

Transport for London: Crossrail
Access to Heathrow Rail Infrastructure
Information required from Heathrow Airport Limited ("HAL")

As part of its applications under regulations 29 and 30 of The Railways Infrastructure (Access and Management) Regulations 2005 for access to the Heathrow Rail Infrastructure, Transport for London ("TfL") (on behalf of itself and its Crossrail concession operator from time to time, currently MTR Corporation (Crossrail) Limited ("**MTR Crossrail**")) has submitted to the Office of Rail and Road ("**ORR**") a series of draft access documents, which have either been marked-up and/or into which a series of footnotes have been added (the "**Access Documentation**"). Under the regulation 29 and 30 applications, TfL is seeking access from HAL to: (i) the track; and (ii) Central Terminal Area and Terminal 4 stations, comprised in the Heathrow Rail Infrastructure.

The Access Documentation submitted as part of the applications is based on the model form: (1) Track Access Agreement (Passenger), (2) Independent Station Access Agreement (single station or multiple stations), (3) Independent Station Access Conditions 2013 (England and Wales), and (4) Independent Station Access Conditions Annexes 2013 (England and Wales), together with (5) a Network Code based on the Network Rail equivalent (the "**Access Documentation**").

As noted in various places in the Access Documentation, a number of pieces of information remain outstanding which HAL has not provided to TfL to date. In order to prepare fully drafted versions of the Access Documentation, which would be in a position for TfL to enter into or for MTR Crossrail to use as the basis of its access arrangements with HAL, this information needs to be provided. TfL will then be in a position to subsequently provide fully drafted Access Documentation. The required documents and information to populate the Access Documentation are listed in the table set out in Part A below.

The Network Rail template documents are predicated on a structure in which Network Rail is also held to account by way of network and station licences. TfL accepts that HAL is currently exempt from the requirement to hold either a network or a station licence. Therefore, it cannot be held to account under those separate documents. As a result, in the Access Documentation, TfL also requires that certain additional contractual provisions be included in order to ensure that HAL provides services to the standard expected of a reasonable prudent and competent infrastructure manager, which (in many cases) would typically be addressed in a commercial arrangement between two contracting entities (the "**Additional Provisions**"). At this stage, TfL has not drafted the detail of these Additional Provisions in full and instead has set out the key principles upon which it would expect the drafting to be based. Many of the Additional Provisions are not addressed in this document, as information from HAL is not a precondition to preparing drafting.

TfL has included as part of its regulations 29 and 30 applications a set of principles (and numbers) for the charging regimes in respect of access to the track, Central Terminals Area Station and Heathrow Terminal 4 Station. In order to verify TfL's proposals, several types of granular data would be required from HAL. The required information is listed in Part B below.

Part A – Documents and information required from HAL in respect of the Access Documentation

#	Document Reference	Outstanding document / information required from HAL	Reason required
HAL Network Code			
1	Front cover Footnotes 4 and 6	Details of where on HAL's website the Access Documentation will be published to be included.	The Access Documentation will need to be made available to all users and potential users of the Heathrow Rail Infrastructure. A reference to where the HAL Network Code should therefore be included (which HAL can complete in due course).
2	General	Confirmation from ORR on arrangements by which the ORR will undertake certain functions under the HAL Network Code and the wider Access Documentation.	We understand from HAL that the ORR has agreed to undertake certain functions under the Access Documentation (including under the HAL Network Code) even though HAL is exempt from the requirement to hold a network licence. Assurance is needed from the ORR that the ORR will undertake these functions.
3	Condition A8	(i) Information relating to HAL's infrastructure management arrangement with Network Rail. (ii) A proposal as to how TfL can have assurance relating to HAL's arrangement with Network Rail.	Please see our comments under HAL Track Access Agreement at #13.
4	Part B, footnote 36	Network Rail Delay Attribution Guide.	HAL has previously indicated that it intends to use the Network Rail Delay Attribution Guide for the purposes of the Heathrow Rail Infrastructure the HAL Network Code forming part of this regulation 29 / 30 application has been prepared on this basis. HAL to confirm this approach and

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			provide TfL with the relevant document.
5	Part B, footnote 36	Network Rail Performance Data Accuracy Code.	HAL has previously indicated that it intends to use the Network Rail Performance Data Accuracy Code for the purposes of the Heathrow Rail Infrastructure and the HAL Network Code forming part of this regulation 29 / 30 application has been prepared on this basis. HAL to confirm this approach and provide TfL with the relevant document.
6	Part C, footnote 60	Heathrow Emergency Plan.	HAL refers to a Heathrow Emergency Plan being in place which relates to incidents occurring at the airport and the impact on the railway infrastructure. HAL has not provided this plan, or set out the process by which it can be amended. TfL requires sight of this plan, given it forms part of the HAL Network Code.
7	Part C, footnote 60	Confirmation that the Network Rail Emergency Access Code will apply on the Heathrow Rail Infrastructure.	HAL has previously indicated that there will be no equivalent of the Emergency Access Code for the Heathrow Rail Infrastructure. This cannot be the case given: (1) Network Rail will be operating the railway; and (2) there is good reason for an Emergency Access Code being in place to facilitate access in case of an emergency. Confirmation is therefore needed that the Network Rail Emergency Access Code will apply on the Heathrow Rail Infrastructure.
8	Part D, definitions	HAL Engineering Access Statement.	TfL requires the current version of the HAL Engineering Access Statement to be provided so that it can understand forthcoming projects and what may have an impact at or around the time of the introduction of the Crossrail services.
9	Part D, definitions	HAL Timetable Planning Rules, Rule Book and Sectional Appendix.	TfL requires the current version of the HAL Timetable Planning Rules to allow for advance planning. HAL will also need to provide the current versions of the Rule Book and

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			the Sectional Appendix to supplement the Timetable Planning Rules.
10	Part E	Written environmental protection policy.	This is a requirement of Part E and TfL would therefore expect HAL to provide this.
11	Part H, footnote 178	Network Rail Railway Operational Code	HAL has previously indicated that it intends to use the Network Rail Railway Operational Code for the purposes of the Heathrow Rail Infrastructure and the HAL Network Code forming part of this regulation 29 / 30 application has been prepared on this basis. HAL to confirm this approach and provide TfL with the relevant document.
12	ADRR appended to the HAL Network Code – front page	<p>(i) Whether HAL will become party to the Network Rail access disputes resolution arrangements (“ADRR”) or will prepare bespoke ADRR for the Heathrow Rail Infrastructure.</p> <p>(ii) If HAL will prepare bespoke ADRR, HAL needs to confirm that its position previously advised to TfL has changed and thereafter to provide the proposed form of HAL-specific ADRR to TfL, with confirmation that this draft has been accepted in principle by the Access Disputes Committee.</p>	Please see our comments on "Access Disputes Resolution Arrangements" below under HAL Track Access Agreement at #20.
HAL Track Access Agreement			
13	Footnote 2	<p>(i) Information relating to HAL’s infrastructure management arrangement with Network Rail.</p> <p>(ii) A proposal as to how TfL can have assurance relating to HAL’s arrangement with Network Rail.</p> <p>(iii) HAL’s connection agreement with Network Rail.</p>	<p>HAL intends to sub-contract the majority of its obligations under the Track Access Agreement to Network Rail. This is acceptable to TfL in principle provided that it has visibility of, and contractual rights in connection with, this arrangement as part of the assurance process.</p> <p>HAL will need to provide its connection agreement with Network Rail (in relation to the connection between the</p>

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			Heathrow Rail Infrastructure and the Network Rail network) to allow TfL to consider whether there are any implications for the Access Documentation.
14	Footnote 17	Confirmation that the Railway Group Standards applicable to the Network Rail network are to apply to the Heathrow Rail Infrastructure.	HAL advised TfL by email dated 24 March 2016 that it does not consider it necessary to produce equivalents to the Network Rail standards for the Heathrow Rail Infrastructure as these are not relevant. TfL's understanding is therefore that the standards applicable on the Network Rail network are to apply – but will need HAL to confirm this.
15	Footnote 20	Amended Systems Code.	HAL advised TfL by email dated 24 March 2016 that it has amended the Network Rail systems code to reflect the characteristics of the Heathrow Rail Infrastructure (although TfL has not been provided with the nature of these amendments). HAL will need to provide this document to allow TfL to consider whether there are any implications for the HAL Track Access Agreement.
16	Footnote 28	Confirmation as to whether HAL or Network Rail is to obtain the relevant safety authorisation in respect of the Heathrow Rail Infrastructure.	Depending on the scope of obligations that HAL sub-contracts to Network Rail, Network Rail may be required to obtain the relevant safety authorisation for the track comprised in the Heathrow Rail Infrastructure instead of HAL.
17	Footnote 31	Breakdown of its governance structure and decision making information.	HAL should provide information demonstrating how its governance structure and decision making (particularly in relation to capacity allocation and charging and who takes those decisions) meets the requirements of the Railways Infrastructure (Access and Management) Regulations 2005 (or their replacement, as the case may be).
18	Footnote 33	HAL to provide proposed asset stewardship provisions, asset management strategy and asset management plans in respect of the Heathrow Rail Infrastructure.	HAL should be required to operate, maintain, renew and replace the track infrastructure to a specified standard. This should be in accordance with best practice and in a

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			timely, efficient and economical manner so as to satisfy the reasonable requirements of users of the track. In a meeting with TfL on 2 December 2015 HAL advised that it would provide further information on their proposed asset stewardship provisions. TfL has yet to receive this information. Drafting needs to be included to ensure HAL meets the expected standards of asset stewardship – so TfL needs to understand HAL's processes for developing and involving users in the relevant plans.
19	Footnote 45	Accession to industry standard Claims Allocation and Handling Agreement (“ CAHA ”).	HAL has advised TfL that it intends to accede to the industry standard CAHA (and will not be seeking to adopt an amended CAHA for the purposes of the Heathrow Rail Infrastructure). HAL has provided no further update on its progress on becoming party to CAHA.
20	Footnote 46	<p>(i) Whether HAL will become party to the Network Rail access disputes resolution arrangements (“ADRR”) or will prepare bespoke ADRR for the Heathrow Rail Infrastructure.</p> <p>(ii) If HAL will prepare bespoke ADRR, HAL needs to confirm that its position previously advised to TfL has changed and thereafter to provide the proposed form of HAL-specific ADRR to TfL, with confirmation that this draft has been accepted in principle by the Access Disputes Committee.</p>	<p>HAL originally advised TfL that its intention was to become party to the ADRR for the Network Rail network but that was is considering the mechanisms for doing so further. HAL then provided its latest version of the HAL Network Code to TfL on 10 March 2016 which included an amended version of the Network Rail ADRR, which indicates that HAL may be intending to create its own set of ADRR.</p> <p>TfL has prepared the regulation 29/30 application on basis of the information repeatedly provided to it by HAL in meetings that HAL would use Network Rail's ADRR. TfL has reflected this in the draft HAL Network Code submitted as part of the Regulation 29 / Regulation 30 application.</p> <p>If HAL intends prepare bespoke ADRR, HAL needs to provide the final form of the bespoke ADRR to TfL so that</p>

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			TfL can confirm if any further changes are needed to the Access Documentation.
21	Footnote 52	Evidence of restriction on disposal placed on title to land comprising the Network.	TfL has proposed that a restriction be placed on the Land Register on all land comprising the Network so that if HAL proposes to dispose of the Network, the party to whom it is being transferred would be required to enter into an equivalent access agreement before the land transfer could take place. HAL to provide evidence in due course that this restriction has been put in place.
22	Footnote 54	(i) Confirmation of HAL's current insurance policies. (ii) If HAL's current insurance policies do not reflect the standard industry requirements for network licence holders, confirmation that HAL will put in place the required insurance policies.	In the absence of a licence obligation (as HAL is exempt from holding a network licence), in providing the various track services HAL should be required to hold insurance policies that reflect the standard industry requirements for network licence holders. This is to ensure that protections are in place for users of the Heathrow Rail Infrastructure.
23	Footnote 58	HAL's address/email/fax details for service.	TfL needs full details of HAL's address for service (including telephone and fax) to ensure that notices related to the Access Documentation are sent to the appropriate person and location.
24	Footnote 64	Accession to the Network Rail Emergency Access Code.	TfL expects to see an Emergency Access Code in place that deals with rights of access to the track and stations comprised in the Heathrow Rail Infrastructure when a Network Emergency occurs, whether on the Heathrow Rail Infrastructure or on the adjoining Network Rail network. HAL has advised TfL that it will not be preparing a separate Emergency Access Code for the Heathrow Rail Infrastructure. Given the Heathrow Rail Infrastructure is (as TfL understands) to be operated by Network Rail and its operation is to be aligned with the Network Rail

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			Network, TfL considers that accession to the Emergency Access Code applicable to Network Rail network is necessary. In any event, there are good operational reasons for having an Emergency Access Code in place.
HAL Station Access Agreement			
25	Footnotes 1, 3, 8, 20	<p>HAL to provide further information on how sub-contracting arrangements will be managed in practice, including:</p> <ul style="list-style-type: none"> ▪ confirmation of the party who will hold the required Safety Authorisation and be responsible for safety on a day-to-day basis at the stations; ▪ details of how HAL will manage HEOC's costs, given that HEOC is a wholly-owned subsidiary of HAL; and ▪ the mechanisms that will be put in place to enable TfL as beneficiary to liaise with HEOC. 	HAL has indicated that it intends to enter into a Station Management Agreement with HEOC in order to sub-contract the vast majority of day-to-day maintenance, operation and management of the stations to HEOC. TfL has strong concerns as to how this structure will work in practice and therefore seeks further information from HAL as to its proposed practical arrangements with HEOC.
26	Clause 1 (Interpretation), Footnote 4	<p>(i) Whether HAL will become party to the Network Rail access disputes resolution arrangements ("ADRR") or will prepare bespoke ADRR for the Heathrow Rail Infrastructure.</p> <p>(ii) If HAL will prepare bespoke ADRR, HAL needs to confirm that its position previously advised to TfL has changed and thereafter to provide the proposed form of HAL-specific ADRR to TfL, with confirmation that this draft has been accepted in principle by the Access Disputes Committee.</p>	Please see our comments on "Access Disputes Resolution Arrangements" above under Track Access Agreement at #20.
27	Footnote 9	Assurance (whether by way of title documentation or otherwise) confirming that HAL is the freehold owner of the stations.	TfL needs confirmation that HAL is the freehold owner of the Heathrow stations in order to confirm that HAL is the appropriate party to grant access to the Heathrow stations

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			and for the purposes of various provisions relating to Superior Estate Grant in the HAL Station Access Conditions which, on the basis of HAL's assurances in meetings in autumn 2015, have been removed from the documentation forming part of the regulation 29/30 application.
28	Footnote 23	Evidence of restriction on disposal placed on title to Station.	TfL has proposed that a restriction be placed on the Land Register on HAL's title so that if HAL proposes to dispose of the Station, the party to whom it is being transferred would be required to enter into an equivalent access agreement before the land transfer could take place. HAL to provide evidence in due course that this restriction has been put in place.
29	Schedule 2, Footnote 27	Details of the Exclusive Services.	TfL needs details of the Exclusive Services in order to appropriately determine Exclusive Charges for each station on a facility-by-facility basis.
30	Schedule 3, paragraph 1	HAL's address details for service.	Please see our comments on "HAL's address details for service" above under Track Access Agreement at #23.
HAL Station Access Conditions			
31	Condition 1.2, Footnote 6	(i) Whether HAL will become party to the Network Rail access disputes resolution arrangements ("ADRR") or will prepare bespoke ADRR for the Heathrow Rail Infrastructure. (ii) If HAL will prepare bespoke ADRR, HAL needs to confirm that its position previously advised to TfL has changed and thereafter to provide the proposed form of HAL-specific ADRR to TfL, with confirmation that this draft has been accepted in principle by the Access Disputes Committee.	Please see our comments on "Access Disputes Resolution Arrangements" above under Track Access Agreement at #20.
32	Part 12, Footnote 55	Assets covered by the performance regime.	HAL has provided TfL with a "Part L" performance regime

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			as part of the HAL Network Code. TfL will consider "Part L" (provided that it is incorporated into the HAL Station Access Conditions, rather than as part of the HAL Network Code) alongside the performance regime in the model form Station Access Conditions but notes that the assets listed in "Part L" are narrower than what TfL would expect to see in such a performance regime. HAL will need to consider and provide further information on other assets that should be covered by "Part L".
33	Footnote 65	Accession to the Network Rail Emergency Access Code.	Please see our comments on "Accession to the Network Rail Emergency Access Code" above under Track Access Agreement at #24.
34	Footnote 75	Accession to the industry standard Claims Allocation and Handling Agreement.	Please see our comments on "Accession to the industry standard Claims Allocation and Handling Agreement" above under Track Access Agreement at #19.
Annexes to the HAL Station Access Conditions			
35	Annex 1	Any unavailable common station amenities and services at each Station.	We acknowledge that HAL provided a different version of the station-specific Annexes. No explanation has been given however by HAL as to why this is the case. In the absence of a good reason, the model form of station-specific Annexes should apply. HAL should confirm however if there are any common amenities or services that are not available at each of the Central Terminals Area and Terminal 4 stations.
36	Paragraph 9, Annex 1	Location of the station register at each Station.	TfL requires HAL to confirm the location of the station register in order for TfL to populate the Annexes.
37	Appendix 1 to Annex 1	The Specification for Common Services for each Station.	TfL does not have access to this information and it will therefore need to be provided by HAL in order for TfL to populate the Annexes.
38	Appendix 2 to Annex	Plans for each Station.	TfL does not have access to this information and it will

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	1 Annex 10		therefore need to be provided by HAL in order for TfL to populate the Annexes.
39	Appendix 3 to Annex 1	A completed Statement of Condition with respect to each Station, in a form to be agreed by both TfL and HAL.	TfL does not have access to the information required to populate the Statement of Condition (the form of which is to be agreed by both TfL and HAL). TfL therefore requires HAL to provide this information in order for TfL to populate the Statement of Condition, once the form of Statement of Condition is agreed.
40	Appendix 4 to Annex 1	A completed Equipment Inventory for each Station that allocates costs as appropriate.	TfL does not have access to this information and it will therefore need to be provided by HAL in order for TfL to populate the Annexes.
41	Appendix 5 to Annex 1	A completed Elements Inventory for each Station that allocates costs as appropriate.	TfL does not have access to this information and it will therefore need to be provided by HAL in order for TfL to populate the Annexes.
42	Appendix 6 to Annex 1	Details of any Excluded Equipment.	TfL does not have access to this information and it will therefore need to be provided by HAL in order for TfL to populate the Annexes.
43	Annex 4	Details of any Existing Works or Adjacent Works.	TfL does not have access to this information and it will therefore need to be provided by HAL in order for TfL to populate the Annexes.
44	Annex 5	Details of any Existing Agreements (such as general title documentation and arrangements for third party undertakings) and the restrictions that they propose.	TfL does not have access to this information and it will therefore need to be provided by HAL in order for TfL to populate the Annexes.
45	Annex 9	Details of any disrepairs to be remedied.	TfL does not have access to this information and it will therefore need to be provided by HAL in order for TfL to populate the Annexes.
46	Annex 10	Details of relevant specifications.	TfL does not have access to this information and it will therefore need to be provided by HAL in order for TfL to populate the Annexes.

Part B – Information required from HAL in respect of TfL’s proposals for the charges regimes

In order to verify and/or refine TfL’s proposals in respect of the estimation of a charge to recover the so-called “costs directly incurred” (CDI) for running a train service on Heathrow Airport Limited infrastructure (HAL) for TfL’s Regulation 29 and Regulation 30 application, several types of granular data would be required from HAL.

The purpose of this note is to set out – at a high level – what these data requirements would be if either of the following two approaches were to be adopted:

1. To refine the current approach used by TfL as part of the Regulation 29 and Regulation 30 application, using altered versions of the charges levied by Network Rail to recover CDI; and
2. To calculate the CDI by HAL using a “bottom-up” methodology as is typically used when calculating such charges from data which is specific to the particular asset under consideration

These data requirements are set out in turn.

To refine the current approach used by TfL as part of the Regulation 29 application, using altered versions of the charges levied by Network Rail to recover CDI

The approach that we have taken to estimate access charges (for both station and non-station assets) has been to use Network Rail charges that recover CDI as a basis, and alter these to take account of the specific nature of the Heathrow Spur. We set out below what additional data would be required to refine this approach in respect of the four charges we use to estimate charges for HAL:

1. The Variable Usage Charge (VUC) and Electrification Asset Usage Charge (EAUC):
 - A disaggregation of HAL’s projected OMR expenditure by type of asset (track, civils, signalling and electrification).
2. Station qualifying Expenditure (QX):
 - Projected estimates of HAL QX costs per station at a granular level to determine which elements are “directly incurred” and which do not vary with traffic.
3. Station Long Term Charges (LTC):
 - Projected estimates of HAL station costs that would typically be recovered through LTC per station at a granular level to determine which elements are “directly incurred” and which do not vary with traffic;
 - A view from HAL on what would be the most applicable Network Rail benchmark station for the LTC (including the rationale for the choice of station); and
 - The proportion of LTC costs that HAL believes will be directly incurred, accompanied by supporting evidence (e.g. analysis which shows which costs vary with traffic).

To calculate the CDI by HAL using a “bottom-up” methodology as is typically used when calculating such charges.

The approach that is typically taken to estimating CDI on other networks (and which we are currently undertaking in respect of the Crossrail Central Operating Section) is to take a “bottom-up” approach. Such an approach involves analysing categories of assets and determining the extent to which the operational, maintenance and renewals (OMR) costs associated with those assets vary with traffic. However, due to the quality of data available for HAL, we have been unable to take this approach in respect of the Regulation 29 application.

In order to take this approach with respect to estimating a charge to recover CDI for HAL we would require:

1. Detailed information on the marginal costs associated with running services, assuming projected levels of traffic:
 - This data would need to be disaggregated over asset classes (including disaggregation for stations so that separate charges could be set in respect of stations and other assets), time, and route sections; and
 - This information is likely to require underlying detailed engineering analysis.
2. An efficiency overlay would also need to be applied, meaning that estimates of efficiencies to be achieved over time would also be necessary.