



ORR's approach to the second Road Investment Strategy

December 2016

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Executive summary

This document sets out ORR's intended approach to the activities we are responsible for in the second Road Investment Strategy (RIS2). In setting this out, we have identified a range of issues that the Department for Transport (DfT) and Highways England should consider when developing proposals for the second Road Period. We have engaged with both organisations to discuss our advice. More generally we welcome the opportunity for ongoing engagement with stakeholders on the progress of RIS2 and our role within it.

Our role in RIS2 is split into two main areas. First, we have an important role in providing advice to the Secretary of State on whether the Draft Road Investment Strategy (RIS) and Draft Strategic Business Plan (SBP) are challenging and deliverable with the financial resources available. This includes assessing the level of efficiency proposed by Highways England. Second, in our role to hold Highways England to account for Licence compliance, we will monitor how it is meeting the relevant obligations that relate to the setting of a new Road Investment Strategy.

We set out in this document some of the issues we consider will need to be addressed to make RIS2 a success, and how we will assess whether the desired outcomes are achievable. The key themes in this document are:

- Evidence and stakeholder engagement are crucial factors in developing a robust and resilient set of proposals. We will be looking for evidence of active and effective analysis and engagement to build this evidence base.
- The package of proposals should be developed as an integrated programme of investment and challenging performance goals that recognises how each affects the other.
- The proposals should be specific and detailed, and transparently arrived at to allow effective monitoring during Road Period 2.
- The second Road Investment Strategy proposals should consider lessons learnt from the current Road Period, and look to establish a robust process for future Road Investment Strategies.
- Stability and predictability can support longer term efficiency gains. We will be looking for evidence that these have been factored into the proposals, for example, to avoid an undeliverable or uneven profile of work.

We recognise that our approach will need to respond as we gain more clarity on the various activities in RIS2.

1. Purpose of this document

Introduction

- 1.1 RIS2, spanning the period between 2020 and 2025, is the Highways equivalent of a periodic review in rail. Our powers and duties - which are set out through a combination of the Infrastructure Act 2015¹, Highways England's Licence², and our Memorandum of Understanding (MoU) with the Department for Transport (DfT)³ - however are different. In Highways our role is predominantly advisory. The initiation of a new RIS can only be made by the Secretary of State. Similarly, only the Secretary of State can finalise the proposals and give them effect. We do not have a veto power or the ability to make counter-proposals. Once a RIS is set our role is to monitor, and where necessary enforce, Highways England's compliance.
- 1.2 It is clear from the legislation and guidance that ORR has an important role in the setting of a Road Investment Strategy. The main deliverable for us is our assessment of the Secretary of State's Draft RIS and Highways England's response to it, the Draft SBP, advising the Secretary of State on whether the proposals are challenging and deliverable. This includes advising on the level of efficiency Highways England proposes to achieve.
- 1.3 Whilst the legislation puts a clear emphasis on these activities, throughout the Licence there are references to Highways England engaging with us and others. This engagement should be considered from the perspective of providing us with the information and support we need to meet our duties.
- 1.4 This document sets out how we have interpreted our role, intend to conduct our activities, sets out the relationships and dependencies with other stakeholders and provides clarity on the issues we believe will need to be addressed for RIS2, and our role in it, to be successful. In formulating our approach we have applied lessons from the rail sector and have sought to be consistent with the principles underpinning the recently published 'Draft guidance on Network Rail's strategic business plans',⁴ with which this document has many parallels.

¹ See: <http://www.legislation.gov.uk/ukpga/2015/7/contents/enacted>.

² See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431389/strategic-highways-Licence.pdf.

³ See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411801/mou-orr.pdf.

⁴ See: http://orr.gov.uk/_data/assets/pdf_file/0004/23269/draft-guidance-on-network-rails-strategic-business-plans.pdf.

1.5 This is the first time the full Licence process for a new RIS has been deployed. Consequently, there may be circumstances which could make aspects of the requirements particularly challenging or difficult to meet. We will, however, be looking to Highways England to demonstrate how the approach it is adopting to take its work forward complies with the spirit and intent of its Licence.

How we envisage our role

1.6 Our role in RIS2 is split into two main parts:

- Performing an assessment of the Draft RIS and Draft SBP, including the Efficiency Review.
- Monitoring how Highways England is performing its activities in RIS2 to ensure that it remains consistent with the spirit and intent of its Licence.

1.7 We also have the ability to provide advice to the Secretary of State or to conduct research and produce reports that are relevant to the fulfilment of RIS2. We can, for example, and have, commissioned studies into outcome frameworks in other sectors⁵ to contribute to the evidence base.

Principles of delivering our role effectively and working with others

1.8 There are a number of important principles which will guide how we subsequently assess whether the RIS2 package is challenging and deliverable. These are below.

- Quality of the evidence base.
 - Robustness of analysis.
 - Breadth of analysis.
 - Extent to which the evidence is informed by input from stakeholders specifically referenced in the Licence and Act.
 - Appropriate balance being given in Highways England's plans to maintaining and improving the SRN.
 - Logic in the decision-making process (Highways England's decision-making.)

⁵ See: <http://orr.gov.uk/highways-monitor/publications/review-of-outcome-frameworks-in-other-regulated-sectors>.

- Transparency and openness.
 - Consultation and opportunity to test evidence and decisions with appropriate groups of stakeholders, in particular road users.
- Clarity and specificity.
 - The value of a predictable capital plan over time, supported by a robust change-control process.
 - Precision in the proposals allowing for a robust assessment of the level of challenge and deliverability.

Structure of this document

1.9 The main steps in the legislation can be grouped together into a number of themes including developing the evidence base, developing and making proposals, and finalising and implementing the programme. This document has grouped the multiple stages together where our role in the steps is consistent. This has resulted in the core content of this document being structured around the following grouping of the stages in the Licence:

- Chapter 3: Route strategies and the SRN Initial Report.
- Chapter 4: The Secretary of State's Proposals and the Draft RIS.
- Chapter 5: The Company's Draft Strategic Business Plan (SBP) and the Efficiency Review.
- Chapter 6: Finalising the RIS and SBP.
- Chapter 7: Mobilisation and Delivery.

1.10 In these chapters, we set out a summary of the requirements and how we have interpreted them, linkages and dependencies relevant to our role and how we will look at discharging our main duty around assessing whether the next RIS is challenging and deliverable.

1.11 Throughout this document, at the beginning of each chapter we summarise the requirements in the Infrastructure Act 2015 and the Licence. Where we set out our expectations for the various stages in RIS2 we augment these requirements with expectations from our MoU with DfT, feedback we have received from stakeholders, including road users and our observations of Highways England's approach so far in this Road Period.

2. The role envisaged for ORR

- 2.1 The Infrastructure Act 2015 gives us the ability to provide advice to the Secretary of State on the objectives of a future Road Investment Strategy. This, together with Highways England's Statutory Directions and Guidance (also referred to as Highways England's Licence) set out the expected steps for progressing Road Investment Strategies.
- 2.2 In addition to performing our role set out in part 6 of the Licence, more widely we are required to enforce Highways England's compliance with its Licence provisions. As we have set out in our Enforcement Policy⁶, our approach to enforcement is to focus on the issues of most concern and act in a proportionate manner.
- 2.3 We interpret our compliance and enforcement duties within the wider regulatory framework. This includes exercising our functions in the way we consider best calculated to promote the performance and efficiency of Highways England. This provision under section 12 of the Infrastructure Act 2015 applies to our ability to enforce Highways England's compliance with its Licence.
- 2.4 The initiation of a new RIS can only be made by the Secretary of State. Similarly, only the Secretary of State can finalise the proposals and give them effect. We do not have a veto power or the ability to make counter-proposals. Once a RIS is set our role is to monitor, and where necessary enforce, Highways England's compliance with it.

Memorandum of Understanding

- 2.5 The MoU between ORR and DfT sets out that amongst our core activities, the following RIS2-related tasks are envisaged for the Highways Monitor:
- Providing advice to support the setting of the RIS, including advice to confirm that the developing proposition remains deliverable and challenging.
 - Monitoring the Company's compliance with its statutory directions and regard to guidance.
 - Benchmarking the Company's performance and efficiency against comparable organisations in other countries or other sectors.
- 2.6 The MoU expands upon this in a number of areas particularly around providing advice on the deliverability and level of challenge associated with the Draft RIS given the proposed financial resources. In performing the Efficiency Review, the MoU

⁶ See: http://orr.gov.uk/_data/assets/pdf_file/0005/20003/enforcement-policy-for-highways-england.pdf.

envisages that we will review the Draft SBP to confirm that it will meet the requirements of the Draft RIS in a way that represents an effective and efficient use of public money.

2.7 More widely, the MoU sets out that during the development of a new RIS ‘The Monitor will participate and engage in this process where necessary and should advise the Secretary of State on the Company’s compliance with its statutory directions and regard to guidance.’

Our involvement in RIS2 to date

2.8 Since autumn 2015 we have been an active part of DfT’s programme management of RIS2. This includes being a member of DfT’s RIS2 Steering Group and several other working groups across the various aspects of the emerging programme. We have seen significant value in attending these meetings, allowing us to understand how the programme will come together for us to plan our work, and to provide clarity on our planning process for the activities we will perform.

2.9 Where appropriate we have contributed to the evidence base for RIS2 through the commissioning of research, including the following:

- *A cross sector review of outcomes frameworks – a report for the ORR, published in April 2016.*⁷
- Ongoing joint research with Transport Focus on the user perspective of Performance Specification metrics for RIS2, which is due to be published in early 2017.

2.10 Our benchmarking programme will also help inform potential future efficiencies that could be achieved by Highways England. Our first annual benchmarking report is due to be published in December 2016.

2.11 We are committed to continuing to provide active input into DfT’s RIS2 governance process, through for example, contributing to the evidence base, identifying and discussing issues and providing intelligence through engagement with our stakeholders. It is also critical for us to be a part of discussions that have a direct bearing on our role.

2.12 The experience we have in monitoring Highways England’s performance during RIS1 is also a relevant factor for RIS2. We will bring this experience to bear through this document and our ongoing monitoring and reporting approach to ensure that the

⁷ See: http://orr.gov.uk/data/assets/pdf_file/0015/22326/a-cross-sector-review-of-outcomes-frameworks.pdf.

experience of the current Road Period and Highways England's performance are reflected in the plans for the second Road Period.

3. Route Strategies and SRN Initial Report

Requirements – Route Strategies

- 3.1 At a minimum Highways England must identify current performance and future challenges for all routes of the network as well as outline operational and investment priorities for these routes. This should include indicative options for interventions in maintenance, renewals and enhancements.
- 3.2 Highways England must work collaboratively with relevant partners, to engage its stakeholders in forming its views at both the local and national level, to consider integration and collaborative options and to take account of the views of the ORR and Transport Focus.
- 3.3 The emphasis for this phase of RIS2 is on generating enough information and evidence to allow the Secretary of State to make informed decisions. This includes preliminary assessments of deliverability and value for money of any proposed investments. The Delivery Plan also envisages that the Route Strategies will identify constraints to economic growth and the role the SRN could play in alleviating them. Given the Route Strategies form a significant part of the evidence base that supports the setting of the next RIS, they play a crucial part.
- 3.4 There is a commitment in Highways England's Delivery Plan to publish the Route Strategies by 31 March 2017.

Requirements – SRN Initial Report

- 3.5 Once informed of the start of the road period and a timeline provided by the Secretary of State, Highways England must produce an SRN Initial Report to inform the setting of the Draft RIS. At a minimum, it must provide an assessment of the current state of the network and users' needs from it, potential maintenance and enhancement priorities and future developmental needs and prospects.
- 3.6 The evidence assembled through the Route Strategies is designed to inform the SRN Initial Report, and in much the same way, the Licence emphasises the importance of local and national stakeholder engagement, collaboration and effective integration with the rest of the transport system. Highways England is required to engage with us and Transport Focus and take account of our views. Any directions and guidance from the Secretary of State must also be taken into account by Highways England.
- 3.7 Highways England is required to publish the SRN Initial Report. The current plan is for this report to be completed by 30 November 2017.

3.8 The Secretary of State will conduct a consultation on the SRN Initial Report as soon as possible after publication. Its response to this consultation will include proposals for a Draft RIS. Hence, the purpose of the Route Strategies, SRN Initial Report and associated consultation is to allow the Draft RIS to be based on robust evidence and informed by consultation.

Our approach

3.9 The evidence-gathering phase associated with the production of the Route Strategies and the SRN Initial Report is vital in providing the rationale for, and appropriate stakeholder and user engagement with, what will ultimately become the second RIS. Whilst this section focusses on two key aspects of Highways England's Licence requirements, we know that Highways England is conducting wider studies and planning activities such as the Strategic Studies and Strategic Economic Growth Plan, which we anticipate will form an important part of the evidence base for RIS2.

3.10 We expect that the SRN Initial Report will provide a clear, well-developed narrative and accompanying analysis which sets out the maintenance and renewals priorities for the network, key enhancement priorities across the various routes, and emerging proposals for the performance metrics.

3.11 As mentioned above, we will look at Highways England's approach to the above activities by focusing on the evidence it uses to support its plans. We will assess its approach to ensuring its proposals are robust, well-considered and informed by stakeholder engagement wherever possible. This will include attending a sample of its stakeholder events from 2017 onwards, to hear discussions first hand.

3.12 We will be looking for evidence that Highways England is carefully planning its engagement activities to ensure they are effective and that its subsequent proposals are able to provide a narrative that links back to this research, analysis and consultation. As part of this Highways England should consider asking its stakeholders, including ORR, for regular feedback on the quality of its engagement, both informally and formally. The quality of stakeholder engagement and how it has been used will influence our assessment of whether the package of proposals is challenging and deliverable, and the confidence with which we are able to take a view. Consequently, we will ensure that our business as usual stakeholder engagement activities include discussion of RIS2 issues.

3.13 We will consider how stakeholder engagement has supported the production of the Draft RIS and Draft SBP when assessing whether the proposed RIS2 package is challenging and deliverable. The quality of this engagement will influence how we

view the package of proposals and our assessment of whether it is challenging and deliverable.

- 3.14 There are a number of requirements in Highways England's Licence in relation to both the Route Strategies and SRN Initial Report. We will be looking for evidence as work progresses that it is actively assessing how to meet these requirements, and is developing coherent plans to do so. We will also be relying on our regular engagement with DfT, Transport Focus and other stakeholders to understand whether their needs are being met by the approach Highways England is adopting.
- 3.15 In assembling its evidence base we would expect Highways England to be looking broadly at potential opportunities and risks in the transport and wider infrastructure sectors to ensure that it is taking account of, for example, challenges to the supply chain, and multi-modal transport developments that will have an impact on its plans. In later proposals, such as its Draft SBP, we would expect Highways England to be able to demonstrate how it has accounted for such opportunities and risks.
- 3.16 We would also expect Highways England to be working closely with local authorities and other sub-national bodies to ensure it understands the impacts on local roads of its potential development plans for the SRN.
- 3.17 In summary, our approach requires:
- A strong evidence base.
 - Highways England to engage with its stakeholders and assess its quality.
 - Us to engage stakeholders during the process to understand a wide range of views on RIS2.
 - Highways England to consider wider opportunities and risks including the supply chain, cross-modal solutions and impacts on local roads.

4. The Secretary of State's proposals and Draft RIS

Requirements

- 4.1 The Secretary of State's response to the consultation on the SRN Initial Report will include proposals for a Draft RIS, albeit we anticipate that the Draft RIS itself may be a separate document. The Draft RIS will set out the requirements that Highways England needs to deliver and the proposed resources to do so.
- 4.2 ORR is required to assess these proposals and provide advice to the Secretary of State on whether they are challenging and deliverable with the proposed financial resources. To enable us to perform this task, Highways England is required to assist us by providing any information we consider necessary.
- 4.3 Having taken account of our views, the Secretary of State will submit to Highways England a Draft RIS, a 'general strategy' in relation to relevant highways, any other relevant information and a timeline for producing the Draft SBP.

Our approach

- 4.4 The exact form and content of the Draft RIS has not been finalised. We expect that the Draft RIS will contain proposals on the investment plan and the Performance Specification (to what level of detail is as yet unclear) and we will continue to work with DfT on defining this.
- 4.5 In the event the document is more comprehensive, we will consider the robustness of the evidence base to support the overall package being financially deliverable. As part of this we will look at the profiling of works to understand whether they are stable over time and, in the event that there is an uneven profile, that appropriate consideration of Highways England's ability to meet the requirements has been given. We will also look at how providing long term stability for Highways England has been factored into the investment plan to allow it to achieve efficiency gains over time.
- 4.6 As part of this we will look at how consideration has been given to the RIS2 programme of investments being managed effectively as a portfolio of works rather than individual projects. A key issue is how any evidence on the capability of the supply chain has been factored in to the investment planning process. We will, in particular, look at whether consideration has been given to other major infrastructure projects that may draw on the same skills and resources as RIS2. Given our duties

as the ORR, we will be particularly mindful of any interactions between RIS2, our rail remit and other relevant supply chain issues. We would expect Highways England and DfT to plan the best way to gather this intelligence, and would anticipate there would be close working with sector stakeholders to do so.

- 4.7 Where the details of the major projects are set out for us to consider – whether in the Draft RIS or the Draft SBP - we believe it is of critical importance that the scope and specifics of the project are clear and unambiguous to avoid future cost and deliverability challenges, which was an important theme in the recent Bowe Review.⁸ We will particularly be looking for this issue when we conduct our sample testing as part of the Efficiency Review. More generally, we would expect Highways England to do the primary assessment of deliverability of its investment programme, and for us to test it and provide our views to the Secretary of State.
- 4.8 In terms of performance, we will be looking at what the user research, expert reports and evidence suggest would be a challenging and deliverable set of objectives for Highways England. We would also overlay our experience of Highways England's performance in the first Road Period onto proposals for RIS2.
- 4.9 We have learnt from our monitoring of RIS1 that some metrics, targets and other deliverables are more challenging than others. We will look for evidence to support the proposed metrics and targets for RIS2 to provide advice that Highways England is being challenged over time.
- 4.10 The emerging findings of the research we have jointly commissioned with Transport Focus on road user views of performance metrics, suggests that road users largely support the RIS1 Performance Specification outcome areas. Although we may expect targets and key deliverables to be different, we are yet to see evidence that the RIS2 Performance Specification needs to be a completely different set of challenges to RIS1. Whilst we can see the benefit of the existing RIS1 metrics evolving to allow for an understanding of whether performance has improved over time or not, this should not override the importance of making sure the metrics themselves are meaningful and encourage the right behaviours.
- 4.11 We see benefits in greater regional differentiation in the Performance Specification. If regional metrics are proposed in RIS2, they should be considered in conjunction with regional investment.

⁸ See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479560/bowe-review.pdf.

- 4.12 A further factor where we will be looking for evidence is how in control of the relevant performance metric Highways England is. This will be relevant for us taking a view on whether the overall package is challenging and deliverable. We may commission additional research to support the evidence base for the RIS2 Performance Specification where we believe this could help us understand this issue. As mentioned elsewhere we have already commissioned research independently as well as jointly with Transport Focus on issues related to the potential Performance Specification.
- 4.13 In the documentation for RIS1, there are a number of other obligations on Highways England that do not relate directly to investment or performance. For example, there are requirements to produce a number of strategies or strategic plans. We would advise that any such additional obligations are specified as clearly as possible to ensure that Highways England has absolute clarity on what is expected to meet these requirements. We would also advise that this issue is considered in parallel with any potential changes or additions to the Statutory Directions and Guidance (the Licence), which in a number of places have specific reference to obligations that only pertain to RIS1 and would need updating.
- 4.14 We also advise that consideration is given to providing Highways England with a simpler set of obligations, allowing it to develop its own detailed plans and take greater ownership of how it delivers them.
- 4.15 We believe that by the time of the SRN Initial Report, it would be useful to provide Highways England with certainty and clarity of the funding that is likely to be available to allow it to develop a realistic assessment of the needs of its network.
- 4.16 In summary our approach is to:
- Check the profile and deliverability including supply chain constraints.
 - Consider performance metrics and targets, based on user research, reports and historical performance.
 - Look for consistency and predictability over time.
 - Expect consideration of regional disaggregation.
 - Consider controllability of targets and metrics.
 - Look for clear and manageable targets and metrics.

5. The Company's Draft Strategic Business Plan and the Efficiency Review

Requirements

- 5.1 Following production of the Draft RIS, Highways England must respond with a Draft SBP. This will detail its plans for meeting the requirements of the Draft RIS for the entire Road Period.
- 5.2 In providing the Draft SBP to the Secretary of State, Highways England must clearly agree to the proposals, or make counter-proposals, take into account any directions and have regard to guidance, engage with ORR and take account of our views.
- 5.3 When the Draft SBP is submitted to the Secretary of State, ORR will assess it and provide advice to the Secretary of State. Our role is to assess whether the proposals in the Draft SBP are challenging and deliverable within the proposed financial resources. We are also required to assess Highways England's proposed level of efficiency. To aid us in these activities, Highways England is required to assist us and provide any information we consider necessary.
- 5.4 Our assessment of the Draft SBP's level of challenge and deliverability as well as the proposed level of efficiency is collectively termed the Efficiency Review.
- 5.5 As Highways England develops the Draft SBP we would expect it to be regularly discussing with us its planned content to ensure that when it is provided to us for assessment, we are not approaching it from an uninformed position.
- 5.6 We intend to publish our Efficiency Review. This reflects the general position on publication in the Memorandum of Understanding.

Our approach

- 5.7 For us to deliver a robust Efficiency Review, the Draft SBP would need to be a robust plan from Highways England that sets out how it will deliver the proposals set out in the Draft RIS. The less comprehensive the Draft SBP is, the lower the level of confidence we would have in being able to provide advice that the proposals are challenging and deliverable. We would expect consideration to be given to this as decisions are made on the approach to the level of detail in the Draft SBP.
- 5.8 We will review how Highways England has interpreted the evidence it has generated through the Route Strategies, the SRN Initial Report and its wider stakeholder

engagement, and translated this into a deliverable and challenging plan that meets the proposals in the Draft RIS.

- 5.9 We will be looking for evidence of how Highways England plans to integrate its maintenance and renewal priorities alongside its plans for network improvements. We intend to look at the profile of works over time that Highways England plans to deliver and will take a view on whether the proposed plan can be delivered with the financial resources available to it. We expect Highways England to provide a well-evidenced proposal for the level of efficiency it can achieve to allow us to perform our Efficiency Review.
- 5.10 We would expect Highways England is able to set out a clearly defined programme of works that sets out with sufficient detail what it intends to deliver and the dates it intends to do so to allow us to consider whether the overall package is deliverable or not. We will continue to work with DfT and Highways England to understand the feasibility of this expectation.
- 5.11 Given some of the challenges in RIS1, we expect Highways England to both engage throughout the process of developing the draft Performance Specification and to provide evidence of the challenges posed in the finalisation and adoption of any metrics and targets. We will factor in these issues in the way we hold Highways England to account for delivery of the SBP and Delivery Plan commitments to ensure that we focus our monitoring on areas that are meaningful to, or have a clear impact on, road users.
- 5.12 The function of the Draft SBP is to set out in detail what Highways England will deliver by when. To allow it to do so, there is a significant dependency on when there will be clarity of the available funding.

The Efficiency Review

- 5.13 We are responsible for undertaking an Efficiency Review of Highways England's Draft SBP. We are required to assess whether the Draft SBP is challenging and deliverable with the proposed financial resources, and provide a view on the level of efficiency proposed by Highways England.
- 5.14 The wording on our role in terms of assessing the Draft SBP is the same used for assessing the Draft RIS. As such, we do not intend to duplicate work or to repeat our advice to the Secretary of State about whether the proposed requirements are challenging and deliverable with the proposed financial resources in our Efficiency Review unless there are substantive differences between what is stated in the Draft RIS, and Highways England's response in its Draft SBP.

- 5.15 The main focus of our Efficiency Review will be to provide advice to the Secretary of State on the level of efficiency proposed in Highways England's Draft SBP. In consultation with DfT and Highways England we have developed a 'four-phase' approach to undertake this work which is explained below and summarised in Figure 1. A proposed timeline for this work is shown in Figure 2. The analytical work has now commenced.
- 5.16 Our approach will focus on the capabilities that will be required for Highways England to secure efficiency gains and the pace at which they can be realised, supported by targeted benchmarking studies and sampling of expenditure lines within Highways England's Draft SBP. This is a function of a number of factors, notably:
- Highways England's relative immaturity as a government owned company and the consequent difficulties and risks involved in deploying a 'light-touch' econometrics driven approach.
 - General agreement that a small number of targeted studies focusing mainly on core business capabilities will shine the most light on the scope for Highways England and its supply chain to achieve efficiency improvements.
 - Reluctance on our part to undertake a more intrusive detailed line-by-line cost assessment when there is an opportunity for us to build a shared understanding with Highways England of its potential for efficiency improvements.

Phase 1 – Capability reviews

- 5.17 Work is currently under way to develop a shared understanding with Highways England of the key enablers of future efficiency improvement. This work covers:

Portfolio and programme management

- 5.18 The scale of Highways England's capital programme, both in terms of the number of projects and total expenditure, puts a lot of pressure on the company's portfolio and programme management capability. We are undertaking a joint study with Highways England to determine the efficiency improvements that Highways England should be capable of making through improvements to the way that the company manages its portfolio and programmes of capital projects during Road Period 2.

Asset management

- 5.19 Highways England's ability to manage its network at lowest whole-life cost is core to the company's ability to operate efficiently. However, there is not currently a comprehensive, common understanding of Highways England's capability or scope

for further improvement to the way in which it manages its assets. We will shortly undertake a joint study with Highways England to determine the efficiency improvements that Highways England should be capable of making through improvements to the way that the company manages its assets during Road Period 2.

Procurement and contract management

5.20 With around 85% of Highways England's expenditure being delivered through its supply chain, the expertise and care with which Highways England packages work; tenders, contracts and manages those contracts will be key to unlocking future cost savings. We will shortly undertake a joint study with Highways England to determine the efficiency improvements that Highways England should be capable of making through improvements to the way that the company procures and manages contracts during Road Period 2.

Phase 2 - Benchmarking

5.21 There is a wide range of activities that could be benchmarked and there are many possible organisations, both in the UK and overseas, that Highways England could be benchmarked against. In the longer-term, we aspire to Highways England being at the heart of a benchmarking network of comparable organisations that share the data and information required for benchmarking across a wide range of activities. However, experience from other sectors shows that such benchmarking networks can take several years to establish.

5.22 Therefore, we are planning a targeted programme of benchmarking activities to inform our Efficiency Review. We have identified opportunities to obtain insights from both intra-company performance benchmarking and inter-company comparisons against other UK economically regulated companies. Further details about our benchmarking programme are available on our website.⁹

Phase 3 – Sample testing of Highways England's planned expenditure

5.23 We will conduct a sample review of line-by-line costings to establish that expenditure earmarked for individual schemes has been built up in an appropriate way and does not overstate or understate likely costs.

5.24 We will shortly be conducting an in-depth review of a sample of the major projects in RIS1. We will use what we learn from this process to inform how we subsequently take forward our sample testing as part of our RIS2 Efficiency Review.

⁹ See: <http://orr.gov.uk/highways-monitor/publications>.

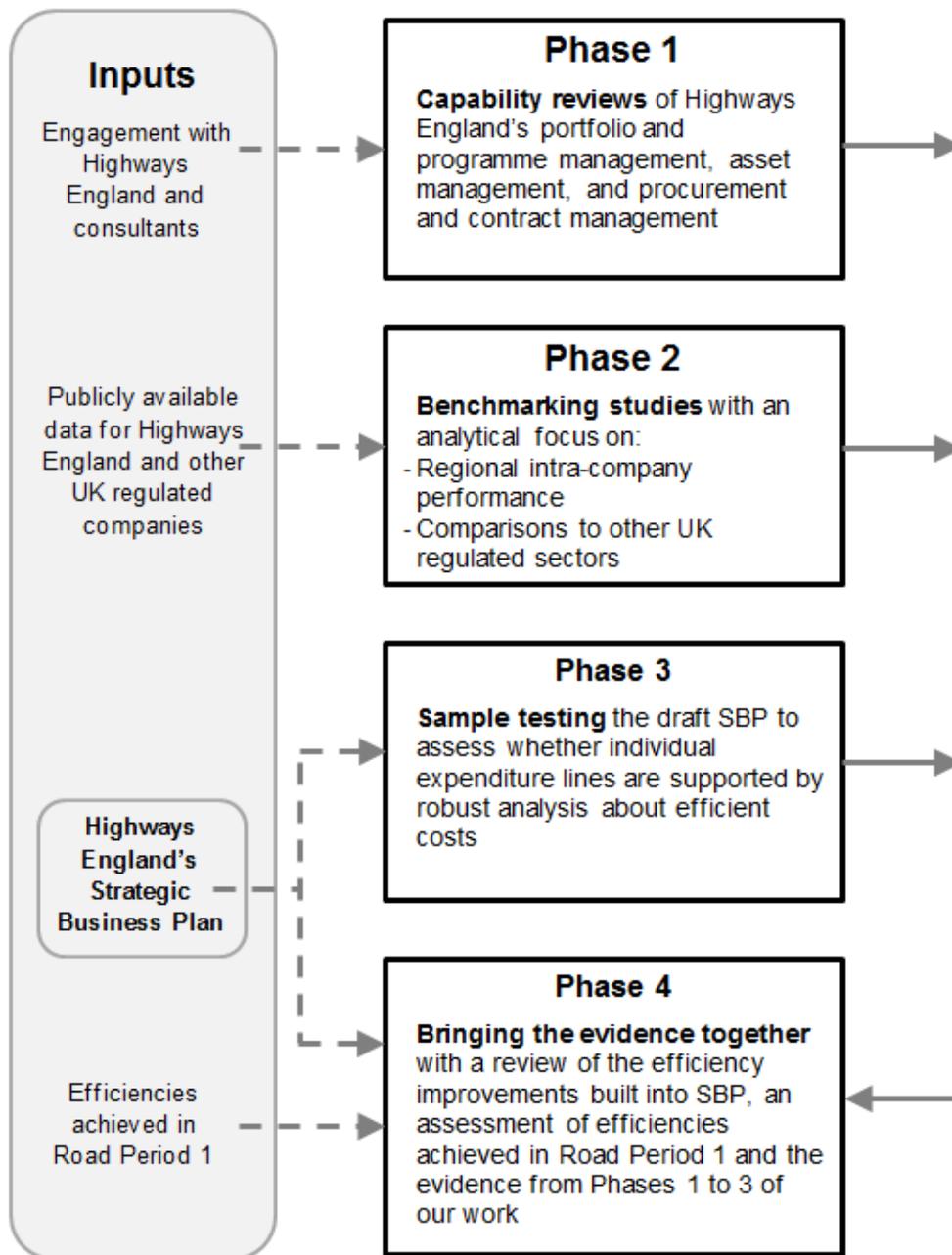
Phase 4 – Bringing the evidence base together

5.25 The final phase of our work will bring together:

- A high-level review of the efficiency improvements built into Highways England's Draft SBP including the quality of analysis supporting the plan.
- An assessment of the efficiencies achieved in Road Period 1.
- The evidence from Phases 1 to 3 of our work outlined above.

5.26 As per the timetable shown in Figure 2, the final product of our work will be a report to the DfT to inform the DfT's finalisation of RIS2.

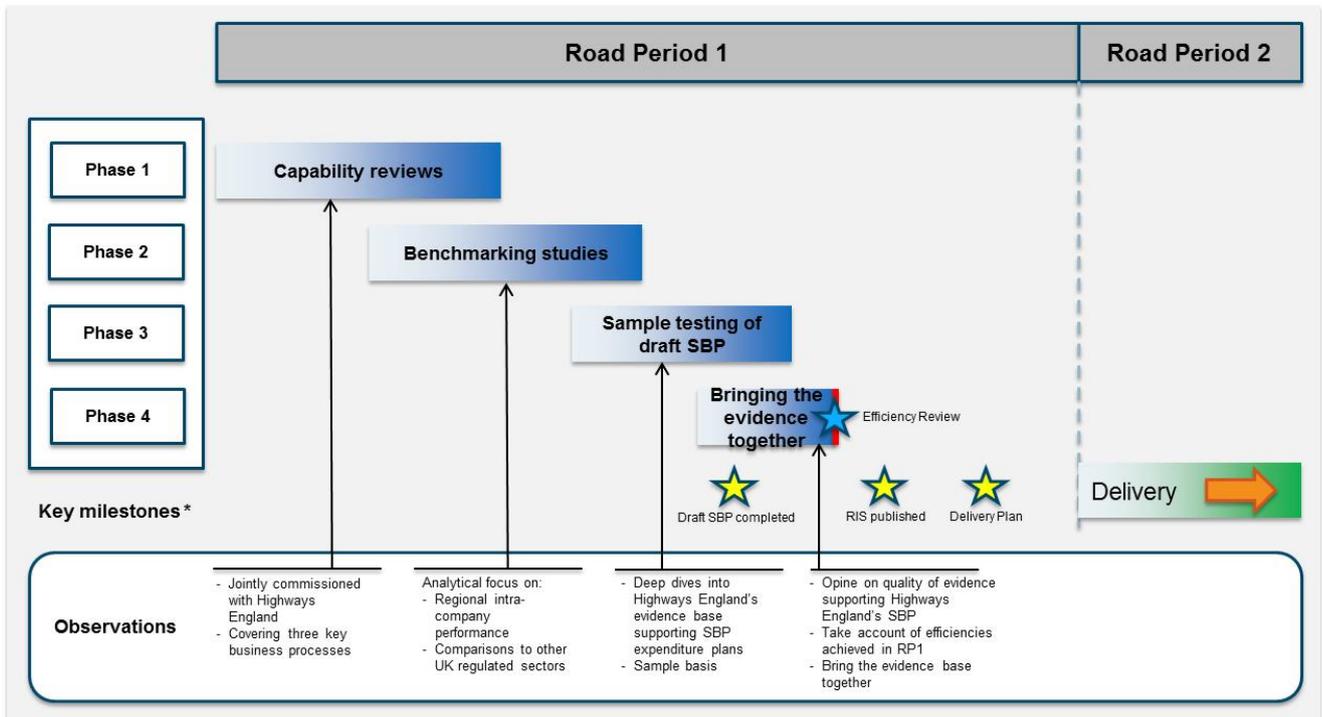
Figure 1 – the scope of our Efficiency Review



5.27 Receiving the right level of engagement and support from Highways England is key to the success of our Efficiency Review. We are keen to avoid a situation where we cannot provide a definitive view to the Secretary of State and will seek to work closely with Highways England over the coming months. In particular, our ability to assess the level of efficiency that Highways England proposes to achieve is dependent on the quality of evidence that we receive. We expect Highways England

to develop a clear methodology for how it will evidence the level of proposed efficiency well in advance of the Draft SBP and to engage with us on this.

Figure 2 – Proposed timeline for our RIS2 Efficiency Review



* Timing of the milestones are indicative only and will be decided by the Secretary of State

Interactions between the Efficiency Review and our assessment of the Draft RIS and Draft SBP

5.28 As mentioned above we have made assumptions about the relative content of the Draft RIS and the Draft SBP. We will review our approach to assessing the Draft RIS and Draft SBP once the level of detail in the documents becomes clearer. We will work with Highways England and DfT to achieve this clarity as soon as possible.

5.29 More widely, and as a consistent theme throughout this document, our ability to assess the level of efficiency Highways England proposes to achieve is dictated by the quality of evidence provided to us. This includes both the evidence itself to support a particular proposal, but also what that proposal constitutes. We expect Highways England to develop a clear methodology for its proposed efficiency level well in advance of the Draft SBP and to engage us on it, so we achieve early clarity on, for example, the definition of 'efficiency'.

5.30 We would expect Highways England to draw heavily on the outputs of the capability reviews to inform the proposals in its Draft SBP, and to consider its proposed efficiency level bearing in mind relevant outputs of our benchmarking work.

- 5.31 Given the challenging profile of efficiencies in RIS1, we would expect Highways England to be able to demonstrate that it has assessed historically achieved efficiencies and taken into account future challenges to inform its proposals, for example, where there might be diminishing or increasing scope for efficiencies.
- 5.32 Finally, in relation to value for money of the proposed Draft SBP set out by Highways England in response to the Draft RIS, we will be focusing on efficiency and will not seek to comment on the government's proposed scheme selection. We do not believe this is our role, and decisions over what the government wishes to do with income from the National Road Fund is a matter for government. We will, however, look at the cost of certain schemes as part of our sampling of line items and compare them to information on unit costs and other relevant benchmarking data. We will comment on the overall level of challenge and deliverability within the relevant financial resources.

Benchmarking

- 5.33 As mentioned above, benchmarking has an important role to play in providing insight into Highways England's performance and opportunities for improvement. In April 2016 we set out our plan¹⁰ in relation for benchmarking Highways England.
- 5.34 Our first annual benchmarking report¹¹ will be published in December 2016, containing regional comparisons of Highways England's performance and analysis of other countries to identify comparable organisations. We would expect Highways England to consider the evidence generated from our benchmarking and Efficiency Review programmes when developing its proposed scope for efficiencies.
- 5.35 In summary our approach is to:
- Look for evidence that the Draft SBP meets the Draft RIS requirements.
 - Analyse the specificity of the proposals.
 - Analyse deliverability (including Highways England's assessment), scope and phasing of the investment plan.
 - Apply the Efficiency Review approach.

¹⁰ See: http://orr.gov.uk/_data/assets/pdf_file/0017/21473/benchmarking-highways-england-april-2016.pdf.

¹¹ This will be published on the Highways Monitor section of ORR's website: <http://orr.gov.uk/highways-monitor>.

- Look to Highways England to demonstrate a clear approach to calculating its proposed efficiency, drawing on evidence including our benchmarking work.

6. Finalising the RIS and SBP

Requirements

- 6.1 Following completion of our advice to the Secretary of State on the Efficiency Review, a number of options are available. The Secretary of State can approve the Draft SBP and finalise the RIS; direct Highways England to revise the Draft SBP, or produce a revised Draft RIS repeating the earlier process. In the event that a revised Draft RIS is the option the Secretary of State wishes to pursue, sections 6.14 to 6.16 of the Licence are repeated. This implies that we would not be required to assess a revised Draft RIS, Draft SBP or perform a second Efficiency Review. However, if considered necessary, the Secretary of State may request additional advice from ORR on a revised Draft RIS and/or Draft SBP.
- 6.2 Once the Draft RIS and Draft SBP have been finalised they will be published by the Secretary of State and Highways England respectively.
- 6.3 In the event that the Secretary of State and Highways England fail to agree the Draft RIS and/or Draft SBP, the Secretary of State is able to determine the final content of both.
- 6.4 Given the above, we believe our role is reactive unless the Secretary of State produces a revised Draft RIS or advice is requested of us directly. In the event that the Secretary of State asks for further advice, we will work closely with him and Highways England.

Our approach

- 6.5 The phrasing in the Licence implies that the most active part of our role ultimately culminates in our advice to the Secretary of State on the Draft SBP and the Efficiency Review.
- 6.6 In the event that the Secretary of State wishes to request further advice from us, we will ultimately apply the same guiding principles set out in this document. In particular, we will look at the strength of the evidence base and the quality and extent of stakeholder engagement in informing the proposals.

7. Mobilisation and Delivery

Requirements

- 7.1 Once the Draft RIS and Draft SBP have been finalised, Highways England is required to ready itself to be in a position to deliver its commitments at the start of the new Road Period. A key part of this is the production of the new Delivery Plan.
- 7.2 The Delivery Plan is a detailed description of how Highways England will deliver the final SBP. Highways England is required to produce a Draft Delivery Plan and provide it to the Secretary of State for approval. In preparing this document, Highways England is required to engage with ORR and take account of our views on the format and level of detail.
- 7.3 Following the Secretary of State's approval of a Draft SBP and Draft Delivery Plan, and issuing of a final RIS, Highways England must publish and deliver the final SBP and Delivery Plan. We interpret this as being a clear statement that delivering the final SBP and meeting the Delivery Plan are requirements of the Licence.
- 7.4 Every year, Highways England is required to report to ORR on the progress it has made relative to the SBP and Delivery Plan. The process involves Highways England providing us with a draft report for approval and a copy to the Secretary of State for information. After it has met these conditions, Highways England is required to publish its final report.
- 7.5 Also on an annual basis, Highways England is required to update its Delivery Plan, submitting a draft update to the Secretary of State for approval. The updated Delivery Plan must be consistent with the original and must not contain any material revisions. When the Secretary of State has confirmed he is satisfied this is the case, the updated Delivery Plan must be published.

Our approach

- 7.6 We believe it is clear that there is a requirement on Highways England to prepare itself for the commitments it must deliver in the next Road Period well in advance. We would encourage it to bear this in mind throughout the development of RIS2 and to carefully consider how it would deliver its commitments. We expect it to apply intelligence from RIS1 to how it takes forward its RIS2 commitments.
- 7.7 The Delivery Plan will reflect the key provisions in the Final RIS and SBP. Consequently, the focus of the Delivery Plan should be on making the commitments

clear and measurable so that we are able to move from working with partners on RIS2 to monitoring performance against the new regime.

- 7.8 As mentioned elsewhere, we believe that there should be as much clarity as possible on what Highways England is required to achieve. This should be clearly laid out in the Delivery Plan.
- 7.9 We believe care should be taken in ensuring that the Delivery Plan reflects what is important in the next RIS and the Performance Specification and considers the impact of the full range of obligations on Highways England. Throughout our involvement in RIS2 we will return back to what is deliverable and meaningful to road users, and will be mindful not only of the investment and performance challenges but also those resource burdens that may arise from multiple smaller operational obligations, plus any impacts of ongoing commitments. Our experience in monitoring the challenges that have arisen in RIS1 puts us in a unique position to advise on these matters.
- 7.10 How the Delivery Plan is framed is important for our ongoing monitoring of Highways England's performance. The obligations should be clear, easily understood and capable of being challenged. We would expect Highways England to engage us on the specifics of the wording of the obligations and any methodological elements which underpin them. This includes any updates to the existing documentation that we use in our day-to-day monitoring, such as the Operational Metrics Manual, Efficiency and Inflation Monitoring Manual and their potential replacements.
- 7.11 We anticipate a continued obligation in the Delivery Plan on Highways England in relation to progress against the investment plan. In the event that this is the case, we would expect that there would be measurement of pre-construction progress of major projects to allow us and stakeholders to take a more informed view of whether Highways England is on track with its plans.
- 7.12 Step 7 of the Licence sets out a number of linkages with the Delivery Plan. On an annual basis Highways England must report to us on progress against the Final SBP and the Delivery Plan. Highways England is also required to update its Delivery Plan on an annual basis, submitting a draft to the Secretary of State. Taking these two obligations, the Licence implies that the SBP and Delivery Plan must be met, but that there can be changes on an annual basis to what the Delivery Plan requires. We suggest that the interactions between the Licence and the delivery of the RIS are considered by the Secretary of State as part of the RIS2 process. This is particularly important given there are a number of other features in the Licence that are legacy issues of RIS1 – such as the requirement to publish certain strategic plans. We

would also expect that as part of these considerations, the effectiveness of Change Control, and how it is reflected in the Licence, is assessed.

8. Next steps

- 8.1 This document constitutes advice to the Secretary of State under section 10 of the Infrastructure Act 2015. We have sought to distinguish between the Secretary of State and DfT where practicable. In some areas the distinction is not a meaningful one and we have applied our judgement as appropriate.
- 8.2 The advice contained in this document is designed to allow the RIS2 development process to be effective and to prevent misalignment of expectations across the key partners involved in RIS2.
- 8.3 We will continue to remain an active part of the governance process led by DfT. As such we will work constructively and openly with the various stakeholders involved in the process.
- 8.4 We will continue to seek opportunities to add to the evidence base through our perspective on the linkages between the highways and rail sectors, and our regulatory knowledge more widely. This will particularly be the case where we believe evidence is lacking and ORR contributing to the debate is consistent with our statutory duties.
- 8.5 This is not a consultation document, but we welcome the opportunity for ongoing engagement with stakeholders in the highways sector on the progress of RIS2 and our role within it. If you would like to discuss with us any issues in this document, please contact highways.monitor@orr.gsi.gov.uk.



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