

Commercial Case

4.1 Purpose

The purpose of this commercial case is to provide evidence on the commercial viability of Key Output 1a and the procurement strategies that will be used.

The Midland Main Line (MML) is part of the strategic rail network and plays a key role in enabling economic, environmental and community benefits at national, regional and local level. It serves a diverse set of markets for rail services including inter-regional, commuter, long distance and freight. (See Figure 1: Midland Main Line).

The Government has committed to a continued programme of investment in rail to meet projected increases in demand from passengers and freight¹. The Government's Transport Investment Strategy commits to maintaining and upgrading our transport infrastructure, to connect communities and businesses and help deliver balanced growth across the country². The Government has also committed to carbon emission, greenhouse gas and air quality targets.³

These commitments are reflected in the DfT's strategic objectives, namely to:

- *Boost economic growth and opportunity;*
- *Build a One Nation Britain;*
- *Improve journeys;*
- *Deliver safe, secure, sustainable transport; and*
- *Promote a culture of efficiency in everything we do.*

The MML KO1a Programme is designed to contribute to the objectives set out above by achieving the following outcomes:

- *Provide modern, flexible rolling stock for Intercity MML services, improving passenger experience;*
- *Increased capacity and reduced crowding on Intercity services;*
- *Improved journey times for Nottingham services*
- *Reduce environmental impact by allowing Intercity services to utilise available electrification infrastructure.*

The purpose of MML Key Output 1a (KO1a) is to enable the use of bi-mode trains on electrified sections of the Midland Mainline, and optimise the benefits of their use. Delivering this outcome will require power infrastructure work to be undertaken by Network Rail.

Key Output 1a will include power connection and reinforcement works near Bedford and Kettering, and Overhead Line Equipment (OLE) improvements on existing infrastructure between Bedford and St Pancras.

¹ National Infrastructure Delivery Plan 2016 -2021, Infrastructure and Projects Authority (reporting to HM Treasury and Cabinet Office) March 2016

² Transport Investment Strategy, Department for Transport, July 2017

³ The Government's first four Carbon Budgets have been set covering the period out to 2027. The Government is also committed to implementing the EU's 2030 Green House Gas (GHG) target of at least a 40% reduction in domestic EU GHG emissions through EU Emission Trading System (EU ETS).

4.2 Output Specification

The outputs and expected outcomes and benefits from the KO1a programme are given in Section 2.4.2 of the Strategic Case.

4.3 Sourcing Options

Infrastructure enhancement works will be delivered by NR who will define the contractual arrangements required for each scheme.

The Department has recently been considering alternative funding and delivery mechanisms to delivery of enhancement programmes. The OBC approved in October 2016 for KO1 concluded that further exploration of this option would likely incur significant delays to delivery timescales, especially as the programme has some projects already in delivery and the procurement for delivery of remaining projects is well advanced. Consideration of alternative delivery models has been undertaken during the development of the East Midlands franchise competition. The current approach has been agreed with the Secretary of State.

The new bi-mode rolling stock will be procured as part of the East Midlands franchise, the Invitation To Tender (ITT) for which is scheduled for April 2018. The new franchise is due to be awarded in April 2019, and begin in August 2019. The detail of the bi-mode specification is still being finalised however it is likely to include requirements such as minimum journey times, carbon emissions targets, capacity and date of fleet introduction. The specification will be brought through the governance boards for final approval at BICC in March 2018.

4.4 Procurement Strategy

4.4.1 Infrastructure Enhancements

Infrastructure enhancements will be managed through the extant CP5 process as refined by the Hendy and Bowe reviews and in line with the DfT and NR MOU signed in March 2016⁴. The governance structure put in place is set out in section 1.4 of the Programme Management case.

Delivery of rail infrastructure enhancements is the responsibility of NR and its sub-contractors whilst rolling stock procurement will be delivered through the new franchise.

The infrastructure outputs required are outlined in Figure 2 (section 2.3.2) in the strategic case. The outputs include power connection and reinforcement works near Bedford and Kettering, and Overhead Line Equipment (OLE) improvements on existing infrastructure between Bedford and St Pancras.

NR Sponsor teams will deliver the required enhancements through the NR Infrastructure Projects team and through further contractual arrangements as required. Contractual arrangements will be developed on a scheme by scheme basis by NR and are subject to NR's governance processes.

4.4.2 Programme Delivery Statement

A Programme Delivery Statement (PDS) was agreed between NR and DfT as part of the development of MML KO1, which establishes a contractual type arrangement for delivery of enhancements.

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509545/mou-dft-network-rail-rail-enhancements.pdf dated March 2016

The PDS has been created in response to the recommendations of the Bowe Review and the February 2017 GIAA Report on the impact of the Bowe and Hendy Reviews. The MML programme is the first enhancement programme to use a document of this kind.

The PDS provides clarity regarding the:

- i. definition of the programme and outputs to be delivered by NR;
- ii. funding envelope within which this shall be delivered;
- iii. governance arrangements and change processes;
- iv. delivery schedule; and
- v. roles to be played and behaviours to be enacted by DfT and NR.

Once the scope and deliverables for KO1a are set (i.e. at 'commit to deliver' / Full Business Case stage), the PDS will be updated to include delivery output, programme schedule, and funding information for KO1a.

The PDS will also be used as the basis for infrastructure assumptions included in the relevant franchise agreements by DfT. The aim of the PDS is to foster a productive and clear relationship between DfT and NR. It has been prepared to impose similar commitments on each party to encourage reciprocity.

The PDS does not create a contractual relationship as this would not be actionable between DfT and NR. It also does not alter relationships with any third parties, or any legal or regulatory agreements.

Although the PDS is a new document agreed between DfT and NR, it formalises working practices that are already in place. It will therefore create greater clarity in delivery of KO1a and not create any delivery risks to the programme. The PDS will continue to be evaluated by DfT and NR programme teams after implementation to monitor its effectiveness. It can then be used as a template for use on other enhancement programmes as appropriate.

The PDS for Key Output 1 is attached as an Annex A to this document.

4.4.3 Network Rail Procurement

The appropriateness of the procurement strategy for KO1a will be considered by NR's internal governance and does not fall within the remit of DfT decision making. Owing to the level of maturity of the KO1a schemes the procurement and contract strategies are still being developed. DfT will work with NR to clarify their recommended strategies as they are developed.

An external technical assurer will review the cost, schedule and risk profile as part of the development phase. The outputs of this assurance review will be incorporated in the FBC.

4.4.3 Franchise

DfT Network Services and Passenger Services are working closely together to ensure the expectations for infrastructure delivery remain aligned with the development of the ITT for the new franchise. See section 1.2 of the Programme Management Case for more detail.

The Rail Group approach to rail franchising draws upon the recommendations of the Brown report and the Department's response to that report. The development of the specification will be delivered

in liaison with colleagues across the Department. The team will seek to implement the existing policies of the Department and will seek to explore improvements where appropriate. The Franchise Policy Development team will assist in the development and implementation of rail franchising policy that is designed to consistently deliver the Department's objectives for the franchising programme.

The franchise will be conducted in line with the Department's Franchise Competition Guide (updated February 2016). A more detailed commercial approach will be developed as part of the franchise competition project. Lessons learned from previous franchise competitions, particularly those that interacted with other enhancement schemes, have been (and will continue to be) incorporated into the development of the ITT.

4.5 Risk Allocation and Transfer

Risks to the programme will be managed between the programme team, franchise competition team and NR as appropriate. Ultimately the Department will continue to hold the reputational and cost risks of services, franchising and infrastructure issues irrespective of who is best placed to manage those risks. The approach to management of risk in the programme is set out in Section 1.4.7 of the Programme Management Case.

NR will manage the delivery risks. Risks relating to the interface with other strategic rail priorities (i.e. Thameslink, HS2, Rolling Stock, Franchise etc.) are discussed and managed through the DfT MML Integration Group. DfT risk to the business case and programme outcomes will be managed via the relevant DfT governance and management arrangements.

Technical and commercial risks relating to the delivery of the infrastructure enhancements will mostly be held and managed by NR. Significant risks will be reviewed through the MML Programme Board. NR will seek to transfer technical and delivery risks to its contractors where possible incentivising contracts to minimise cost, schedule and quality risks.

A NR Quantitative Cost Risk Assessment (QCRA) will be undertaken after OBC stage and before FBC stage for KO1a. The output of this QCRA process is a risk exposure which will inform the contingency for each project and for the overall KO1a programme. To provide a level of confidence in the resulting contingency figures, the DfT will undertake an Independent Assurance Review of the Cost estimate/QCRA/QSRA process.

Network Rail manage infrastructure delivery risk in accordance with their own risk management policy. A system integration function is being developed with Network Rail, expected to be operational from March 2018, which will include the management and consolidation of industry level risk against the delivery of the programme outcomes and includes risks identified by the integration groups and the East Midlands franchise. For more information on the system integration function see the Management Case.

4.6 Human Resource issues including TUPE

Network Rail has established a separate multi-discipline development team for KO1a; this team is working closely with the KO1 Delivery team and contractors in order to maximise lessons learnt and use of pre-pause development work. The KO1a team are looking to progress development so that detailed design and implementation can commence in 2019 to meet the December 2023 Entry Into Service date. These timescales will provide continuity for the KO1 delivery team and the supply chain. It is expected that this will support up to 800 jobs outside Network Rail.

4.7 Implementation (Contract) Timescales

The key programme milestones / deliverables are summarised in the table below:

Milestone / Deliverable	Target Date
Outline Business Case for MML Programme KO1a to RIB	Jan 2018
Outline Business Case for EM franchise ITT to BICC	Mar 2018
Extension of EM franchise Direct Award	Mar 2018 (to Aug 2019)
EM franchise ITT published	Apr 2018
Full Business Case for MML Programme KO1a	Jan 2019
EM franchise award	Apr 2019
Start of new EM franchise	Aug 2019
First new bi-mode train in service	2022
KO1a delivery completion	2023

4.8 Contract Management Approach

NR will develop the contractual management requirements for schemes within KO1a. DfT will have oversight of contractual performance and issues arising from their contracts through the MML Programme Board. The NR sponsor team will ensure that delivery of the schemes through NR Infrastructure Projects is consistent with maximising value for the Department and for the public.