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Dear Stakeholder

Developing ORR's approach to environment and sustainable development

ORR has had a statutory duty to have regard to the impact of rail on environment in exercising its functions since its inception (inherited from that given to the Rail Regulator in 1993). We have a similar statutory duty in our roads role. A further statutory duty to contribute to sustainable development in rail was added by Parliament in 2000. The growing scale and pervasive nature of the environmental and sustainability challenges we face as a society means that these considerations increasingly impact on the areas that have been an enduring focus of our rail role: safety, performance, efficiency and asset sustainability. In the same way, they increasingly impact on our areas of focus as Highways Monitor.

As a result, we will need to place growing emphasis on our environment and sustainable development duties in future. In recognition of this, as a first step we are today launching two consultations that update ORR's approach to environmental and sustainable development. This letter explains context to these consultations, how our work already supports environment and sustainable development in line with our statutory duties and how we see our role developing in future.

The challenge

Environmental and sustainability challenges have grown hugely in importance and impact and in the future risks they present. The [Independent Assessment of UK Climate Risk](#) published by the Climate Change Committee in June 2021 states that "Climate change has arrived" with the dangerous impacts from climate change now being experienced by the world. The most [recent report](#) of the Intergovernmental Panel on Climate Change finds that unless there are immediate, rapid and large-scale reductions in greenhouse gas emissions, limiting warming to close to 1.5°C or even 2°C will be beyond reach. But the Climate Change Committee finds the gap between adaptation and climate risk is growing. We are increasingly seeing in the UK and around the world the threat that this is posing to both rail and road networks. For example, we have seen the impact that floods can have on the rail network in this country and the costs to German rail infrastructure alone of the recent July 2021 are [estimated to be €1.3 billion](#).

Climate change and delivery of the UK's net zero carbon targets now features prominently in public debate. But it is not the only sustainability issue to be addressed. Biodiversity loss, poor air quality, and unsustainable resource use are also important environmental issues among others. Social value concerns such as greater community engagement, more accessible transport and reducing inequality

are similarly priorities high in the public agenda. These environmental and social issues must be addressed in an economically sustainable way. They all require action and the rail and road industries have clear roles to play.

Governments policy and industry action

In the UK, environment, sustainable development and transport are largely devolved responsibilities. While priorities and governance may vary across the nations the commitment to net zero carbon is shared with a target of net zero by 2045 in Scotland and 2050 in England and Wales.

Within these legislative and policy frameworks there is a breadth of more detailed policy, both in place and in development, to address environmental challenges and these cut across other policy areas as well as transport.

[Decarbonising Transport: a Better, Greener Britain](#) was published by the Department for Transport (DfT) in July 2021. It sets out the UK government's commitments and the actions needed to decarbonise the transport sector, focusing on the emissions from the use of transport - the largest contributor to UK domestic greenhouse gas emissions. In addition, the UK Government has set out elsewhere how it is addressing transport's construction and embodied emissions, for example, the recently initiated DfT Carbon Management Programme for managing the whole life carbon of infrastructure projects at a portfolio level, the [Transport Infrastructure Efficiency Strategy](#) launched in 2017 and reviewed in 2019 and BEIS's [Industrial Decarbonisation Strategy](#) from March 2021.

In 2020, the Scottish Government published its [National Transport Strategy Delivery plan](#). This strategy sets out Scottish Ministers' vision for transport to 2040. It contains four priorities, one of which is taking climate action to help deliver net zero by 2045. Options to achieve this priority are set out in [Strategic Transport Projects Review 2](#) to help guide the Scottish Government's transport investment programme in Scotland for the next 20 years.

Developments in rail

The [Williams-Shapps Plan for Rail](#), published in May 2021, provides a clear direction of travel for rail industry reform. A cleaner, greener railway and unlocking the social value of rail are an important part of the plan. A comprehensive environment plan for the rail network will be published in 2022 and will form a key part of Great British Railways' 30-year strategy.

[Decarbonising Transport](#) commits to delivery of a net zero railway in England and Wales by 2050; the ambition of removing all diesel-only trains from the network by 2040; an ambitious, sustainable and cost-effective programme of electrification guided by Network Rail's [Transport Decarbonisation Network Strategy](#) and the setting of a rail freight growth target.

Transport Scotland published its [Rail Services Decarbonisation Action Plan](#) in July 2020 and it is working on plans to implement this to contribute to Scotland's 2045 net-zero target. The action plan focusses on decarbonising transport through modal shift to rail and decarbonising rail traction energy through the removal of diesel passenger trains from the Scottish Network by 2035. Scotland's Railway Sustainability Programme Board has been formed with representatives from Transport Scotland, Network Rail, and Abellio ScotRail to sustain engagement and input from the other Train and Freight Operating Companies and other stakeholders throughout the sector.

Similarly, much Welsh legislation also impacts on rail, with specific biodiversity requirements and its Future Generations Act.

DfT's [Rail Environment Policy Statement: On Track for a Cleaner, Greener Railway](#) published in July 2021 sets a clear direction for the rail industry on environmental sustainability, again acknowledging the devolved responsibilities in this area. It will inform the Sustainable Rail Strategy being developed by RSSB with the industry, as part of the 30-year whole industry strategy called for in the Williams-Shapps Plan for Rail.

In addition to these steers from governments, there is significant activity in industry to address environment and sustainable development challenges:

- Network Rail's policy documents launched in 2020 include its [Environmental Sustainability Strategy 2020 – 2050](#) which set out its four core priorities of a low-emission railway, a reliable railway service that is resilient to climate change, improved biodiversity of plants and wildlife and minimal waste and sustainable use of materials. It has produced other strategy material including the [Transport Decarbonisation Network Strategy](#), and [Biodiversity Action Plan](#).
- HS1 also launched its [Sustainability Strategy](#) in 2020 reflecting its priority areas of climate change, energy use, resource use and waste impacts, social impacts, biodiversity and transparency.
- RSSB coordinates and leads extensive research on environmental and social issues. This includes the creation of a [carbon tool](#) for all rail industry parties to use (in addition to its role already mentioned above in leading production of the Sustainable Rail Strategy on behalf of the industry).
- Passenger and freight operators also taking proactive steps such as investing in new lower emission trains, trialling new traction technologies such as [hydrogen](#), developing community rail partnerships and working with supply chains to reduce environmental impacts.

Developments in roads

DfT's [Decarbonising Transport](#) addresses the emissions from the use of transport. It outlines how road vehicles will be decarbonised. Commitments and actions include a zero emissions cars and vans delivery plan (that has been published); a consultation

on phase out dates for new non-zero emissions HGVs and a review of the National Policy Statement for National Networks, the UK Government's statement of strategic planning policy for major rail and road schemes (which was written before the government's 2019 legal commitment to reach net zero by 2050).

ORR has a statutory role for the strategic roads network in England¹ and independently monitors the delivery by National Highways (formerly known as Highways England) of the requirements set out in the Road Investment Strategy. In its second road investment strategy (RIS2) the government specified a set of outcomes and investments that it requires National Highways to deliver over road period 2 (RP2), from April 2020 to March 2025 which includes environmental commitments.

National Highways published [Net zero highways: our 2030 / 2040 / 2050 plan](#) in July 2021 which includes commitments for National Highways to achieve net zero for its own operations by 2030, net zero for network maintenance and construction by 2040, and net zero carbon travel on its roads by 2050. It indicates these objectives will be backed by 'immediate and sustained activity' now and in road period 3 (RP3) and ORR will have a role in monitoring this activity.

As with rail, we also recognise that in the wider industry organisations are working to make improvements in other ways (albeit that in roads this activity is not in our remit). Activity includes manufacturers of cars, vans and lorries working to trial new low-carbon technologies, while private and public sector organisations are focusing on increasing the charging network available across the UK.

ORR's approach

We already embed environment and sustainable development into the way we carry out our role in both rail and road in a range of ways. For example:

- As Health and Safety Regulator for the railway, we identify and work with the industry to address issues that are environmental in nature but may also fall within the remit of health and safety legislation, such as certain noise and air issues or pollution incidents. A recent example of where these issues can overlap is the derailment in August 2020 at Llangennech which also resulted in contamination due to spilled fuel. Here we carried out our health and safety role working alongside organisations such as Natural Resources Wales.
- We assess Network Rail's delivery of its Environmental Sustainability Index (ESI) (a composite measure comprised of key environmental measures on waste, carbon emissions and non-traction energy), reporting on this in our

¹ We recognise that the Scottish and Welsh governments have separate initiatives but as our role on roads is focused on England we have not detailed them here.

[Annual Assessment of Network Rail](#). We also require Network Rail to publish a wider range of key statistics in its [Annual Return](#).

- We have recently reviewed Network Rail’s Weather Resilience and Climate Change Action (WRCCA) Plans to evaluate their efficacy to manage weather and climate risk, and to provide recommendations for improvements to these for future Control Periods (CP) and long-term risk management. The analysis found that there are many strengths to the current WRCCA plans, and they should be considered an example of good practice, globally. However, two areas for improvement were identified and we will continue to work closely with Network Rail on integrating these into their Control Period 7 regional WRCCA plans and strategy documents
- We are engaging with Network Rail on how to monitor its performance against its Biodiversity Action Plan commitment to achieve no net loss in biodiversity on its lineside estate by 2024 and to achieve biodiversity net gain on each route by 2040. We will report annually on Network Rail’s progress through our Annual Assessment.
- Railway operators are licenced by ORR. Licences include an ‘Environmental Matters’ condition and we provide guidance to licence holders on meeting their obligations under this condition. Revisions to this guidance are the subject of one of the consultations we are launching today.
- ORR is the recognised primary provider of railway industry official statistics and we publish an annual [Rail Emissions statistical release](#). This covers energy consumption of electricity and diesel and provides estimates of total and normalised carbon dioxide equivalent (CO₂e) emissions from traction energy for passenger and freight operators at the national level.
- ORR has a Sustainable Development Policy Statement that applies to all our regulatory and corporate activity. Revisions to this policy statement are the subject of one of the consultations we are launching today.
- On social sustainability we have specific roles on consumer protection and accessible transport. We publish an [annual rail consumer report](#) that focuses on how the rail industry supports accessible travel, as well as other services such as complaints handling, passenger information, ticket retailing and passenger rights. ORR has been proactive in developing a new [Accessible Travel Policy](#) (ATP) Guidance for train and station operators for ensuring policies include commitments for helping older and disable passengers.
- In roads, we monitor National Highways against the specific requirements for environment in RIS2 including reducing the impact of noise on households in noise important areas, achieving no net loss of biodiversity by the end of RP2,



bringing air quality levels into compliance in the shortest possible time, and reducing corporate carbon emissions.

Next steps

We will need to place increasing prominence on environment and sustainable development issues across all our functions, supporting policy agendas and legislative requirements of UK Government and devolved administrations. We also want to support the rail and road industries to address the challenges these issues bring about, not act as barrier to progress and change, and facilitate action where we are well placed to do so.

As a first step, we have today launched two consultations:

(1) [Consultation on a Revised ORR Sustainable Development Policy Statement](#)

Our Sustainable Development Policy Statement applies to all our activities and is intended to provide transparency on our approach to the delivery of our duties on sustainable development, succinctly stating our policy, its aims and how we will put it into practice. This was last updated in 2007. It is being updated now to reflect the importance we place on it and to ensure we set a clear intention in this space.

(2) [Consultation on ORR's Guidance on Environmental Arrangements for Railway Licence Holders](#)

This guidance is intended to clearly state our expectations of railway licence holders and management of their activities affecting the environment. Reflecting our role and powers in rail, and that ORR is the recognised primary provider of railway industry official statistics (a role DfT fulfils for roads), the guidance indicates we are keen to improve the availability and disaggregation of environmental data for rail. We are proposing setting up an ongoing process to achieve this. This will be complementary to the activities of other bodies in this area. Better information about the sustainability and environmental performance of the rail industry will improve transparency and accountability in the sector and can inform future policy, regulatory and industry activity.

In addition, building on the existing activities we already undertake, we will continue to place an increased focus on environmental and sustainable development issues, including in periodic review 2023 (PR23). PR23 will determine the level of funding that Network Rail should receive for its rail infrastructure operators, and what, in return it should be required to deliver over the five years from April 2024 (known as control period 7 (CP7)).

This will be important point at which decisions are made as to the funding UK and Scottish Governments can make available to invest in operations, maintenance and

renewal² of the network that contribute to delivery of net zero ambitions and meet other environmental and sustainable development targets over CP7. As ORR, we can support governments in making these decisions through providing independent advice. For example, we will consider the best way to advise governments on whether Network Rail's plans are consistent with net zero trajectories and other published targets such as those set out in DfT's Rail Environmental Policy Statement and the Scottish Government's Rail Services Decarbonisation Action Plan. Recognising the wider economic climate and current financial challenges in the rail industry, it is important that in PR23, we stretch Network Rail to deliver more for the funding it receives and drive further efficiencies to maximise the funding that is available to invest in these commitments.

Network Rail's approach to managing the impact of climate change in CP7 and the funding required to deliver that will also continue to be an area of scrutiny for PR23. We will also consider how Network Rail's plans will enable it to continue to work with its supply chain to innovate in this important area, including in adoption of new processes and technologies, for example, battery and hydrogen technologies, low carbon options for concrete and steel in infrastructure.

We will also consider how we monitor progress of rail industry in delivering environmental and sustainability goals during CP7. The bringing together of track and train into Great British Railways gives us greater opportunity to report on progress across industry as a whole. To achieve this, we will be able to build on the improvements in how data is being collected that we are seeking to make through the consultation on revised guidance to licence holders on environmental arrangements that we have issued today.

PR23 will also set charging and incentives frameworks that apply to rail users in CP7 – these decisions will be a key factor in determining the overall costs of using the railway for operators. In line with our statutory duties, we remain mindful of the potential consequences of these decisions to drive a shift from rail to roads as the result of possible increase in charges, particularly for rail freight. We will take account of these potential impacts to the extent permitted by the legislation.

Stakeholder views

We welcome your views on these issues and the two consultations which we have published today on our [Sustainable Development Policy Statement and Guidance on Environmental Arrangements for Railway Licence Holders](#). The consultations run from today until 9 November and details of how to respond are included in the

² Funding decisions in respect of major enhancements are made outside the periodic review process and we note that enhancements to electrify the network are a primary way that the railway will contribute to achieving net zero targets.



consultation documents. We will also seek further feedback from stakeholders on these issues in future consultations related to PR23.

Yours sincerely

A handwritten signature in black ink that reads 'Daniel Brown'. The signature is written in a cursive style with a horizontal line underlining the name.

Daniel Brown

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