

SILVERTOWN TUNNEL ORDER 2018

ARTICLE 59

MAYORAL CONSENT

1. On 10 May 2018, the Secretary of State made the Silvertown Tunnel Order 2018 ("the Order") authorising the construction, operation and maintenance of a new twin-bore road tunnel under the River Thames between the Greenwich Peninsula to the south and Silvertown in the north, known as the Silvertown Tunnel.
2. Article 58 of the Order provides that with some limited exceptions, the provisions of the Order have effect solely for the benefit of Transport for London ("TfL"). However, article 59(1) of the Order provides that TfL may enter into agreements:

"to transfer, charge or otherwise dispose of to another person ("the transferee") any interest of TfL in the authorised development or TfL's right to construct, maintain, use or operate the authorised development" (article 59(1)(a)); or

"to grant to another person ("the grantee") for a period agreed between TfL and the grantee any interest of TfL in the authorised development or TfL's right to construct, maintain, use or operate the authorised development" (article 59(1)(b)); and

"that are connected with or consequential on any agreement entered into under either provision set out above" (article 59(1)(c)).
3. Article 59(1) of the Order further provides that TfL may, but only with the consent of the Mayor of London:

"...provide for the transferee, the grantee or another person to exercise or be responsible for any functions¹ of TfL relevant to those agreements, including any of its functions under this Order, either exclusively or concurrently with TfL or any other person".
4. Under article 59(7) of the Order, the Mayor cannot consent to the transfer or grant of any *"compulsory acquisition or temporary possession function"* unless the Secretary of State has certified in writing that the Secretary of State is satisfied that the person proposed to exercise or be responsible for that function has sufficient resources to discharge all associated compensation liabilities. A *"compulsory acquisition or temporary possession function"* is defined by article 59(9) of the Order as any function of TfL under articles 19, 22, 23, 27, 28, 29 and 30 of the Order.
5. TfL proposes to transfer certain functions of the Order (including functions which fall under the definition of *"compulsory acquisition or temporary possession function"*, namely those under articles 28 and 29 of the Order), and other relevant functions of TfL, to a special purpose vehicle set up by a consortium, Riverlinx Limited ("Riverlinx"), under the terms of a proposed legal agreement ("the Project Agreement"). The effect of this transfer would be that Riverlinx would be responsible for exercising certain functions exclusively, and certain functions

¹ The term "function" is defined in article 59(9) of the Order as *"statutory and other powers, duties, rights, interests and obligations"*.

concurrently with TfL. The functions proposed to be transferred to Riverlinx are set out in Schedule 5 of the unsigned Project Agreement ("the Functions") and include functions set out in the Order and functions set out elsewhere in other legislation. Schedule 5 is attached in full as Annex 1 to this consent.

6. TfL sought written certification from the Secretary of State for the purposes of article 59(7) of the Order and on 14 August 2019 the Secretary of State certified in writing that he was satisfied Riverlinx would have sufficient resources to discharge compensation liabilities associated with the obligations contained in articles 28 and 29 of the Order ("the Secretary of State's Certification"). The Secretary of State's Certification is attached as Annex 2 to this consent.

7. Having regard to:

- the provisions of the Order;
- the provisions of Schedule 5 of the unsigned Project Agreement attached at Annex 1;
- the Secretary of State's Certification; and
- the information provided in the supporting Mayoral Decision form,

and having satisfied himself as to Riverlinx's suitability to exercise the Functions, for the purposes of article 59(1) of the Order the Mayor HEREBY CONSENTS to the transfer of the Functions to Riverlinx under and subject to the terms of the Project Agreement. Having considered the provisions of article 59(6) of the Order and the particular circumstances of the case, the Mayor does not consider it appropriate to attach any term or condition to this consent.

Signed.....

Mayor of London

Date.....22/10.....2019