

DRAFT



Department
for Transport

Strategic highways company Draft Licence

*Secretary of State for Transport Statutory Directions
and Guidance to the Strategic Highways Company*

PLEASE NOTE:

This document is a draft for information only, not the final document, and will undergo further development before it is finalised.

The purpose of publishing this draft Licence is to help with understanding the purpose and function of the Licence for the Strategic Highways Company in conjunction with the proposed legislation in the Infrastructure Bill 2014-15.

October 2014

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Part 1 - Scope

- 1.1 The Secretary of State has appointed [*insert name of the company*] ("the Licence holder") as a strategic highways company by way of an Order in accordance with [*section 1 of the Infrastructure Act 2015*]. The effect of this appointment is to confer upon the Licence holder the legislative functions of a strategic highways company as regards the areas and highways in respect of which the company is appointed. As a result, the company will be the highway authority for the strategic road network.
- 1.2 In fulfilling these duties, the Licence holder must, without prejudice to the Licence holder's legal duties, comply with or have regard to (as appropriate) the conditions set out in this document, which constitute Directions and Guidance issued by the Secretary of State to the Licence holder as provided for in [*section 4 of the Infrastructure Act 2015*].

[*insert signature*]

[*insert date*]

Signed by authority of
the Secretary of State for Transport

Part 2 - Interpretation

2.1 In this Licence:

"Activities"	means the functions carried out by the Licence holder in meeting its obligations and exercising its role as a strategic highways company appointed by the Secretary of State under [<i>section 1 of the Infrastructure Act 2015</i>];
"Appointment Order" or "the appointment"	means the Appointment of a Strategic Highways Company Order 2015 (S.I.2015/x);
"Consultation"	means consultation or engagement proportionate to the circumstances in accordance with government guidance on consultation principles ¹ ;
"Licence conditions" or "Conditions"	means the Directions and Guidance issued by the Secretary of State to the Licence holder under [<i>section 4 of the Infrastructure Act 2015</i>] set out in this Licence;
"Licence holder's network" or "the network"	means the highways for which the Licence holder is appointed, as set out in the Appointment Order;
"Relevant assets"	means the Licence holder's network and other assets held by the Licence holder for the purposes of operating, managing and improving the highways for which the Licence holder is responsible;
"Road Investment Strategy"	means any Road Investment Strategy set by the Secretary of State under [<i>section 3 of the Infrastructure Act 2015</i>];
"Transport Focus"	means the part of Transport Focus ² responsible for representing and promoting the interests of road users;
"Secretary of State"	means the Secretary of State for Transport, or those acting on his behalf;
"The Strategic Road Network Monitor"	means the part of the Office of Rail Regulation responsible for monitoring the costs, efficiency and performance of the company;

¹ <https://www.gov.uk/government/publications/consultation-principles-guidance>

² 'Passenger Focus' is the operating name of the Passengers' Council established under section 19 of the Railways Act 2005 as amended by the Passengers' Council (Non-Railway Functions) Order 2010.

"Strategic highways company" means a company appointed by the Secretary of State by way of an Order in accordance with [section 1 of the Infrastructure Act 2015];

- 2.2** Any reference in this Licence to a numbered paragraph is a reference to the paragraph bearing that number in the condition in which the reference occurs.
- 2.3** In interpreting this Licence, headings shall be disregarded.
- 2.4** Where in this Licence the Licence holder is required to comply with any obligation within a specified time limit, the Licence holder is required to comply with the obligation notwithstanding that the time limit has passed, and must do so as soon as practicable.

Part 3 - General conditions

- 3.1** The Licence holder must comply with the conditions in this Licence. It is not intended that these conditions should be incompatible with other legal duties, though they may affect the manner in which certain functions (including statutory functions) are discharged. If the Licence holder becomes aware of any incompatibility between the Licence and its other legal duties, it must notify the Secretary of State immediately.
- 3.2** Where in this Licence there is a provision for the Secretary of State to give his consent, the Secretary of State may give such consent subject to conditions and any necessary approvals from other parts of government.
- 3.3** As an arms-length public body, the Licence holder must comply with relevant government guidance, such as *Managing Public Money*.³
- 3.4** Where in this Licence there is a provision for the Secretary of State to give a notice or to issue directions or guidance to the Licence holder, the Secretary of State will first consult the Licence holder and take into consideration any representations duly made.
- 3.5** Where in this Licence there is a provision for the Secretary of State to issue reasonable instructions to the Licence holder, where such instructions would result in a significant impact on the ability of the Licence holder to fund or deliver its activities, the Secretary of State will consider making a proportionate change in the requirements on the Licence holder or the funding made available by the government.
- 3.6** The Secretary of State does not intend to make any changes to the conditions of this Licence without first consulting the Licence holder and the Strategic Road Network Monitor, taking into consideration any advice or representations duly made. Where such changes would result in a significant impact on the ability of the Licence holder to fund or deliver its activities, the Secretary of State will consider making a proportionate change in the requirements on the Licence holder or the funding made available by the government.
- 3.7** Any significant alteration in the size in the network for which the Licence holder is the highway authority will be accompanied by consideration of a proportionate change in the requirements on the Licence holder or the funding made available by the government.
- 3.8** Any consideration of a change in the requirements on the Licence holder or the funding made available by the government, including under the circumstances described in 3.5, 3.6 and 3.7, will be subject to the formal processes for considering changes to the Road Investment Strategy.

³ <https://www.gov.uk/government/publications/managing-public-money>

Part 4 - Aims and objectives

- 4.1** The network for which the Licence holder is responsible is a critical national asset, which the Licence holder must operate and manage in the public interest, in respect of both current activities and needs and in providing effective stewardship of its long-term operation and integrity.
- 4.2** The Licence holder must, in exercising its functions and complying with its legal duties and other obligations - including delivering the requirements of the Road Investment Strategy and Strategic Business Plan - act in a manner which it considers best calculated to:
- a. Ensure the effective operation of the network;
 - b. Ensure the maintenance, resilience, renewal, and replacement of the network;
 - c. Ensure the improvement, enhancement and long-term development of the network;
 - d. Ensure efficiency and value for money;
 - e. Protect and improve the safety of the network;
 - f. Cooperate with other persons or organisations for the purposes of coordinating day-to-day operations and long-term planning;
 - g. Minimise the environmental impacts of operating, maintaining and improving its network and seek to enhance the quality of the surrounding environment;
 - h. Conform to the principles of sustainable development.
- 4.3** For the purposes of this section, "sustainable development" means encouraging economic growth while protecting the environment and improving safety and quality of life for current and future generations.

Part 5 - Exercising the role of a strategic highways company

Effective operation

- 5.1** In complying with 4.2(a) and relevant statutory duties, including the general duties relating to network management under the Traffic Management Act 2004, the Licence holder is expected to:
- a. Seek to minimise disruption to road users that might reasonably be expected to occur as a result of:
 - i. Planned disruption to the network (including from road works);
 - ii. Unplanned disruption to the network (including from incidents on the network and the short-term effects of extreme weather conditions).
 - b. Proactively and reactively provide relevant, accurate and timely information about traffic and conditions on the network to road users, including when there is disruption.

- 5.2** The Licence holder must not display messages on the road network that do not relate to the Licence holder's statutory responsibilities or the wider management of the road network.

[Note: Provisions regarding the effective operation of the network are still under development]

Maintenance, resilience, renewal, and replacement

- 5.3** In complying with 4.2(b), the Licence holder must:
- a. Take all reasonable steps to ensure the continued availability and resilience of the network as a strategic artery for national traffic, as an effective part of the wider road and transport system;
 - b. Develop, publish and implement plans that demonstrate how the Licence holder will comply with the general duty to maintain highways in section 41 of the Highways Act 1980.

Improvement, enhancement and long-term development

- 5.4** In complying with 4.2(c), the Licence holder must:
- a. Cooperate with the Secretary of State in developing Road Investment Strategies, including taking the necessary steps to

deliver any elements or information required for the development of future strategies;

- b. Establish and maintain a clear understanding of the pressures upon and impacts of its network at both a national and route level, and be aware of the actions needed to improve conditions for users, and manage or mitigate existing problems, to inform the future development and improvement of the network and its performance;
- c. Provide for sufficient flexibility and future-proofing in planning the long-term development and improvement of the network, taking account of long-term trends, uncertainties and risks - including new and emerging technologies and long-term trends in climate and weather conditions.

5.5 The Licence holder may carry out relevant research, development, demonstration and deployment of innovative technologies and applications in line with, and as a function of, the Licence holder's role as a strategic highways company, and is authorised to conduct experiments or trials under section 283 of the Highways Act 1980.

5.6 The ability of the Licence holder to carry out any activities referred to in 5.5, including under section 283 of the Highways Act 1980, is subject to the Licence holder:

- a. Agreeing its plans for research, development, demonstration and deployment of innovative technologies and applications with the Secretary of State;
- b. Seeking specific approval from the Secretary of State for any experiments or trials which may have implications for user safety or government policy;
- c. Publishing its plans for research, development, demonstration and deployment of innovative technologies and applications, as well as any final results from such activities; and
- d. Where relevant, assisting and co-operating with the Secretary of State on wider research, development and demonstration activities.

Asset management

5.7 The Licence holder must develop, publish, maintain and implement an asset management policy and strategy setting out how it will apply a best practice approach to managing the lifecycle of its assets, in a way that is consistent with PAS 55 / ISO 55000 standards, including a registry of its asset inventory and condition.

Efficiency and value for money

5.8 In complying with 4.2(d), the Licence holder must:

- a. Adopt a whole-life cost approach to managing its assets, maximising efficiency and minimising long-term costs;

- b. When presented with a significant choice between bearing short-term costs and increasing long-term costs, appraise the different options in line with relevant government policy and guidance to determine which represents the best overall value for money;
- c. Put in place robust arrangements for the internal assurance of value for money, which demonstrates how the Licence holder will ensure value for money;
- d. Have due regard to circumstances in which it may be appropriate to carry out additional work as part of proposals where these can reduce or eliminate long-term costs or disruption to the network.

Safety

5.9 In complying with 4.2(e), the Licence holder must have due regard to the need to protect and improve the safety of the network as a whole for all road users, in particular to:

- a. Keep highways in a safe and serviceable condition, in accordance with the general duty in section 41 of the Highways Act 1980;
- b. Ensure that protecting and improving safety is embedded into its business decision-making processes and is considered at all levels of operations;
- c. Seek to ensure the best possible safety outcomes across its activities, while working in the context of sustainable development and delivering value for money;
- d. Take opportunities to engage with and support wider efforts to improve safety for road users;
- e. Protect the safety of people working on the operation, maintenance or improvement of the network, in accordance with the general duties under the Health and Safety at Work etc Act 1974 and any relevant health and safety regulation made under that Act.

5.10 The Licence holder must publish how it will meet its legal duties and other obligations with regard to safety, including the requirements of 5.9.

Cooperation

5.11 In complying with 4.2(f), the Licence holder must cooperate with other persons or organisations in order to:

- a. Facilitate the movement of traffic and manage its impacts;
- b. Respond to and manage planned and unplanned disruption to the network;
- c. Take account of local needs, priorities and plans in planning for the operation, maintenance and long-term development of the network;
- d. Provide reasonable support to local authorities in their planning and the management of their own networks.

- 5.12** In complying with 5.11, the Licence holder must cooperate with, consult and take reasonable account of the views of:
- a. Local authorities and devolved administrations;
 - b. Operational partners (including, but not limited to, the emergency services and other transport operators);
 - c. Road users;
 - d. Local communities;
 - e. Other relevant stakeholders with a significant stake in the long-term development of the network.
- 5.13** In complying with 5.11 and 5.12, the Licence holder must cooperate with other persons or organisations in a way which is demonstrably:
- a. Open and transparent – involving relevant stakeholders, ensuring that essential information is available to all affected and interested parties, and that the processes for engagement and communication are clear;
 - b. Positive and responsive – seeking to build trusting and effective working relationships with key partners and stakeholders, engaging with due efficiency and economy and in a timely manner;
 - c. Collaborative – working with others to align national and local plans and investments, balance national and local needs and support better end-to-end journeys for road users.
- 5.14** The Licence holder must cooperate with and assist Transport Focus and the Strategic Road Network Monitor to support the fulfilment of their statutory functions.
- 5.15** The Licence holder must publish how it will communicate, engage and cooperate with others in exercising its functions and complying with the requirements set out in 5.11 - 5.13.

Environment

- 5.16** In complying with 4.2(g), the Licence holder must:
- a. Ensure that protecting and enhancing the environment is embedded into its business decision-making processes and is considered at all levels of operations;
 - b. Ensure the best practicable environmental outcomes across its activities, while working in the context of sustainable development and delivering value for money;
 - c. Consider the cumulative environmental impact of its activities across its network and identify holistic approaches to mitigate such impacts and improve environmental performance;
 - d. Work with others to develop solutions that can provide increased environmental benefits over those that the Licence holder can achieve alone, where this delivers value for money.
- 5.17** The Licence holder must:

- a. Seek to minimise carbon emissions and other greenhouse gases from its operations;
- b. Adapt to operate its network in a changing climate; and
- c. Where relevant, assist the Government in meeting its wider greenhouse gas emission reduction targets and climate change commitments.

5.18 In complying with 5.17, in particular the Licence holder must:

- a. Develop approaches to the construction, maintenance and operation of the Licence holder's network that are consistent with the government's plans for a low carbon future;
- b. Calculate and consider the whole life carbon impact of road projects and factor carbon into design decisions;
- c. Take opportunities to influence road users to reduce the greenhouse gas emissions from their journey choices;
- d. Assess the potential risks that climate change poses to the ongoing operation, maintenance and improvement of the network, factor anticipated climatic changes into delivery and develop appropriate management and mitigation solutions to remove or reduce these risks.

5.19 The Licence holder must publish how it will meet its legal duties and other obligations with regard to the environment, including the requirements of 5.16-5.18.

Sustainable development

5.20 In complying with 4.2(h), the Licence holder must balance a range of factors in meeting the short and long-term needs of the network, in particular with regard to:

- a. Supporting national and local economic growth and regeneration;
- b. Protecting and improving the safety of road users and road workers;
- c. Protecting, managing and enhancing the environment;
- d. Seeking to improve the quality of life of road users and communities affected by the network;
- e. Ensuring efficiency and value for money.

5.21 The Licence holder must publish how, in meeting its legal duties and other obligations, it will support and promote sustainable development, with particular regard to those factors specified in 5.20.

5.22 The Licence holder must have due regard to relevant principles and guidance on good design, such as those set out by the Commission for Architecture and the Built Environment (Cabe) and the Design Council⁴,

⁴ <http://www.designcouncil.org.uk/knowledge-resources/guide/design-led-approach-infrastructure>

to ensure that the development of the network takes account of geographical, environmental and socio-economic context.

Evidence base

- 5.23** In exercising its role as a strategic highways company and complying with Part 4, the Licence holder must:
- a. Develop and maintain accurate and readily accessible information about the relevant assets, including their condition, capability, and capacity, as well as their performance, including against any expectations set out in a Road Investment Strategy;
 - b. Develop and maintain an appropriate evidence base on the state and performance of the network, and issues affecting these, in accordance with any guidelines issued by the Strategic Road Network Monitor, to inform the continued management and development of the network; and
 - c. Prepare and publish route strategies for the network, taking account of relevant plans and developments concerning road and other transport networks, wider developments and government policy, and have due regard to these when planning and carrying out its activities.
- 5.24** In complying with 5.23, the Licence holder must develop and maintain accurate and comprehensive information to be provided to Transport Focus or the Strategic Road Network Monitor.

Government policy

- 5.25** In exercising its role as a strategic highways company and complying with the requirements in Part 4, the Licence holder must comply with or have regard to relevant Government policy, as advised by the Secretary of State.
- 5.26** For the purposes of this section, "relevant Government policy" means all current policies which:
- a. Relate to the activities of the Licence holder, and
 - b. Have been:
 - i. Published in England by or on behalf of Her Majesty's Government, or
 - ii. Indicated to Licence holder by the Secretary of State.

Standards, specifications and guidance

- 5.27** The Licence holder must have regard to any relevant statutory guidance, standards or specifications. This includes being mindful of where new standards or specifications are developing and seek to ensure that further work is not required to bring new projects into line.

5.28 In the event that the Licence holder departs from relevant statutory guidance, standards or specifications, the Licence holder must clearly record the justification for the departure, explaining why the provisions were not appropriate and how the alternative approach seeks to achieve the same outcomes through different means. This decision and its justifications must be clearly recorded and made accessible upon request.

Planning

5.29 The Licence holder must take reasonable steps to assist those seeking to make planning applications for which the Licence holder is likely to be a statutory consultee under [*the Town & Country Planning (development management procedure) (England) Order 2010 / the Infrastructure Act 2015*].

5.30 Where the Licence holder is consulted by a local planning authority in light of its responsibilities as a statutory consultee under [*the Town & Country Planning (development management procedure) (England) Order 2010 / the Infrastructure Act 2015*], and where the Licence holder chooses to comment on an application, it must make clear which of its comments are:

- a. Information: intended to provide a general context the decision of the local planning authority; or
- b. Formal recommendations: where, should the local planning authority be minded to disagree with a recommendation of the Licence holder, the Licence holder would expect the Secretary of State to take a view.

5.31 In the event that the Licence holder makes a formal recommendation as described in 5.30(b), it must inform the Secretary of State at the earliest opportunity, ahead of any decision by the local planning authority, unless the Secretary of State waives this right. This information is in addition to any requirements made through the development management framework.

5.32 The Licence holder, in making decisions under [*section 174B of the Highways Act 1980*] about permission for any new connections to its network, and unless otherwise directed by the Secretary of State, must consider granting permission in light of the nature of the road in question and the consequences of the new connection, having particular regard to:

- a. In the case of roads designed for high-speed traffic, with partially or comprehensively limited access, there should be a presumption against connection, except where it can be provided safely and where there is a demonstrable benefit to the economy;
- b. On all other roads there should be a presumption in favour of connection, except where a clear case can be made to prohibit connection on the basis of safety or economic impacts.

Land and property

- 5.33** The Licence holder must hold and manage land and property in line with, and as a function of, the Licence holder's legal duties as a highway authority, and solely for the purposes of operating, managing and improving the highway, unless otherwise approved by the Secretary of State.

[Note: Further provisions regarding the management and treatment of land and property are still under development]

- 5.34** The Licence holder must establish, maintain and ensure ready access to all appropriate records relating to the purchase, sale, maintenance and condition of all land and property owned, held, used or occupied by the Licence holder and to show how these are being or will be managed. This includes where compulsory purchase proceedings have (or are proposed to be) commenced.

Commercial activity and charging for services

[Note: Provisions relating to commercial activity and charging for services are still under consideration.

We expect that the Licence holder will, where legislation allows, be able to continue to charge for ancillary services, on a non-discriminatory and cost-recovery basis, where this represents the continuation of current practice by the Secretary of State, in his role as highway authority for the network.

Any new commercial services or introduction of new charges would need to be in line with relevant government guidance, such as Managing Public Money, and be subject to the necessary government approvals. We expect such requirements to be set out in the Framework Document.

We also expect that the Licence holder will not be able to receive commercial sponsorship or paid advertising without approval from the Secretary of State].

Part 6 - Setting and varying the Road Investment Strategy

Introduction

- 6.1 The Secretary of State may at any time set a Road Investment Strategy (RIS) for a strategic highways company, or vary a RIS that has already been set.
- 6.2 The Licence holder must cooperate with the Secretary of State to reach a mutually agreed position on a RIS and comply with the processes for setting and varying a RIS.
- 6.3 A RIS is to relate to such period ('Road Period') as the Secretary of State considers appropriate. For each RIS, the Secretary of State will determine the Road Period and set the timetable for developing and agreeing the RIS.
- 6.4 The RIS must specify the requirements to be delivered by the Licence holder during the Road Period to which it relates and the funding to be provided by the Secretary of State in order to deliver those requirements. Such requirements may include activities to be performed, results to be achieved and standards to be met.
- 6.5 In the event that, for any reason, there is no current RIS in effect (for example, due to a delay between one RIS expiring and the commencement of a subsequent agreed RIS), the Licence holder must continue to comply with its legal obligations and the requirements set out in this Licence, as well as any further directions issued by the Secretary of State, until a new RIS has been agreed and comes into effect.

Setting the Road Investment Strategy

Step 1: The Strategic Road Network (SRN) Initial Report

- 6.6 Once informed of the Road Period by the Secretary of State, the Licence holder must prepare and provide to the Secretary of State a SRN Initial Report to inform the preparation of a draft Road Investment Strategy by the Secretary of State.
- 6.7 In producing a SRN Initial Report, the Licence holder must include:
 - a. An assessment of the current state of the network;
 - b. Potential maintenance and enhancement priorities; and
 - c. Future developmental needs and prospects
- 6.8 In producing a SRN Initial Report, the Licence holder must:
 - a. Comply with the timetable set by the Secretary of State;

- b. Consult with and take account of the views of relevant local and national stakeholders, including through the programme of route strategies, as required at 5.23(c), as well as Transport Focus and the Strategic Road Network Monitor;
- c. Take into account any directions and guidance that the Secretary of State may specify in relation to producing a SRN Initial Report by notice or in guidelines to the Licence holder; and
- d. Publish the SRN Initial Report.

6.9 As soon as possible following publication of the SRN Initial Report by the Licence holder, the Secretary of State will conduct a consultation on the SRN Initial Report.

Step 2: The Secretary of State's proposals

6.10 The Secretary of State's response to the consultation referred to at 6.9 will include proposals for a Road Investment Strategy (the 'Draft RIS').

6.11 The Draft RIS will include details of the requirements to be delivered by the Licence holder along with the financial resources to be provided by the Secretary of State for the purpose of delivering those requirements, and the intended Road Period to which the proposals relate.

6.12 The Strategic Road Network Monitor will assess the Draft RIS and provide advice to the Secretary of State, in accordance with the timetable set by the Secretary of State, on whether the Secretary of State's proposed requirements are deliverable with the proposed financial resources.

6.13 The Secretary of State, having taken account of advice from the Strategic Road Network Monitor, will submit to the Licence holder:

- a. A Draft RIS;
- b. A statement of his or her general strategy in respect of highways for which the SHC is the highway authority;
- c. Any other information in support of the Draft RIS as the Secretary of State considers appropriate;
- d. A clear timescale within which the Licence holder is required to respond with a Strategic Business Plan.

Step 3: The Company's Strategic Business Plan (SBP)

6.14 The Licence holder must respond to the Draft RIS issued by the Secretary of State in the form of a draft Strategic Business Plan (the 'Draft SBP'), detailing its plans for delivering the requirements set out in the Road Investment Strategy, for the whole period of that RIS.

6.15 In providing a Draft SBP to the Secretary of State, the Licence holder must:

- a. Clearly indicate whether the Licence holder agrees to the proposals in the Draft RIS, or make counter-proposals;

- b. Take into account any directions and guidance that the Secretary of State may specify in relation to producing a SBP by notice or in guidelines to the Licence holder;
- c. Submit the Draft SBP to the Secretary of State within the specified timescales.

Step 4: The Efficiency Review

6.16 The Strategic Road Network Monitor will assess the Draft SBP and provide advice to the Secretary of State, in accordance with the timetable set by the Secretary of State, on whether the Licence holder's proposed requirements are deliverable with the proposed financial resources and the extent to which the Draft SBP is challenging and deliverable, including with regard to the levels of efficiency the Licence holder proposes to achieve.

Step 5: Finalising the RIS and the SBP

6.17 Following the Efficiency Review the Secretary of State, taking account of the advice of the Strategic Road Network Monitor, will do one of the following:

- a. Approve the Draft SBP;
- b. Direct the Licence holder to make revisions to the SBP before granting approval; or
- c. Produce a revised Draft RIS, at which point the Secretary of State and the Licence holder will follow the process as specified above between 6.13 and 6.15 in order to reach a mutually agreed position on a final RIS and a final SBP.

6.18 If necessary, the Secretary of State will request additional advice from the Strategic Road Network Monitor on revised versions of the Draft RIS and/or the Draft SBP to facilitate the finalisation of the RIS and SBP.

6.19 Once both the RIS and SBP have been finalised, they must be published by the Secretary of State and the Licence holder respectively.

6.20 In the event that the Secretary of State and the Licence holder fail to reach a mutually agreed position on the RIS and/or the SBP within the timetable set by the Secretary of State, either party may request the Strategic Road Network Monitor to appoint a third party to facilitate the process of reaching agreement. However, the Secretary of State retains the right to determine the content of a final RIS and/or SBP.

Step 6: Mobilisation

6.21 Once the RIS has been finalised and the SBP finalised or determined, the Licence holder is expected to undertake a period of mobilisation in advance of the next Road Period commencing.

Step 7: Delivery

6.22 Following approval of a SBP by the Secretary of State, and his issuing of a final RIS, the Licence holder must publish and deliver the SBP.

- 6.23** The Licence holder must report to the Secretary of State on progress in delivering the SBP on an annual basis. The Licence holder must submit a draft report to the Secretary of State for approval. Following approval, the Licence holder must publish this report.

Varying the Road Investment Strategy

- 6.24** The Secretary of State retains the power to vary a RIS once it has been agreed, and the Licence holder may also submit a written request for a change to the RIS to the Secretary of State.
- 6.25** In considering or proposing any variation of a RIS, the Secretary of State and the Licence holder must have due regard to the desirability of maintaining certainty and stability in respect of the existing RIS.
- 6.26** In the event that the Secretary of State considers that a small-scale change to the RIS may be necessary, he will notify the Licence holder, the Strategic Road Network Monitor and Transport Focus.
- 6.27** In the event that the Licence holder requests a small-scale change to the RIS, the Licence holder must provide sufficiently detailed proposals and supporting evidence to allow the Secretary of State to make an informed decision. The Secretary of State will consider the viability and desirability of the Licence holder's request, seeking advice from the Strategic Road Network Monitor and Transport Focus, and will respond to the Licence holder in writing within three months with a decision about whether or not to proceed with a change.
- 6.28** Following a notification under 6.26, or a response to the Licence holder by the Secretary of State under 6.27, the Secretary of State will begin discussions with the Licence holder, the Strategic Road Network Monitor and Transport Focus to determine and agree the most appropriate change control mechanism for initiating the necessary change, depending on the extent or significance of the proposed change.
- [Note: There will be clear mechanisms in place for making minor adjustments to the RIS where necessary, for example for operational reasons, the details of which are subject to further development.]*
- 6.29** Where, in exceptional circumstances, a major variation is considered necessary, the Secretary of State will formally initiate the process for re-opening the RIS by publishing proposals for variation to the existing RIS and setting a timetable for the process.
- 6.30** The Secretary of State will conduct a consultation on the proposals, or alternatively direct the Licence holder to conduct a consultation, depending on the nature of the proposed variation. In either case, the Licence holder must provide notification of the launch of the consultation process to those persons it considers appropriate.
- 6.31** Following the consultation process, the Secretary of State will formally respond to the consultation, setting out his decision on whether to proceed with the RIS variation process in light of consultation feedback.
- 6.32** Should the Secretary of State decide to proceed with a revised RIS, the response to the consultation will include publication of revised proposals,

equivalent to those produced in Step 2 of the process for setting the RIS, and set a timetable for finalising a revised RIS and SBP.

- 6.33** Following the publication of revised proposals, the Secretary of State, the Licence holder and the Strategic Road Network Monitor will follow the standard process for determining and agreeing a final RIS and SBP as set out at 6.13 to 6.21, above, in accordance with the timetable set by the Secretary of State under 6.32.

Part 7 - Data and information

Collection and provision of data and information

7.1 The Licence holder must collect, record and provide the following data or information as required:

[Note: *The exact content of this section will be subject to further development, for example to take account of the detail of the Road Investment Strategy*]

- a. Data or information required by the Strategic Road Network Monitor to demonstrate performance against the requirements of the Road Investment Strategy and Strategic Business Plan;
- b. Any other data or information on performance of the Licence holder's network, assets or the movements and characteristics of traffic on the network not covered by (a), that is necessary or relevant to comply with its legal duties or other obligations in exercising its role as a strategic highways company;
- c. Information to the Secretary of State, annually and on request, on the numbers of planning applications received under the Development Management Order 2010, and how these have been dealt with, including cases involving permissions under [section 174B of the Highways Act];
- d. Any other data or information that the Secretary of State may reasonably require, including that required for official government statistics;
- e. Any other data or information that Transport Focus or the Strategic Road Network Monitor may reasonably require, where relevant to the fulfilment of their statutory functions.

7.2 The Licence holder must allow access to the network to persons authorised by the Secretary of State for the purposes of collecting traffic data or maintaining equipment used for this purpose, where arrangements for doing so have been agreed in advance with the Licence holder.

7.3 Where additional requests for data are made, in respect of 7.1(d) and 7.1(e), the Licence holder must provide information requested as quickly as possible and help with the processing of data where it facilitates this goal. The Licence holder must provide any data relating to the Road Investment Strategy with sufficient speed to allow the meaningful assessment of the performance of the Licence holder throughout the year.

Publication of data and information

- 7.4** The Licence holder must have regard to government policy on data and transparency, and must make publicly available all data and information required by 7.1, as well as any other data or information where publication is specifically required by the Secretary of State.
- 7.5** In complying with 7.4, the Licence holder must have regard to the need to ensure interoperability with other systems and comply with recognised standards in order to enable the sharing of data for operational or other purposes and maximise the utility of data for third parties.
- 7.6** The Licence holder must, taking into account any relevant directions and guidance that the Secretary of State may specify by notice or in guidelines to the Licence holder, formulate and publish policies as to how it will:
- a. Manage and provide data and information relating to its activities;
 - b. Provide and improve information services to road users.

Intellectual property

[Note: Provisions around treatment of intellectual property under the new arrangements are still under consideration]

Provision of expert and technical advice

- 7.7** The Licence holder must, where required, provide expert advice to the Secretary of State or other parts of government on relevant policy or technical matters. This includes advice to the Secretary of State in his role as 'competent authority' for the UK in relation to relevant EU activities.
- 7.8** Where expert advice is required from the Licence holder under 7.7, the Secretary of State will seek to provide advance notice wherever possible.
- 7.9** Where appropriate, the Secretary of State may designate the Licence holder as the 'competent authority' for the UK, or require the company to represent the UK in other international activities, where such an arrangement complies with the law and the Licence holder is properly resourced to carry out this function.

Part 8 - Enforcement and revocation

Application

- 8.1** Where the Licence holder fails to comply with the conditions of the Licence, the Strategic Road Network Monitor may act to enforce these provisions, including through the issue of improvement notices or the levying of fines under [*the Infrastructure Act 2015*], in accordance with any relevant agreement with, or with regard to guidance from, the Secretary of State.
- 8.2** These provisions do not limit the ability of the Strategic Road Network Monitor to apply sanctions to other situations that do not involve breaches of the Licence.
- 8.3** None of the provisions laid out in this part affect the Secretary of State's powers under other legislation or role as shareholder of a strategic highways company, or apply conditions to their use. However, where the Secretary of State intends to exercise these powers, for reasons that may relate indirectly to potential breaches of the Licence, the Secretary of State will consult with the Strategic Road Network Monitor before taking action.
- 8.4** The Licence holder must ensure the Strategic Road Network Monitor is aware, at the earliest opportunity, of any issues likely to lead to a potential breach of the Licence, and of action being taken to address the possibility.

Emergencies

- 8.5** In emergency situations, including where a *force majeure* event is agreed to have taken place, the application of enforcement activity by the Strategic Road Network Monitor in relation to the Licence holder's performance or compliance with the obligations set out in this Licence may be suspended.
- 8.6** The nature and extent of any suspension of enforcement activity under 8.5 would be at the discretion of the Strategic Road Network Monitor, provided that:
 - a. The Secretary of State declares that an emergency is in progress or has recently taken place that may have implications for the Licence holder to comply with or deliver its obligations. This includes where this is the result of advice from the Strategic Road Network Monitor or an application by the Licence holder to the Secretary of State for recognition that an emergency is in progress or has recently taken place;

- b. The Strategic Road Network Monitor acts in accordance with any relevant agreement with, or has regard to guidance from, the Secretary of State.

Revocation

- 8.7** If a failure to deliver or breach of duty is so great that it constitutes a loss of confidence in the ability of the Licence holder to fulfil its legal duties or other obligations, this may result in directions from the Secretary of State or revocation of the Licence holder's appointment by the Secretary of State.
- 8.8** The Secretary of State will not take such a course of action without evidence from the Strategic Road Network Monitor that the Licence holder has failed to discharge its legal duties or other obligations.
- 8.9** In the event of revocation of the appointment, the Secretary of State will:
 - a. Notify the Licence holder of his decision to revoke the appointment;
 - b. Provide written confirmation of the point at which the revocation will have effect and the Licence holder's responsibilities as a strategic highways company cease;
 - c. Make a transfer scheme under [*the Infrastructure Act 2015*], to coincide with revocation of the appointment, ensuring that all property and contracts of the Licence holder, and rights and responsibilities therein, will revert to the Secretary of State.

Ordered handover

- 8.10** Following notification by the Secretary of State under 8.9(a) of a decision to revoke the Licence holder's appointment, the Licence holder must cooperate in any transitional arrangements, including:
 - a. The provision of information;
 - b. The transfer of lands, assets, contracts or staff associated with its activities under the Licence;
 - c. The delivery of the Road Investment Strategy and any protocol agreements.
- 8.11** The Licence holder's continued responsibilities during this period of transition, as described in 8.10, are ended only at the point at which the revocation comes into effect, as notified to the Licence holder by the Secretary of State under 8.9(b).