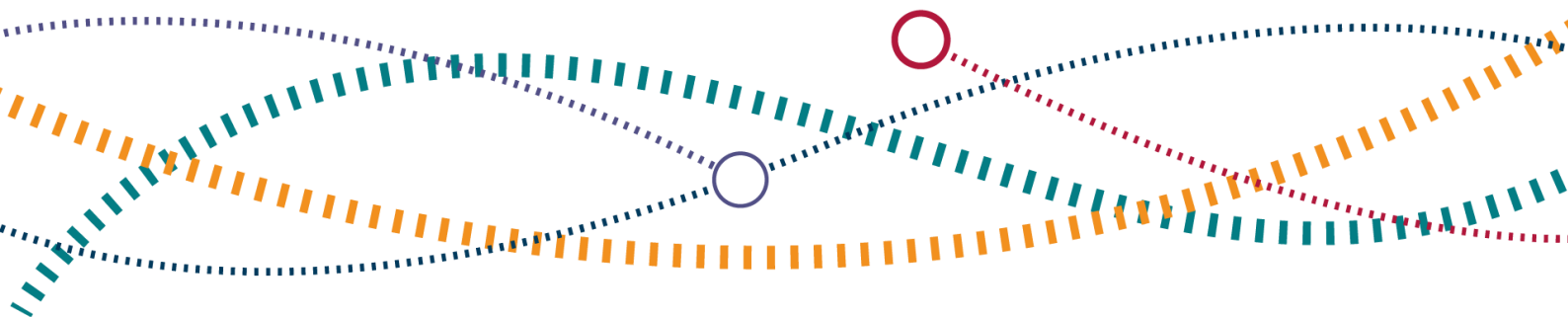




RIS3 Our Role and Approach

Consultation Report

May 2022



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Executive summary

This report summarises the stakeholder responses to the consultation on the ORR's proposed approach to its role in the development of the third Road Investment Strategy (RIS3).

The consultation opened on 8 December 2021 and closed on 28 January 2022. Twenty one stakeholders responded to the consultation. We thank the consultees for their interest and for responding to us.

The issues raised by respondents has been grouped into the following themes:

- The ORR's role;
- Consistency of RIS3 with wider government policy;
- Monitoring performance and outcomes;
- Stakeholder engagement;
- Road users' needs;
- Methods and technical approach; and
- Flexibility versus stability.

Some respondents highlighted concerns, including those linked to commitments that National Highways has to deliver as part of RIS2, which were not directly related to the matters on which we were consulting. We welcome stakeholders' interest in our monitoring activities and will be considering these matters as part of our business as usual activities as the Highways Monitor and will respond to those concerns as appropriate.

In response to the feedback we have received, we have made several changes to the 'Approach' document (*Road Investment Strategy 3: Our role and approach*). These include making our role and responsibilities within the RIS development process clearer, highlighting the work we intend to undertake to inform our advice regarding performance in the areas of environment and safety, and amending our approach to the planned RIS3 capability reviews which will inform our advice on efficiency.

2. Overview

- 2.1 This report summarises the stakeholder responses to the consultation on the ORR's proposed approach to its role in the development of RIS3. It contains an overview of the consultation process, a description of the main themes raised by consultees, and outlines the changes we have made to the 'Approach' document.

Consultation

- 2.2 The consultation opened on 8 December 2021 with the publication of the document '[Road Investment Strategy 3: Our Role and Approach](#)'. This followed the launch, on 1 December, of the document '[Planning ahead for the Strategic Road Network: Developing the third Road Investment Strategy](#)' by the Department for Transport (DfT).
- 2.3 The consultation was hosted at www.orr.gov.uk/search-consultations/orrs-role-and-approach-ris3 and responses could be sent to RIS3consultation@orr.gov.uk or by post.
- 2.4 Emails inviting responses to the consultation were sent to approximately 40 stakeholders, listed in Appendix A. In addition, a press release, social media posts and a blog on the ORR's website publicised the consultation. Press articles were published by Highways Magazine and New Civil Engineer, and featured in website articles including on the Chartered Institute of Highways and Transport website.
- 2.5 Online presentations about the ORR's proposed approach were given to the Sub-national Transport Bodies (STBs) on 10 December 2021 and the Civil Engineering Contractors Association on 18 January 2022.
- 2.6 The consultation was open for just over eight weeks and closed on Friday 28 January 2022. 'Reminder' emails were sent to stakeholders two weeks before the deadline. Twenty one stakeholders responded to the consultation. Responses were received from National Highways, Transport Focus, five STBs, Cycling UK, Logistics UK, the Mineral Products Association, community groups, the Transport Planning Society and seven members of the public. Appendix B contains a list of the respondents.

3. Summary of responses

3.1 A wide variety of issues were raised in the stakeholder responses to the consultation. These have been grouped into the following themes, set out below.

- The ORR's role
- Consistency of RIS3 with wider government policy
- Monitoring performance and outcomes
- Stakeholder engagement
- Road users' needs
- Methods and technical approach
- Flexibility versus stability

3.2 Responses to the consultation are reproduced in Appendix C.

3.3 Some respondents highlighted concerns, including those linked to commitments that National Highways is to deliver as part of RIS2, which were not directly related to the matters on which we were consulting. We welcome stakeholders' interest in our monitoring activities and will be considering these matters as part of our business as usual activities as the Highways Monitor and will respond to those concerns as appropriate, including through follow-up bi-lateral meetings.

The ORR's role

3.4 A number of respondents suggested roles or responsibilities for the ORR which are additional to those contained within the framework of the Infrastructure Act 2015, the highways company licence and the Memorandum of Understanding (between the DfT and ORR), rather than how the ORR approaches its current responsibilities pertaining to the development of the RIS. These suggestions included setting new requirements for National Highways, undertaking an assessment of the impact of the RIS on carbon emissions, and evaluating the 'tail' of remaining RIS2 schemes for inclusion in RIS3.

3.5 It is important that the respective roles of the ORR and DfT are clearly defined. The DfT is responsible for setting the RIS (with input from our efficiency review)

and varying the RIS, if required (supported by advice from the ORR). Once the RIS is finalised we monitor National Highways' delivery of it.

- 3.6 As the Highways Monitor, the scope of our role and responsibilities is set out in statute (the Infrastructure Act 2015) and covers monitoring how a strategic highways company exercises its functions. Accordingly, the ORR has no responsibility, within the RIS development process, for setting policy priorities and outcomes, selecting schemes and projects, or specifying the performance framework. These are all matters for the Secretary of State for Transport.
- 3.7 One respondent suggested that the ORR should consider the extent to which investments agreed by government achieve the benefits to road users that are expected. This suggests that the ORR should take on the task of ensuring road appraisal methodologies are fit for purpose. In preparing evidence to inform the preparation of RIS3, we expect National Highways to employ good practice in its modelling and appraisal, and to perform analysis in accordance with the latest government guidance. The government's Transport Appraisal Guidance (TAG) is intended to be used for transport projects of all types and therefore it would be beyond our remit as the Highways Monitor to oversee its development. National Highways' Post Opening Project Evaluation (POPE) reports examine the impact of past transport investments, including impacts on users. We are carefully monitoring the publication of the POPE reports to ensure these are generated in a timely fashion.
- 3.8 We have made amendments to section 1 and section 3 of the 'Approach' document to make our role and responsibilities, within the RIS development process, clearer.

Consistency of RIS3 with wider government policy

- 3.9 Six members of the public, four STBs, the Thames Crossing Action Group and Transport Action Network highlighted the imperative of action to tackle climate change and reducing carbon emissions, and the challenge of ensuring the RIS is consistent with the government's legal duty to achieve Net Zero by 2050, or more ambitious regional targets set by the STBs. The Transport Action Network proposed that our advice should highlight where elements of a RIS might conflict with legislation and other government priorities. In addition, Transport for the North and Midlands Connect commented that the Approach document did not reference the government's policy of Levelling Up.

- 3.10 It is not that we choose to ignore environmental or other policy issues, but we are constrained by statute as to what we can and cannot do. As discussed in paragraph 2.6, above, it is not our role to say what requirements should be included in the RIS. Our work is not focussed on checking whether broader government priorities are achieved. It is our role to provide advice to the Secretary of State on whether the proposed requirements – including those related to matters such as the environment – are challenging and deliverable within the available funding.
- 3.11 Transport Action Network suggested that our approach is at odds with the Infrastructure Act 2015. We do not agree with this interpretation of the Act. Under the Act, we must have regard to the environmental impact of the way in which the strategic highways company (i.e. National Highways) achieves its objectives. We do this on an ongoing basis, but it is not for us to set those objectives.
- 3.12 Nevertheless, we are mindful that objections on environmental grounds represent a key risk to the achievement of planning consents for road schemes. As such, we will be seeking assurance that National Highways has identified and mitigated these risks (as far as is reasonably practicable given the stage of development of the project in question) and accounted for them in its scheduling and costing of projects.
- 3.13 The importance of the challenge of meeting Net Zero is highlighted as one of four key policy issues in paragraph 3.4 of the Approach document. The RIS2 Performance Specification includes a target relating to National Highways' own carbon emissions, in addition to targets for noise, biodiversity and air quality. During the RIS3 process, it will be our role to advise government on whether environmental performance requirements and targets for road period 3 are challenging and deliverable. The Secretary of State has responsibility for setting the performance requirements. We will require National Highways to put forward robust plans that demonstrate how it will deliver those requirements.
- 3.14 We are also aware that the achievement of environmental objectives may have short term cost implications that will impact RIS3. For example, the use of low carbon materials will have an impact on construction costs. This will be a key aspect of our evidence gathering activities such that we can provide evidence-based advice to government on the plans put forward by National Highways.
- 3.15 As noted, we have amended and added explanatory text to the 'Approach' document to further clarify our role. In section 3 of the document we have included further information regarding our role in respect of environmental performance

requirements and targets. We have also added reference to the relevance of environmental objections to the deliverability of the RIS3 enhancement programme.

Monitoring performance and outcomes

- 3.16 Cycling UK raised the issue of the ORR ensuring National Highways is making sufficient progress to build capacity to monitor walking, cycling and equestrian activity during RIS2, in order to be able to adopt meaningful indicators for RIS3. Stakeholders also raised the issue of including performance indicators that measured carbon, wider sustainability, health and community outcomes.
- 3.17 As noted in paragraph 2.6 above, the DfT is ultimately responsible for setting policy priorities and outcomes, and the performance framework for RIS3. Nevertheless, we will provide advice to the Secretary of State regarding the Performance Specification, and will take account of stakeholders' concerns, including those of Cycling UK.
- 3.18 In relation to monitoring walking, cycling and equestrian activity during RIS2, the ORR will continue to work with National Highways to explore how monitoring could be improved.
- 3.19 Transport Action Network criticised our suggestion that there may be a high degree of consistency between the metrics employed during road period 2 and road period 3 and suggested that a major change is required. On the other hand, National Highways commented that the continuity of measures assists with understanding and driving performance improvements.
- 3.20 We see value in retaining indicators that are working well and incentivising National Highways to improve and maintain performance. Unnecessarily adjusting metrics can obscure trends in performance and make it more difficult to monitor. This is not to say that the existing indicators cannot be improved, nor would we resist the inclusion of new metrics provided that they are measurable, appropriate and proportionate.
- 3.21 We have added a new paragraph, at 3.64, to clarify our role with respect to the setting of performance requirements and targets, and to make it clear that we will take account of stakeholder views when advising government on the RIS3 Performance Specification.

Stakeholder engagement

- 3.22 All of the five responses from STBs raised the issue of the need for effective engagement throughout the RIS development process. In addition, Transport East and Transport for the South East recommended that the ORR undertakes a survey of stakeholders to ascertain lessons learnt from the engagement. Transport East recommended that the ORR require National Highways to have due regard to STBs' transport strategies.
- 3.23 We agree that engagement within the RIS process is an important issue and it was a key reason for undertaking this consultation. We appreciate that STBs are important stakeholders and they are part of our stakeholder list and STBs were directly contacted in relation to this consultation.
- 3.24 We monitor National Highways' compliance with its licence in relation to its duties concerning engagement, both as part of the RIS3 development process and more generally. In preparing route strategies, under section 5.14 (g) of National Highways' licence, the company must engage with and take account of the views of relevant national and local stakeholders. In addition, under section 5.14 (e), National Highways must take account of relevant local plans and priorities concerning local roads and other transport networks and wider socio-economic developments. We will engage further with stakeholders to receive their feedback on National Highways' engagement process for the route strategies. The consultation undertaken for the Strategic Road Network Initial Report and the draft RIS is carried out by the DfT and is not covered by our monitoring role.
- 3.25 We have not amended the 'Approach' document in response to these comments.

Road users' needs

- 3.26 Transport Focus commented that road users' interests, in the ORR's considerations, feel secondary to efficiency and whole life cost considerations and, in its view, the ORR should place greater emphasis in its approach on the end user.
- 3.27 Transport Focus also encouraged the ORR to take a close interest in whether road surface renewal and maintenance plans meet the Performance Specification in the draft RIS but also National Highways' own published standards and, more generally, the reasonable expectations of the road user.

- 3.28 We fully recognise the importance of road users' interests and do not consider them to be a secondary consideration. The Secretary of State for Transport will set policy priorities and outcomes for the RIS and, in that respect, it is not our role to influence how the government should balance the interests of the user against other policy objectives. However, in exercising our functions as the Highways Monitor we have a duty to have regard to the interests of users of highways.
- 3.29 With respect to efficiency and value for money, we require National Highways to act in accordance with section 5.12 (b) of its licence which states that National Highways should '*...appraise the different options in line with relevant government policy and guidance to determine which represents and best overall value for money*'. In accordance with guidance, we expect value for money assessment to take account of costs and benefits to users.
- 3.30 We expect National Highways to put the user at the heart of its plans. For example, in developing its plans for maintaining and improving the Strategic Road Network we expect, and will look for evidence, that National Highways has taken appropriate steps to manage and minimise disruption to users. We agree with Transport Focus that co-ordination of enhancement and renewals projects to minimise disruption should be part of this consideration.
- 3.31 We also agree with Transport Focus that National Highways' maintenance and renewals plans should be adequate to meet the requirements of the draft Performance Specification but do so in a way that also meets its own published standards and takes into account the experience of the user.
- 3.32 We have not amended the 'Approach' document in response to these comments.

Methods and technical approach

- 3.33 National Highways' response addressed a number of the more technical aspects of our proposed approach. National Highways considers that cross-cutting capability reviews of Asset Management, Procurement and Project Portfolio Management would offer a better understanding of capability. National Highways also considers that alignment of the capability reviews to 'key pillars' would be a duplication of the efficiency review.
- 3.34 It is not our intention to narrow the focus of the capability reviews and therefore we are content to proceed with an approach based on cross-cutting themes. However, it is also an important principle that the capability reviews provide evidence that can be used to benchmark National Highways' efficiency proposals, which will

ultimately be organised around the key pillars set out above. We will work closely with National Highways to ensure that the reviews meet the priorities of both organisations.

- 3.35 Following discussions with National Highways, we intend to undertake capability reviews aligned to the themes of National Highways' approach to managing its assets, and National Highways' approach to project and portfolio management.
- 3.36 National Highways comments that different levels of assessment are appropriate for different investment types. For Operations, Maintenance and Renewals, investment planning is primarily carried out at a portfolio level presenting fewer opportunities to assess sample schemes. However, for the enhancement programme National Highways believes it is pragmatic to look at both portfolio and project level assessments.
- 3.37 We agree with National Highways that different levels of assessment are appropriate for different types of investment. For enhancements we will form our advice on the basis of both project level and portfolio level assessment.
- 3.38 Aside from enhancements, we would only consider looking at individual projects in the case of major, named renewals schemes. In our view, reviewing a sample of renewals schemes is a means through which we can provide assurance that National Highways is following good practice across its renewals activities more generally. We will determine the precise scope of this activity later in the process once we have sight of the make-up of renewals plans.
- 3.39 National Highways agrees that the RIS process should provide a clear and agreed baseline against which to monitor performance and proposes that we consider agreement of controlled "freeze" points through the programme to allow for the alignment of financial models and our analytical supporting evidence.
- 3.40 We have updated section 3 of the 'Approach' document to reflect the approach we now intend to take to the capability reviews. We also provide further clarification on the purpose and scope of sampling renewals schemes to inform our assessment of the challenge and deliverability of the RIS3 investment plan.

Flexibility versus stability

- 3.41 A number of respondents, including Midlands Connect and England's Economic Heartland, raised the issue that the RIS is being developed during a period of unprecedented socio-economic change, including changes to travel patterns and technology, and highlighted the importance of 'future-proofing'. In addition,

stakeholders commented that the development process for the RIS and the pipeline of projects was long and needed to be more 'nimble'. Conversely, other stakeholders, including the Mineral Products Association, valued the benefits of longer-term planning. The Mineral Products Association commented that it wanted greater transparency and granularity regarding the pipeline of projects so that their progress could be more accurately tracked.

- 3.42 We acknowledge in paragraph 3.3 of the 'Approach' document that the ORR needs to be able to respond flexibly to changing circumstances and government priorities, and that RIS3 will be developed in a more uncertain policy context than both RIS1 and RIS2.
- 3.43 As we set out in paragraph 1.10 of the 'Approach' document, it is an important principle that the RIS puts in place a stable, long-term plan for the Strategic Road Network. This provides National Highways and its supply chain with the certainty they need to plan ahead and to achieve improvements in performance and efficiency. Nevertheless, a degree of flexibility needs to be retained. During a road period, small scale changes to the RIS that do not materially affect the integrity of the RIS are handled through a formal change control process. It is our role to advise the Secretary of State on any such changes and their implications for funding.
- 3.44 We have not amended the 'Approach' document in response to these comments.

Appendices

Appendix A: List of stakeholders directly contacted

<i>Stakeholder</i>
Midlands Connect
Transport for the North
Transport for the South East
Peninsula Transport
Transport East
England's Economic Heartland
Western Gateway
Association of Vehicle Recovery Operators
British Motorcyclists Federation
Cycling UK
Living Streets
Sustrans
British Horse Society
Disabled Motoring UK
Logistics UK
Road Haulage Association
Institute of Couriers
Network Rail
Transport Scotland
Civil Engineering Contractors Association
Highways Authorities and Utilities Committee
Road Emulsion Association
Britpave - British Cementitious Paving Association
Construction Equipment Association
Highways Industry Alliance
Asphalt Industry Alliance
Chartered Institution of Highways & Transportation
Association for Road Traffic Safety and Management
Association of Directors of Environment, Economy, Planning and Transport
Chartered Institute of Logistics & Transport
Construction Products Association
Road Safety Foundation
Welsh Government

Appendix B: List of respondents to the consultation

<i>Stakeholder</i>
7 members of the public
Cycling UK
National Highways
Transport East
Logistics UK
Transport for the South East
Midlands Connect
Transport for the North
British Horse Society
England's Economic Heartland
Transport Focus
Mineral Products Association
Thames Crossing Action Group
Transport Action Network
Transport Planning Society



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