to be laid in relation to it) and relevant existing business rates legislation and regulations.
- 4.8 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 the 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.
- 4.9 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 that 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.

- 4.10 The final prospectus made clear that the reliefs policies for the Crossrail BRS would apply on the same basis as for 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 2011. The Localism Act 2011 also amended section 47 of the Local Government Finance Act 1988 ("1988 Act") to permit billing authorities to grant discretionary relief to any ratepayer subject to state aid rules including those reliefs, if applicable, of whose costs the government commits to fund in 2022-23 in respect of NNDR. In respect of the BRS the GLA bears the losses arising from these reliefs via reduced levels of income.
- 4.11 In 2020-21 a government funded 100 per cent relief scheme was introduced for NNDR for businesses in the retail, leisure, hospitality and childcare (RLHC) sectors using powers granted to billing authorities under section 47 of the 1988 Act. In 2021-22 this scheme was extended in full until 30 June 2021 and from 1 July the relief was reduced to 66 per cent albeit with national aggregate cap of £105,000 per business entity for essential retailers and £2 million for other firms in these sectors. As announced in the 2021 Spending Review a 50 per cent relief will apply for these sectors in 2022-23: however, this will be capped at a maximum of £110,000 per business entity. These relief schemes also apply to the Crossrail BRS on the same basis and at the same rate as required by section 13 (7) of the BRS Act. In 2020-21 these relief schemes are estimated to have reduced the level of BRS revenues received by the GLA by over £85 million or more than one-third – the reduction in 2022-23 due to the revised relief scheme will have a much less material impact due to the £110,000 cap per business entity nationally.
- 4.12 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 BID. It was considered that this would be inequitable as many of the largest BIDs are directly on the Elizabeth line route or close to it.

Varying the Crossrail BRS

- 4.13 The final Crossrail BRS prospectus published in 2010 set out the policies for revising the BRS at each revaluation; 2017 was the first revaluation since the supplement was introduced.
- 4.14 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.
- 4.15 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 – which is £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 2022-23. As required under the final prospectus this threshold will be reviewed for the 2023-24 financial year as a new rating list is expected to be introduced on 1 April 2023 due to the Non-Domestic Rating (Lists) (No. 2) Act 2021 which received Royal Assent on 15 March 2021.
- 4.16 Annex D to the draft section 18 notice at Appendix A sets out the estimated maximum number of properties which could be liable to the BRS in 2022-23 using the £70,000 threshold based on the most recent data supplied by London billing authorities. It is estimated on this basis that just under

46,000 properties could be liable to pay the BRS in 2022-23 – equivalent to around 14.1 per cent of assessments on the current local rating list across the GLA's area.

4.17 At least 85 per cent of hereditaments on the local rating list are forecast to be exempt from the BRS across London in 2022-23 ranging from around 76 per cent in Westminster to more than 94 per cent in Lewisham, Redbridge and Waltham Forest.

4.18 The prospectus also states (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 that are not made in accordance with the final prospectus would require the GLA to 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
- f) the views of London's business community, the 33 London billing authorities and other non-domestic ratepayers.

4.19 In considering the above criteria in determining whether to vary the policies for the BRS in 2022-23, the GLA notes the ongoing impact of increases in national non-domestic rating that 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; therefore, a ratepayer's BRS liability increases or decreases proportionately in line with their change in rateable value following each revaluation. The Mayor also notes that ratepayers in the RLHC and nurseries sectors have benefitted from significant levels of relief on their BRS liabilities in 2020-21 and 2021-22 as a result of the support provided for the impact of the Covid-19 pandemic.

4.20 In determining the final BRS policies for 2022-23 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 and the terms of its funding agreements with the DfT.

4.21 The GLA estimates that a 2p BRS multiplier will raise approximately £272.0 million in 2022-23 before estimated collection and valuation losses were revenues to revert to the pre-pandemic position in 2019-20. After applying an estimate of the impact of the scaled-back retail, leisure and hospitality (RLH) relief scheme, non payment of bills and losses due to successful valuation challenges it is estimated for planning purposes that the BRS will raise around £235 million in 2022-23. This is before deducting allowable billing authority administrative expenses of around £0.4 million. The apportionment of this aggregate £272.0 sum by billing authority is set out in Annex E to Appendix A.

4.22 Unlike NNDR where provisions are applied for expected appeals in each financial year the BRS 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 13.5 per cent valuation, reliefs and collection losses the GLA estimates that the actual sum which will ultimately be available to it to finance and repay its Crossrail debt in 2022-23 net of provisions will be £235.0 million.

- 4.23 Alternative options for the multiplier have been examined but in light of the potential uncertainty around rateable value growth at future revaluations, 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 and the terms of the funding agreements with DfT it would not be prudent or possible at this stage to vary the multiplier and lower the 2p rate in 2022-23.
- 4.24 The Mayor will of course need to keep the policies for the BRS under review each year as required by the final prospectus which permits the multiplier to be varied in any financial year albeit it can be no higher than 2p under the BRS Act. It should be noted, however, that under the most recent funding agreement with the government, if the Mayor takes any action, beyond variations to the policies required to be made under the final Crossrail BRS prospectus (such as revising the £70,000 threshold in a revaluation year) or by regulation or legislation, which have a negative impact on the collection rates of the BRS (or MCIL), then the £325 million tranche of limited recourse borrowing as set out in paragraph 1.4 will become fully repayable.

Other relevant information relating to the billing and administration of the BRS

- 4.25 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 2022-23, will be sent out to non-domestic ratepayers by the 33 London billing authorities before the end of March 2022. The BRS is administered in line with regulations issued by the Secretary of State under the BRS Act.
- 4.26 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).
- 4.27 Billing authorities' further administrative expenses for the twelfth year of the BRS (2022-23) 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 2022-23 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 BRS taxbases. 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.
- 4.28 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 annual billing. This will enable billing authorities to make the necessary arrangements for the inclusion of the BRS on 2022-23 rates bills which are due to be circulated to ratepayers from early March 2022. The proposed text for this notice is set out at Appendix A.
- 4.29 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 2022-23 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

- 4.30 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.
- 4.31 Section 10 of the BRS Act as amended by the Localism Act 2011 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.
- 4.32 The GLA contributed £4.1 billion towards the Crossrail 1 project through the BRS between 1 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 GLA agreed a further contribution of £1.4 billion towards the Crossrail 1 project in December 2018 and a further £825 million contribution in November 2020 which is intended to be financed by BRS and MCIL revenues. The impact of these additional contributions is not anticipated by the GLA, however, to result in the maximum duration, total proceeds raised or the tax rate applied exceeding the parameters set out in the final prospectus.
- 4.33 The final cost of the Crossrail project is still to be confirmed. The most recent published estimates suggest that a further sum in the region of circa £150 million on top of the £825 million additional agreed funding may be needed to complete the project's central section. The £825m agreed funding is not anticipated to be fully utilised until the summer of 2022. Discussions will take place later this year between key stakeholders to determine how any additional sum required will be funded once there is greater certainty as to the precise opening schedule and any remaining risks, therefore as to the precise sum required. The outcome of these discussions will not affect the BRS policies for 2022-23.
- 4.34 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 either the BRS being extended beyond the current 2041 latest possible end date envisaged 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 therefore no variation 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 2022-23

- 4.35 The GLA is forecast to incur £150.0 million in interest costs on its estimated outstanding Crossrail related borrowing during 2022-23 based on the most recent agreed funding package. This package will be financed via the BRS and MCIL, and will set aside the balance of the revenues raised from those two sources to repay its Crossrail debt and associated administration costs. The interest costs financed by BRS and MCIL revenues are forecast to exceed 25 per cent of the GLA's estimated gross revenue expenditure in 2022-23 on services if expenditure funded by government specific grants (e.g. adult education) is excluded. The successful ongoing implementation and administration of the Crossrail BRS and MCIL is critical therefore to the GLA's medium-term planning.
- 4.36 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 2022-23 - to manage future risks in relation to valuation and collection losses. It is estimated that by 31

March 2022 around £2.7 billion of BRS revenues will have been collected since the supplement was introduced in 2010-11.

Conflicts of interest

- 4.37 There are no conflicts of interest to declare from those involved in the drafting or clearance of this form

5. Financial comments

- 5.1 The income raised through the Crossrail BRS in the 2022-23 financial year net of billing authority administrative expenses and rating reliefs is estimated at this stage to be £235 million after an allowance for collection and valuation losses and the national retail, leisure and hospitality relief scheme announced for 2022-23.
- 5.2 Around £150.0 million of the combined BRS and MCIL revenues 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 2022-23 taking into account reliefs and losses on collection will be forecast by London billing authorities before the end of March 2022.
- 5.3 In line with the final prospectus it is estimated that the BRS for the Crossrail 1 project will run for a period of 24 to 31 years with an end date no later than 31 March 2041 and raise no more than £8.1 billion to finance and repay debt and/or provide a direct contribution towards the Crossrail 1 project 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 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 above mentioned legislation and ensure consistency with the policies contained in the final prospectus when setting the policies that will apply to the Crossrail BRS in 2022-23.
- 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 2022-23 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 mid February in order that they can make the necessary arrangements for annual billing. Those authorities will then issue bills to ratepayers during March 2022 for 2022-23 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 2022-23 by 31 March 2022. 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 2022-23 will be confirmed by billing authorities by 30 April 2023 after which a reconciliation payment adjustment will be made by the end of June 2023.

Appendices:

Appendix A - 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)

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

MD2702 – Additional funding for Crossrail

MD2759 – Crossrail Business Rates Supplement – Final Policies for 2021-22

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

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:

David Gallie 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 14 February 2022 ✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date

D. Gallie

15/2/22

CHIEF OF STAFF:

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

Signature

Date

D. Bellamy

14/2/22

