GREATER**LONDON**AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3086

Title: Crossrail Business Rates Supplement – Approval of Policies for 2023-24

Executive summary:

This proposal asks the Mayor to approve the policies for the Crossrail Business Rate Supplement ("Crossrail BRS") for 2023-24 having regard to the contents of the final prospectus for the BRS published in 2010.

The rateable value threshold above which the BRS will apply is proposed to increase from £70,000 to £75,000 to take into account the impact of the 2023 business rates revaluation in London. Otherwise the policies are unchanged from 2022-23.

The Crossrail BRS is collected by the 32 London boroughs and the City of London Corporation on behalf of the GLA. The Mayor is also asked to authorise the Executive Director, Resources to issue a notification to each London billing authority under section 18 of the Business Rate Supplements Act 2009 ('BRS Act') setting out the final policies for the Crossrail BRS in 2023-24 and the supporting explanatory text for ratepayers. This will enable billing authorities to make the necessary arrangements for the inclusion of the Crossrail BRS on 2023-24 non-domestic rates bills which are due to be issued in March 2023.

The GLA estimates, currently, that the Crossrail BRS will raise c£253.5 million in 2023-24. It expects to apply c£130 million of BRS and the Mayor's Community Infrastructure Levy (MCIL) revenues in 2023-24 to fund the financing costs on its Crossrail related borrowing with the balance raised set aside for debt repayment. The GLA's residual Crossrail debt is expected to be around £4.3 billion by 31 March 2023.

Decision:

The Mayor approves the following policies for the Crossrail BRS for the 2023-24 financial year:

- The Crossrail BRS will apply for the full 2023-24 financial year across the entire GLA area.
- The Crossrail BRS multiplier (or tax rate) shall be set at 2p per pound of rateable value.
- The rateable value threshold above which the Crossrail BRS applies shall be £75,000.
- Any reliefs for the Crossrail BRS will continue to apply on the same basis and at the same percentage rate as for National Non-Domestic Rates (NNDR) having regard to the local policies in place in the 33 London billing authorities and those set by central government. Section 45 ratepayers (that is, those owning or entitled to occupy empty properties) will not be exempt from the Crossrail BRS as a class. The same automatic empty property reliefs will apply, however, at the same percentage rate to the Crossrail BRS as for NNDR. The GLA will not exercise its powers under section 16 of the BRS Act to apply an offset for eligible ratepayers liable to pay a levy towards a Business Improvement District.

The Mayor authorises the Executive Director, Resources to issue a notification of the above policies to the 33 London billing authorities as required by section 18 of the BRS Act and the explanatory note for non domestic ratepayers for 2023-24 as set out in Appendix A.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority. The above request has my approval.

Signature: **Date:** 8/2/23

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

1.1 Between 2010-11 and 2015-16 the GLA made a contribution of £4.1 billion towards the Crossrail project (subsequently renamed the "Elizabeth line") by means of a capital grant paid to Transport for London. This was financed by a business rate supplement ("the BRS") on non-domestic ratepayers in London ("the Crossrail BRS") introduced in April 2010 following the publication of a final prospectus in January 2010 which set out the policies for and intended application of the revenues generated. This £4.1 billion contribution comprised two elements: around £3.3 billion of borrowing by the GLA (the interest on and repayment of which is being financed by the revenues from the BRS) and an additional £0.8 billion direct contribution towards construction costs. The GLA also made a separate notional direct contribution through revenues raised by the Mayoral Community Infrastructure Levy (MCIL) towards Crossrail between 1 April 2012 and 31 March 2018 although in practice TfL collected and retained these funds directly from the 35 local planning authorities.

1.2 In MD2398 published in December 2018 the Mayor agreed that the GLA would provide a further £1.4 billion contribution towards the Crossrail project in order to fund the then-forecast cost overrun arising from the delay in completion of its construction. That £1.4 billion contribution comprised £100 million of unapplied BRS revenues held as a provision against revaluation, financing cost and business rates appeals risks from prior years and a £1.3 billion loan from the Department for Transport (DfT). This loan has been financed and is being repaid using revenues from the Crossrail BRS and MCIL. The use of MCIL to finance and repay this debt was made possible by a change in secondary legislation which the government made in May 2019. It was also agreed that TfL would also make a separate contribution of up to £750 million financed from its own revenues towards the project in addition to the GLA's.

1.3 In MD2702 published on 30 November 2020 it was agreed that the GLA would provide up to a further £825 million contribution to TfL to allow the completion of the project. This additional sum is being borrowed from the DfT and financed and repaid using Crossrail BRS and MCIL revenues. Of the £825 million, £325 million is borrowing which will, ultimately, be forgiven by the government if BRS and MCIL revenues (or any replacement revenues made available to the GLA by the government should future legislative changes mean the BRS or MCIL can no longer be levied) are insufficient to fund its repayment. Under the terms of the November 2020 agreement the government committed to amend the CIL regulations to permit the GLA to use MCIL revenues to finance and repay its Crossrail debt up to 31 March 2043 (from the previous 2033 end date). The required change to secondary legislation under the Community Infrastructure Levy (Amendment) (England) Regulations 2021 came into force on 17 March 2021.

1.4 In his 2022-23 budget the Mayor committed to a further £48.5 million contribution from the GLA financed from balances held in its business rates reserve and the government provided an additional £50 million under the TfL funding deal signed in August 2022.

1.5 It is now anticipated therefore that the GLA will have contributed £6.942 billion in total towards the cost of the Crossrail project of which all but £48.5 million is being financed and repaid using from BRS and MCIL revenues. The final contributions are expected to be paid during the 2023-24 financial year.

1.6 The final Crossrail BRS prospectus published in January 2010 stated that the supplement would: operate for a period of 24 to 31 years (i.e. end no later than March 2041) with a target end date during the 2037-38 financial year; be set at a rate no higher than 2p per pound of rateable value which is the maximum permitted by the BRS Act; would raise no more than £8.1 billion and only apply to ratepayers of hereditaments that exceeded a rateable value threshold which would be revised at each business rates revaluation.

1.7 Due to the lower interest rates achieved by the GLA on its original £3.3 billion of borrowing, the marginally higher than anticipated revenues generated from the BRS since it was introduced, the rate agreed with the government for the first £1.3 billion and second £825 million tranches of DfT borrowing, the GLA remains confident that it will be able to accommodate the financing and repayment costs arising from its additional contribution while remaining within the overall parameters set out in the 2010 final prospectus. The GLA's residual Crossrail debt at 31 March 2023 taking into account these further contributions is forecast to be £4.3 billion.

1.8 The GLA now estimates that the Crossrail BRS may need to run until potentially 31 March 2041 which is the latest envisaged end date set out in the final prospectus. The precise end date will be dependent on a number of factors including the sums raised in BRS and MCIL over the next two decades. The GLA remains of the view, however, that the total sums needed to be raised from the BRS will remain within the £8.1 billion envelope set out in the prospectus. Similarly, the Executive Director, Resources is confident that the additional borrowing which has been undertaken is sustainable, affordable and is in compliance with the requirements of the CIPFA Prudential Code.

1.9 The additional contributions set out above will not affect the Crossrail BRS policies for 2023-24 as the GLA is levying the maximum 2p charge permitted under the BRS Act. The proposed change in the BRS qualifying threshold (the rateable value condition) will not have any material impact on the expected end date for the Crossrail BRS.

1.10 This Decision asks the Mayor to approve the BRS policies for 2023-24. These differ from 2022-23 only in respect of the qualifying rateable value threshold which is proposed to increase from £70,000 to £75,000 in order to reflect the uplift in valuations in London arising from the England wide revaluation of non domestic properties from 1 April 2023. Additional supporting background and information is set out in this Decision in sections 2 and 4 with the rationale for the proposed change in the rateable value threshold set out from paragraph 4.13 onwards.

2. Objectives and expected outcomes

2.1 The power for the GLA to levy the Crossrail BRS was granted under the BRS Act. Under that Act and associated regulations, the GLA may only levy the Crossrail BRS on hereditaments on the 33 local billing authority rating lists in London where the rateable value exceeds £50,000 – although a higher qualifying threshold can be set – and charge a multiplier (or tax rate) of no more than 2p.

2.2 This report asks the Mayor to approve the proposed policies for the Crossrail BRS for 2023-24 having regard to the final prospectus issued in January 2010: 'Intention to levy a business rate supplement to finance the Greater London Authority's contribution to the Crossrail Project – Final Prospectus' ("the final prospectus") including the process for making variations.

2.3 The policies may be varied annually having regard to section 10 of the BRS Act and the variations policies set out in section 9 of the final prospectus. Specific arrangements apply in a year when a business rates revaluation occurs in relation to the determination of the qualifying rateable value threshold above which the BRS applies. Following the 2017 revaluation the qualifying threshold (the 'rateable value condition' under section 12 of the BRS Act) was increased from £55,000 to £70,000. For the reasons set out in section 4 it is now proposed that the threshold be increased to £75,000 from 1 April 2023.

2.4 The Decision asks the Mayor to agree the following policies for the Crossrail BRS in 2023-24:

- The Crossrail BRS will apply for the full 2023-24 financial year across the entire GLA area.
- The Crossrail BRS multiplier (or tax rate) shall be set at 2p per pound of rateable value for the 2023-24 financial year.

- The rateable value threshold above which the Crossrail BRS shall apply in the 2023-24 financial year will be set at £75,000. This represents a relief granted by the GLA under section 15 of the BRS Act as the proposed threshold exceeds the minimum £50,000 rateable value threshold specified in the Business Rate Supplements (Rateable Value Condition) (England) Regulations 2009.

- Any reliefs for the Crossrail BRS will apply on the same basis and at the same percentage rate as for NNDR having regard to any national policies set by the Secretary of State and any discretionary local policies in place in the 33 London billing authorities.

- Section 45 ratepayers (that is, those owning or entitled to occupy empty properties) will not be exempt from the Crossrail BRS as a class. However, the same empty property reliefs and exemptions for certain categories of ratepayer or property (e.g. the majority of listed buildings, empty properties occupied by registered charities and newly empty properties for between three and six months) will apply at the same percentage rate to the Crossrail BRS as for National Non-Domestic Rates ("NNDR").

- The GLA will not exercise its powers under section 16 of the BRS Act to apply an offset for eligible ratepayers liable to pay a levy towards a Business Improvement District (BID).

2.5 The Mayor is also asked to agree that the Executive Director, Resources be authorised to issue a formal notification of the above policies to the 33 London billing authorities as required by section 18 of the BRS Act (Appendix A). The Mayor is also asked to agree the proposed communication to non-domestic ratepayers for 2023-24, as set out in Annex F to that notification. This communication will either be circulated to ratepayers alongside their 2023-24 rates bills or alternatively made available on billing authority websites depending on the mechanism by which the billing authority has decided to communicate explanatory supporting information using their discretion under the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended by the Non-Domestic Rating (Electronic Communications) (England) Order 2012).

2.6 The GLA expects to apply c£130 million of the BRS and MCIL revenues collected in 2023-24 to fund the interest due on its current and future Crossrail debt. This recognises that part of this cost will be financed from MCIL revenues having regard to the powers granted to the GLA to apply these revenues for Crossrail related borrowing under the Community Infrastructure Levy (Amendment) (England) Regulations 2019. The balance of the BRS and MCIL income collected not applied for interest payments will be applied to finance the repayment of the GLA's debt and the costs associated with the administration of this debt as well as the BRS and MCIL.

3. Equality comments

3.1 Public authorities such as the GLA must have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation as well as to the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not, under section 149 of the Equality Act 2010. This involves having due regard to the need to remove or minimise any disadvantage suffered by those who share a relevant protected characteristic that is connected to that characteristic, taking steps to meet the different needs of such people; and encouraging them to participate in public life or in any other activity where their participation is disproportionately low.

3.2 The "protected" characteristics and groups are: age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sex, sexual orientation and marriage/civil partnership status. Compliance with the Equality Act may involve treating people with a protected characteristic more favourably than those without the characteristic. The duty must be exercised with an open mind and at the time a decision is taken in the exercise of the GLA's functions. Conscientious regard must be had that is appropriate in all of the circumstances.

3.3 The Crossrail BRS is applied on a consistent basis across the GLA area and is subject to the provisions of the BRS Act and parallel national non-domestic rating legislation. As explained in section 4 in 2023-24 the BRS will only be levied on large assessments on the local non-domestic rating list with a rateable value above £75,000. As a result, 86 per cent of non-domestic hereditaments – including the vast majority of premises occupied by small and medium-sized enterprises – in London are forecast on the basis of the draft 2023 rating list by the GLA to be exempt from the supplement which is the same proportion as in 2022-23. It is considered that the proposed BRS policies are consistent with the GLA's statutory duties and non-domestic rating legislation.

3.4 Given that the BRS is restricted to larger business premises only, is applied consistently across the GLA area, amounts in 2023-24 to an average of less than 4 per cent of affected ratepayers total business rates bill per hereditament on the local rating list and is collected and enforced through existing non-domestic rating legislation, no specific adverse equalities impacts are considered to arise from it.

4. Other considerations

<u>Links to Mayoral strategies</u>

4.1 As highlighted in the Mayor's Transport Strategy published in March 2018 and updated in November 2022, the Elizabeth line will bring huge economic benefits to the whole of London and the UK in the long term. It will provide additional transport capacity to enable the concentration of highly productive economic activity in central London to continue to grow and add 10 per cent to central London's rail capacity. Research prior to the COVID-19 pandemic forecast that the project would generate around £42 billion for the UK economy through faster journey times, job growth and increased productivity. London's growth aids the national economy, not least through the taxes generated for the Exchequer.

4.2 The Crossrail BRS, either directly or to support the financing and repayment of GLA borrowing, funded £4.1 billion of the costs of the Crossrail project between 2010-11 and 2015-16 comprising £3.3 billion of GLA borrowing and a £0.8 billion direct contribution from BRS revenues. In addition, it was agreed in Mayoral Decisions 2398 and 2702 in December 2018 and November 2020 respectively that the GLA would provide an additional £2.225 billion contribution to the Crossrail project – comprising £2.125 billion of GLA borrowing and a £100 million direct contribution from BRS revenues – paid as a capital grant to TfL. The GLA's outstanding Crossrail borrowing will be financed and repaid from a combination of MCIL and BRS revenues. The additional £48.5 million direct GLA contribution agreed in the Mayor's 2022-23 budget is not being funded from BRS or MCIL revenues.

4.3 The impact of these additional tranches of borrowing as outlined above is that the potential end date for the use of the BRS for the Crossrail 1 project may now be as late as March 2041 or 31 years from the introduction of the BRS. The total sum raised in BRS is estimated, however, to remain below £8.1 billion. This remains consistent with the parameters set out in the final prospectus.

4.4 Without the funding provided through the BRS it would not have been possible to deliver the entire project under the revised financing and funding package and potentially the Elizabeth line might never have opened at all.

<u>Impact assessments and consultation including the legal processes the GLA must comply with before levying a BRS</u>

4.5 Under the BRS Act the GLA may only levy the Crossrail BRS if:

a) it has published a document that sets out the proposal for the imposition of the BRS ("the Initial Prospectus")

b) it has consulted the relevant persons on the proposal

c) where there is to be a ballot on the imposition of the BRS, the ballot has been held and the imposition of the BRS approved

d) it has published a document that sets out the arrangements for the imposition of the BRS ("the Final Prospectus").

4.6 The initial prospectus for the Crossrail BRS was published in July 2009. A summary of the initial prospectus was also sent to named ratepayers of all business premises at that date with a rateable value of £30,000 or higher on the London rating list at that time on the basis that properties below the £50,000 statutory minimum could have become liable for the BRS following the 2010 rating revaluation or at some time in the future.

4.7 The final prospectus for the Crossrail BRS – 'Intention to levy a business rate supplement to finance the Greater London Authority's contribution to the Crossrail Project' – was published in January 2010. In developing its policies for the final prospectus the GLA had regard to the following factors:

- the responses submitted to the Initial Prospectus
- the agreed contributions to be made by the GLA to the Crossrail project and its financing costs associated with those contributions
- the publication of the draft 2010 draft valuation list of non-domestic properties in London and the resulting changes to the projected income from the Crossrail BRS over the period of the next revaluation
- the BRS Act (and any regulations laid or expected to be laid in relation to it) and relevant existing business rates legislation and regulations.

4.8 One material change to the proposals in the initial prospectus which was included in the final prospectus for the Crossrail BRS was to raise the rateable value threshold for the Crossrail BRS from the statutory minimum specified in the Business Rate Supplements (Rateable Value Condition) (England) Regulations 2009 of £50,000 to £55,000 using the reliefs powers granted to the GLA under section 15 of the BRS Act. The effect of this change at that date was to exempt around 4,000 properties on the 2010 rating list from the Crossrail BRS thus targeting relief mainly at small and medium-sized businesses as well as smaller, not-for-profit assessments such as nurseries and primary schools. This meant only hereditaments with a rateable value of £55,001 or more would be liable for the Crossrail BRS for the duration of the 2010 rating list. The final prospectus made clear that it was the GLA's intention to retain the same policies until the next revaluation of non-domestic rating assessments. Following the 2017 revaluation the threshold was increased to £70,000 by uprating the previous £55,000 figure. It is now proposed to increase the threshold from 1 April 2023 to £75,000 - again having regards to the variations policies set out in the final prospectus in the year of a revaluation.

4.9 The GLA did not hold a ballot prior to the introduction of the Crossrail BRS. This decision was taken having regard to section 27(6) of the BRS Act which provided an exemption from the ballot requirements for a BRS introduced prior to 1 April 2011. Section 68 of the Localism Act 2011, which amended the BRS Act to make ratepayer ballots mandatory before a BRS could be introduced, does not apply to the Crossrail BRS as it has no retrospective effect. If variations are made that are not in compliance with these policies a revised prospectus would also need to be published for consultation with ratepayers and other stakeholders before any changes could be made. The GLA considers that no such variations outside the scope of the final prospectus have been made.

4.10 The final prospectus made clear that the reliefs policies for the Crossrail BRS would apply on the same basis as for NNDR as required under the BRS Act. This also applies on a pro rata basis to any discretionary relief powers introduced under the legislative changes made through section 69 of the

Localism Act 2011. The Localism Act 2011 also amended section 47 of the Local Government Finance Act 1988 ("1988 Act") to permit billing authorities to grant discretionary relief to any ratepayer subject to state aid rules including those reliefs, if applicable, of whose costs the government commits to fund in 2023-24 in respect of NNDR. In respect of the BRS the GLA bears the losses arising from these reliefs via reduced levels of income as the government does not provide compensating section 31 grant for local supplements.

4.11 In 2022-23 a government funded 50 per cent relief scheme was introduced for NNDR for businesses in the retail, leisure, hospitality and childcare (RLHC) sectors using powers granted to billing authorities under section 47 of the 1988 Act - albeit with a £110,000 cap per business entity. This relief is being increased to 75 per cent in 2023-24 and is the most material discretionary relief awarded under section 47 which BRS ratepayers are likely to benefit from. The reduction in the BRS liability per eligible hereditament will be at the same percentage rate as for the respective NNDR liability after applying the £110,000 cap per entity in the latter case.

4.12 The final prospectus also confirmed that section 45 ratepayers (i.e. those occupying or entitled to occupy empty properties) would be liable for the BRS except where they were eligible for empty property relief under NNDR (e.g. newly empty properties, certain listed buildings and those where the ratepayer is a registered charity). The final prospectus also stated that the GLA would not exercise its powers under section 16 of the BRS Act to apply an offset for eligible ratepayers liable to pay a levy towards a Business Improvement District (BID). It was considered that this would be inequitable as many of the largest BIDs in the capital by taxbase are directly on the Elizabeth line route or close to it.

Varying the Crossrail BRS in a revaluation year

4.13 The final Crossrail BRS prospectus published in 2010 set out the policies for revising the BRS at each revaluation. The introduction of a new rating list from 1 April 2023 represents the second national revaluation which has occurred since the supplement was introduced. The first took place on 1 April 2017.

4.14 The prospectus wording commits the Mayor to uprate the current (£70,000) qualifying rateable value threshold 'in line with' or 'having regard to' the average percentage change in rateable values in a revaluation year. The prospectus does not specify how this average is to be determined and therefore grants the Mayor discretion as to the methodology which is applied and the factors that are taken into account.

4.15 The draft rating list was published by the Valuation Office Agency (VOA) on 17 November 2022. The accompanying official statistics at local authority and regional level were published at the following link: https://www.gov.uk/government/statistics/non-domestic-rating-change-in-rateable-value-of-rating-lists-england-and-wales-2023-revaluation.

4.16 The average percentage change in valuations in London on the basis of the draft rating list ranged from a reduction of 11.9 per cent in Kensington and Chelsea and 3.4 per cent in the City of Westminster to an increase of 21 per cent in Ealing rising to as high as 24 per cent in Barking and Dagenham. The overall mean increase across the capital was 3.3 per cent. This variation reflected the impact of a large reduction in valuations - on average - for retail premises in the West End including Oxford Street, Kensington and Knightsbridge in particular offset by relatively large increases for industrial and warehouse premises and offices in outer and parts of inner London. Indeed the draft valuations of a number of high-profile central London retail assessments have been reduced by 45 per cent and more. By contrast in Newham and Southwark average valuations for industrial premises are estimated by the VOA to increase by around 60 per cent and overall office valuations in Kingston and Sutton are forecast to rise by more than 25 per cent. If the data for Kensington and Chelsea and Westminster is excluded to remove the distorting effects of the reduction in retail valuations locally, the London wide average increase is 6.5 per cent with the uplift in outer London averaging 11.3 per cent. The median increase in average valuations across the 33 billing authorities at individual level is around 8 per cent.

4.17 The draft rating list also suggests, on average, that there have also been large increases in valuations for public sector operational premises in London. These assessments are also liable for the BRS under existing legislation and the Mayor has no power to exempt them. Schools in London are estimated to see an average increase in valuations of c17.5 per cent with hospitals/health centres and related NHS premises on the GLA's analysis seeing rises averaging around 25 per cent. No specific reliefs apply for nurseries/child care providers and NHS premises where they are not registered charities. Currently however, 80 per cent mandatory rates relief is applied to the NNDR and BRS liabilities for academies, voluntary-aided schools and foundation schools along with private and independent schools which are registered charities but not to other schools. The majority of special schools also receive full relief because they make provision for children with a disability.

4.18 On 9 January 2023 the Valuation Office Agency made a second draft list available to all English billing authorities but it has not published updated statistics so the impact of these revised valuations cannot yet be fully assessed and compared at this stage. However, initial anecdotal evidence from London billing authorities suggests that the estimated average increase in rateable values based on this second draft list is in some cases greater than implied by the original draft list. The final compiled list is not due to be published until the end of March 2023 and it is of course possible that the actual uplift may change again. At the date of this decision therefore the GLA cannot be certain what the actual average change in valuations will be on 1 April 2023 between the 2023 and latest iteration of the 2017 list – which suggests that relying on the current mean percentage increase reported across the 33 local authorities would result in the BRS threshold being lower than is actually appropriate.

4.19 Page 75 of the 2010 prospectus stated that the minimum BRS threshold would be reviewed at a revaluation to ensure it remains responsive to movements in the wider NNDR taxbase in London. It does not seem appropriate or desirable that small and medium sized firms and public sector premises and those use for non profit making purposes such as primary schools, nurseries and child care providers or NHS health centres in the rest of London should be dragged into liability for the supplement solely due to very large and distorting reductions in the valuation of large retail premises in prime areas of central London.

4.20 Taking these factors and uncertainties into account it is therefore proposed that the rateable value threshold for the BRS be increased to £75,000 in 2023-24. This equates to a 7 per cent uplift on the current threshold of £70,000 rounded to the nearest £1,000. The proposed uplift is in line with the average uplift in valuations across England (7.3 per cent), the average increase in London excluding Westminster and Kensington and Chelsea (6.5 per cent) and the median individual percentage change in valuations across all 33 billing authorities reported in the draft list published in November 2022. This revised threshold will also mean that the same percentage of hereditaments will be liable to pay the BRS as in 2022-23 (i.e. c14 per cent) so ensures – as specified by the variations policies in the final prospectus – that it has remained responsive to movements in the valuation list across London.

4.21 It is also proposed, at this stage, that the threshold be maintained at least as high as £75,000 for the expected life of the 2023 rating list (i.e. the three financial years 2023-24 to 2025-26) in order to allow ratepayers to plan ahead with some certainty. Should, however, the final compiled list published at the end of March 2023 imply a higher threshold is merited the Mayor will consider increasing the threshold in 2024-25. Any revised threshold in 2024-25 would apply until at least 2025-26 or whenever the next revaluation takes place whichever is the later date.

4.22 Annex D to the draft section 18 notice at Appendix A sets out the estimated number of properties which will be liable to pay the BRS using the revised £75,000 threshold. It is estimated on this basis that a maximum of 44,145 properties would be liable to pay the BRS in 2023-24 on the basis of the draft rating list. In the majority of boroughs the number of hereditaments liable to pay the BRS is forecast to increase compared to 2022-23 reflecting the redistributive impact of the revaluation across London albeit this is mitigated by the uplift in the threshold to £75,000.

4.23 An estimated 86 per cent of assessments would be exempt from the BRS in 2023-24 across London on the basis of the GLA's estimates ranging from 72 per cent in Westminster and 77 per cent in the City of London to more than 94 per cent in Harrow, Lewisham, Redbridge and Waltham Forest. There are significant changes in the numbers liable at borough level however with typically increases in outer London boroughs and reductions in some central boroughs due to the distributional impact of the revaluation. The number of hereditaments made exempt from paying the Crossrail BRS through the Mayor's discretion compared to the statutory minimum of £50,000 specified by the existing legislation based on the new £75,000 threshold is estimated at just under 18,000 premises in 2023-24 – an effective reduction of nearly 30 per cent. As these individual premises would have a liability of only £1,000 to £1,500 the impact on the taxtake, by contrast, is significantly lower (c6 per cent) in percentage terms.

4.24 The prospectus also states in (section 9) that while it is the intention to apply a 2p rate throughout the life of the BRS *'It is not, however, impossible that if interest rates were to be lower than expected or the BRS taxbase higher than expected following a future revaluation the GLA could levy a lower multiplier than 2p in one or more (five year) valuation period'*. Page 96 of the prospectus outlines the six factors that the GLA will take into account when deciding to make variations to the BRS policies. Under section 10 of the BRS Act any variations made to the policies for the BRS which are not made in accordance with the final prospectus would require the GLA to hold a ballot of ratepayers to approve the changes. These six factors are:

a) the economic position at that time

b) the level of reliefs applying for different categories of ratepayer at that time under NNDR (which might also impact on the Crossrail BRS)

c) the GLA's projections at this stage assume rates of relief will remain broadly constant over the lifetime of the Crossrail BRS

d) the impact of each five-year revaluation on London's NNDR taxbase

e) variations to the length of the Crossrail BRS arising from changes in interest rates, the cost of the project and the taxbase where this meant that the chargeable period would be less than 24 years or more than 31 years and

f) the views of London's business community, the 33 London billing authorities and other non domestic ratepayers.

4.25 In determining the final BRS policies the Mayor has to balance these factors against the need to ensure that the GLA's Crossrail debt is financed and repaid in line with the agreed profile set out in the final prospectus. The Mayor must also have regard to the conditions of the loan agreements with the Department of Transport agreed in December 2018 and November 2020 which severely impact on his discretion to vary the multiplier and potentially might cause the government to demand early repayment. For these reasons it is proposed that the 2p multiplier be maintained in 2023-24.

4.26 The GLA estimates that a 2p BRS multiplier would raise approximately £253.9 million in 2023-24 based on the revised rateable value threshold of £75,000. This is after applying a 4 per cent contingency for valuation losses during the life of the list – in line with the government's assumptions nationally – and a 2.5 per cent reduction in recognition of the increase from 50 per cent to 75 per cent in the government's relief scheme for the retail, leisure and hospitality sectors which in line with section 13(7) of the BRS Act must be applied on the same basis to business rates supplements. Due to the £110,000 national cap per business entity the impact of the uplift for larger ratepayers is considerably lower in practice than the headline 75 per cent figure implies. After applying a £0.4 million cost of collection allowance for the 33 billing authorities required by legislation the sum estimated to be received from billing authorities is c£253.5 million. The apportionment of this by billing authority is set out in Annex E to Appendix A. Billing authorities forecast in March 2022 that the BRS would raise c£257 million in 2022-23 albeit that was on the basis of a 50 per cent retail relief scheme.

4.27 The Mayor will of course keep the policies for the BRS under review each year as required by the final prospectus which permits the multiplier to be varied in any financial year albeit it can be no higher than 2p under the BRS Act. It should be noted, however, that under the most recent funding agreement with the government, if the Mayor takes any action, beyond variations to the policies required to be made under the final Crossrail BRS prospectus (such as revising the rateable value threshold in a revaluation year) or by regulation or legislation, which have a negative impact on the collection rates of the BRS (or MCIL), then the £325 million tranche of limited recourse borrowing as set out in paragraph 1.3 will become fully repayable.

<u>Other relevant information relating to the billing and administration of the BRS</u>

4.28 The Crossrail BRS is collected and enforced in parallel with NNDR bills. NNDR is collected on behalf of central government by lower tier (district) authorities. In London these are the 32 London boroughs and the Common Council of the City of London. Both charges are included on the same bills which, for 2023-24, will be sent out to non-domestic ratepayers by the 33 London billing authorities before the end of March 2023. The BRS is administered in line with regulations issued by the Secretary of State under the BRS Act.

4.29 Billing authorities are permitted to recover ongoing collection and recovery costs (their further administrative expenses) for each year that the Crossrail BRS is levied subject to any limits which may be prescribed by the relevant BRS regulations i.e. the Business Rate Supplements (Administrative Expenses) (England) Regulations 2010 (the 'administrative expenses' regulations).

4.30 Billing authorities' further administrative expenses for the fourteenth year of the BRS (2023-24) will equate to 0.15 per cent of the BRS income collectable by the GLA (provisionally estimated at £0.430 million across all 33 authorities) gross of its assumed provisions for valuation losses as prescribed by the administrative expenses regulations. For 2023-24 it is proposed that the GLA guarantees that no billing authority receives a collection allowance below £6,000 to provide additional capacity to billing authorities with low BRS taxbases. Billing authorities deduct any ongoing collection costs from the sums they pay to the GLA during the course of the financial year in equal monthly instalments.

4.31 Under section 18 of the BRS Act the GLA is required to issue a formal notification to each billing authority setting out the final policies, including the information specified in the BRS Act, for the BRS by 1 March although in practice this must be published by early February to facilitate annual billing. This will enable billing authorities to make the necessary arrangements for the inclusion of the BRS on 2023-24 rates bills which are due to be circulated to ratepayers from early March 2022. The proposed text for this notice is set out at Appendix A.

4.32 The Mayor is also asked to authorise the proposed explanatory note for non-domestic ratepayers as set out in Annex F to the proposed section 18 letter at Appendix A. At the discretion of each billing authority this will either be circulated to all non-domestic ratepayers in London as part of the communications supplied with their initial rates bill for 2023-24 or alternatively made available for inspection on that authority's website. It will also be placed on the Crossrail BRS homepage on the GLA website: www.london.gov.uk/crossrail-brs.

<u>Risks</u>

4.33 The potential risks associated with the BRS were addressed in the final prospectus published in January 2010. Section 9 of the final prospectus addressed the implications for the BRS of the Crossrail project being delayed or the costs increasing above those budgeted and set out the circumstances under which the BRS policies may be varied.

4.34 Section 10 of the BRS Act as amended by the Localism Act 2011 exempts the Mayor from having to hold a ballot of ratepayers to approve variations made outside the scope of the prospectus as the Crossrail BRS was introduced before their legislative change was made. This limits the risk associated with a potential challenge if a change to the BRS policies is made which cannot be justified within these parameters. In any case, however, should such an eventuality arise a revised prospectus would need to be published and consulted on before any changes could be made.

4.35 The GLA contributed £4.1 billion towards the Crossrail project through the BRS between 1 April 2010 and 31 March 2016. Of this £0.8m was a direct contribution from BRS revenues towards the project cost and the remaining £3.3 billion has been met through borrowing. In addition, the GLA agreed a further contribution of £1.4 billion towards the Crossrail project in December 2018 and a further £825 million contribution in November 2020 which is intended to be financed by BRS and MCIL revenues which was supplemented by a further £48.5 million in the Mayor's 2022-23 budget from its general resources. The impact of these additional contributions is not anticipated by the GLA, however, to result in the maximum duration, total proceeds raised or the tax rate applied exceeding the parameters set out in the final prospectus.

4.36 The final cost of the Crossrail project is still to be confirmed. Discussions will take place between key stakeholders to determine if any additional contributions will be required but at this stage these are not expected to be material. The outcome of these discussions will not in any case affect the BRS policies for 2023-24.

4.37 The final prospectus assumed the BRS would run for a period of 24 to 31 years (i.e. ranging from an end date of 2033-34 to 2040-41) and raise no more than £8.1 billion. These prospectus assumptions remain valid as the financing and repayment of the additional GLA contributions is not expected to result in either the BRS being extended beyond the current 2041 latest possible end date envisaged or the GLA having to raise more than £8.1 billion through it. As the tax policies, collectable amount and duration remain unchanged there is therefore no variation to the BRS itself. In the event that these circumstances change the Mayor will consider the case for issuing a revised prospectus for consultation prior to approving the tax policies for the subsequent financial year.

Application of BRS revenues in 2023-24

4.38 The GLA is forecast to incur £130 million in interest costs on its estimated outstanding Crossrail related borrowing during 2023-24 based on the most recent agreed funding package. This package will be financed via the BRS and MCIL and will set aside the balance of the revenues raised from those two sources to repay its Crossrail debt and associated administration costs. The interest costs financed by BRS and MCIL revenues are forecast to equate to around 15 per cent of the GLA's estimated gross revenue expenditure in 2023-24 on services rising to nearly one-third if expenditure funded by government specific grants (e.g. adult education) is excluded. The successful ongoing implementation and administration of the Crossrail BRS and MCIL is critical therefore to the GLA's medium-term planning.

4.39 The GLA is actively managing its Crossrail debt portfolio and monitoring its BRS revenues from London billing authorities to ensure the risks to the GLA budget arising from this are mitigated. As identified above the GLA will also set aside a proportion of the expected BRS revenues for 2023-24 to manage future risks in relation to valuation and collection losses. It is estimated that by 31 March 2023 over £3 billion of BRS revenues will have been collected since the supplement was introduced in 2010-11.

Conflicts of interest

4.40 There are no conflicts of interest to declare from those involved in the drafting or clearance of this form.

5. Financial comments

5.1 The income raised through the Crossrail BRS in the 2023-24 financial year net of billing authority administrative expenses and rating reliefs is estimated at this stage to be £253.5million after an allowance for collection, valuation losses taking into account the impact of the increase from 50 to 75 per cent in the relief scheme for the retail, leisure and hospitality relief sectors announced for 2023-24.

5.2 Around £130.0 million of the combined BRS and MCIL revenues is expected to be used to finance the GLA's estimated interest costs with the balance applied to repay its Crossrail debt. The actual sums collectable in 2023-24 taking into account reliefs and losses on collection will be forecast by London billing authorities before the end of March 2023.

5.3 In line with the final prospectus it is estimated that the BRS for the Crossrail 1 project will run for a period of 24 to 31 years with an end date no later than 31 March 2041 and raise no more than £8.1 billion to finance and repay debt and/or provide a direct contribution towards the Crossrail project construction costs.

6 Legal comments

6.1 The GLA was granted the power to levy a Business Rate Supplement (BRS), for purposes such as Crossrail, under section 1 of the BRS Act. The BRS Act provides that the 32 London boroughs and the Common Council of the City of London – as the billing authorities for national non-domestic rates in the capital – are required to collect the Crossrail BRS.

6.2 The GLA introduced the Crossrail BRS, commencing in April 2010, in accordance with the provisions of the BRS Act).

6.3 The final prospectus (required under the BRS Act) published in January 2010 set out the proposed policies for the Crossrail BRS in more detail. In preparing those policies the GLA had regard to the BRS Act and the relevant applicable secondary legislation.

6.4 The GLA is required to comply with the requirements of the abovementioned legislation and ensure consistency with the policies contained in the final prospectus when setting the policies that will apply to the Crossrail BRS in 2023-24.

6.5 The GLA is required to issue a formal written notification under section 18 of the BRS Act to the 33 billing authorities in London, authorising them to collect a BRS on its behalf. This report asks the Mayor to agree to this formal notice being issued. The proposed text for the section 18 notice – including supporting Annexes and the ratepayer communication – is set out at Appendix A.

7 Planned delivery and next steps

7.1 The 2023-24 BRS policies will be formally notified to billing authorities through the issuing of the section 18 notice required under the BRS Act. The statutory deadline for issuing this is 1 March but in practice this must be issued in early February in order that they can make the necessary arrangements for annual billing. Those authorities will then issue bills to ratepayers during March 2023 for 2023-24 on which the Crossrail BRS liability due – if applicable – will be set out.

7.2 Billing authorities are required to provide forecasts of the actual income they expect to collect in 2023-24 by 31 March 2023. These forecasts will represent the instalments paid to the GLA during the year net of a 5 per cent contingency as required by the BRS regulations. The actual amounts collected in 2023-24 will be confirmed by billing authorities by 30 April 2024 after which a reconciliation payment adjustment will be made by the end of June 2024.

Appendices:
Proposed Section 18 Notice Under the BRS Act 2009 to the Director of Finance/Borough Treasurers of the 32 London Boroughs and the Chamberlain of the City of London Corporation (Appendix A)

Background/supporting papers:
Proposal to levy a business rate supplement to finance the Greater London Authority's contribution to the Crossrail project – Initial prospectus' (GLA July 2009) – available at www.london.gov.uk/crossrail-brs

'Intention to levy a business rate supplement to finance the Greater London Authority's contribution to the Crossrail project – Final prospectus' (GLA January 2010) – available at www.london.gov.uk/crossrail-brs

MD2398 – Crossrail further funding update and related matters

MD2702 – Additional funding for Crossrail

MD2943 – Crossrail Business Rates Supplement - Final Policies for 2022-23

Public access to information Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval. If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note**: This form (Part 1) will either be published within one working day after approval or on the defer date.
Part 1 Deferral: **Is the publication of Part 1 of this approval to be deferred? NO**
Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication. **Is there a part 2 form – NO**

ORIGINATING OFFICER DECLARATION:	Drafting officer to confirm the following (✓)
Drafting officer: Martin Mitchell has drafted this report in accordance with GLA procedures and confirms the following:	✓
Sponsoring Director: David Gallie has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.	✓
Mayoral Adviser: David Bellamy has been consulted about the proposal and agrees the recommendations.	✓
Advice: The Finance and Legal teams have commented on this proposal. The proposal originates from Finance.	✓
Corporate Investment Board This decision was agreed by the Corporate Investment Board on 6 February 2023.	✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature: D. Gene

Date: 06/02/2023

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature: D. Bellamy

Date: 06/02/2023