



## CROSSRAIL INFORMATION PAPER

### B3 – COMPLIANCE WITH UNDERTAKINGS AND ASSURANCES

This paper sets out how undertakings and assurances given during the passage of the Crossrail Bill will be recorded and enforced.

It will be of particular relevance to those who have received an undertaking or assurance during the passage of the Bill.

This is not intended to replace or alter the text of the paper itself and it is important that you read the paper in order to have a full understanding of the subject. If you have any queries about this paper, please contact either your regular Petition Negotiator at CLRL or the Crossrail helpdesk, who will be able to direct your query to the relevant person at CLRL. The helpdesk can be reached at:

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**APPROVED**

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## **B3 – COMPLIANCE WITH UNDERTAKINGS AND ASSURANCES**

- 1.1 During the passage of the Crossrail Bill, the Secretary of State will give a number of undertakings and assurances concerning the Crossrail project. These will be recorded in an official register, held by the Department for Transport (DfT). The process envisaged will follow the successful template provided by the Channel Tunnel Rail Link project during the passage of the Channel Tunnel Rail Link Bill.
- 1.2 The register itself will be a list of the commitments given, and to whom. It will not necessarily give the detail of each undertaking or assurance, and may instead in some cases simply refer to other documents (such as signed undertakings between the Secretary of State and the third party concerned). The register should also be read in conjunction with other documents that are part of the Crossrail Environmental Minimum Requirements (EMRs), namely the Construction Code, the Environmental Memorandum and the Planning and Heritage Memorandum. The entries on the register itself will not, therefore, be definitive in themselves.
- 1.3 The bulk of the material referred to in the register will be in the public domain, but some personal, or commercially confidential material, will not. Requests for information made under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 will be considered according to the respective standard procedures, but (as provided for in the exceptions to the duties to disclose under the Act and the Regulations) qualified exemptions may apply to some commercially confidential material, to background material prepared under legal or litigation privilege, or to material covered by the Data Protection Act 1998. The register itself will be published, and updated at key stages during the passage of the Bill through Parliament. A final version will be produced and published after the Bill receives Royal Assent.
- 1.4 The register will not include undertakings or assurances that have either been carried out already or which will be carried out during the passage of the Bill (for example, an assurance to amend the content of the Bill) as the purpose of the register is to capture undertakings and assurances that will be carried out once the Bill is enacted and construction starts.
- 1.5 Entries on the register will be categorised in two ways: by the party or parties that they bind, and by type. Assignment of a category in the latter case depends on the nature of the commitment, promise or indication given by the Promoter to the third party concerned. Two categories are used:

- undertakings, which will be binding (usually contingent) agreements set out in legal documents or given by whatever means to the Select Committee itself or to Parliament; and
  - assurances, which will be unilateral written commitments made by the Promoter in a letter or other document, or in petition responses.
- 1.6 In due course it is expected that a nominated undertaker (or nominated undertakers) will be appointed to construct and maintain Crossrail. Any nominated undertaker will be obliged to comply with all relevant undertakings and assurances concerning Crossrail through a contract with the DfT, or any body to which the Secretary of State devolves the implementation of the project. The Secretary of State has given an undertaking to Parliament<sup>1</sup> that he will take such steps as he considers reasonable and necessary to secure compliance with all relevant undertakings and assurances, in so far as they are not directly enforceable against any person appointed as a nominated undertaker or to whom the powers of the Bill are devolved under clause 60 of the Bill. The register will be the means of communicating to any nominated undertaker the undertakings and assurances given to third parties during the passage of the Bill.
- 1.7 The Secretary of State, any body to which he devolves the project, or nominated undertaker may agree with the beneficial recipient of an undertaking or assurance to alter the terms of that undertaking or assurance, subsequent to its recording in the register. In such cases, the new agreed terms shall be complied with and, if relevant, the relevant local authority shall be notified of the new terms.
- 1.8 Undertakings and assurances do not bind any consent giving body unless that body is specifically a party to them. However consent giving bodies would be expected to be mindful of the nominated undertaker's responsibility to make every effort to comply with them since they will have formed part of the consideration of the issues, and the conferring of the powers, by Parliament.
- 1.9 The first draft of the Crossrail Undertakings and Assurances Register was published in December 2006 and the second draft in November 2007. The register includes:
- all formal signed undertakings between petitioners and the Secretary of State;

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<sup>1</sup> See paragraph 112 of the transcript for Day 1 (17 January 2006) of the House of Commons Select Committee proceedings on the Crossrail Bill

- assurances given in the Crossrail Bill House of Commons Select Committee proceedings, transcripts of which can be found on the Parliament website (<http://www.publications.parliament.uk/pa/cm/cmcross.htm>);
- undertakings and assurances given to petitioners in letters from Cross London Rail Links (CLRL), the Department for Transport (DfT), or their Parliamentary Agents (Winckworth Sherwood); and
- undertakings or assurances given in the Crossrail Information Papers. Where undertakings or assurances given to petitioners are covered by the generic undertakings or assurances included in the information papers, they are not separately recorded against each individual petitioner in the register.

1.10 A copy of the draft register, the other draft documents that form part of the EMRs and the Crossrail Information Papers, can all be found on the Crossrail Bill Supporting Documents website (<http://billdocuments.crossrail.co.uk/>).