

Statement of Common Ground between Transport for London (TfL) and Lidoka Estates Limited (LEL)

15 November 2016

MAYOR OF LONDON



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Silvertown Tunnel

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Comment [s1]: Should London Evening Standard and RBG be party to this SoCG as the sub-leases?

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SOCG Document Reference: SoCG032

Author: Transport for London

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1. Introduction

1.1 Purpose of the document

- 1.1.1 This Statement of Common Ground (SoCG) is submitted to the Examining Authority in relation to the application by Transport for London (TfL) under section 37 of the Planning Act 2008 (the Act) for an order granting development consent for the construction of the Silvertown Tunnel (the Scheme).
- 1.1.2 The aim of this SoCG is to provide a clear record of the issues discussed and the current status of those discussions. The SoCG can be used as evidence of these discussions in representations to the Examining Authority as part of its examination of the DCO application.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This Statement of Common Ground (SoCG) has been jointly prepared by TfL and Lidoka Estates Limited. It sets out matters which are agreed between both parties, as well as matters which are not agreed and matters which are under discussion.

1.3 Structure of the Statement of Common Ground

- 1.3.1 This SoCG comprises six sections:
- 1.3.2 **Section 1** is an introduction to the SoCG and the Scheme;
- 1.3.3 **Section 2** provides an overview of consultation to date between TfL and Lidoka Estates Limited;
- 1.3.4 **Section 3** provides a summary of the main areas and topics covered by this SoCG;
- 1.3.5 **Section 4** provides a list of matters agreed;
- 1.3.6 **Section 5** provides a list of matters not agreed;
- 1.3.7 **Section 6** provides a list of matters still under discussion; and
- 1.3.8 **Section 7** contains the parties' signatures.

1.4 The proposed scheme

- 1.4.1 The Scheme involves the construction of a twin bore road tunnel providing a new connection between the A102 Blackwall Tunnel Approach on Greenwich Peninsula (Royal Borough of Greenwich) and the Tidal Basin roundabout junction on the A1020 Lower Lea Crossing/Silvertown Way (London Borough of Newham). The Silvertown Tunnel will be approximately 1.4km long and will be able to accommodate large vehicles including double-deck buses. It will include a dedicated bus, coach and goods vehicle lane.
- 1.4.2 The Scheme also includes the introduction of free-flow user charging at both the Blackwall Tunnel (northern portal located in London Borough of Tower Hamlets) and the new Silvertown Tunnel.
- 1.4.3 On the north side, the tunnel approach road connects to the Tidal Basin Roundabout, which will be altered to create a new signal-controlled roundabout linking the Silvertown Way, Dock Road and the Lower Lea Crossing. Dock Road will be realigned to accommodate the new tunnel and approach road. On the south side, the A102 will be widened to create new slip road links to the Silvertown Tunnel. A new flyover will be built to take southbound traffic exiting the Blackwall Tunnel over the northbound approach to the Silvertown Tunnel. The Scheme includes minor changes to Tunnel Avenue including the removal of the bus-only gate allowing access for all vehicles between Blackwall Lane and Ordnance Crescent. The Boord Street footbridge over the A102 will be replaced with a pedestrian and cycle bridge.
- 1.4.4 New portal buildings will be located close to each tunnel portal to house the plant and equipment necessary to operate the tunnel.
- 1.4.5 Main construction works could commence in late 2018 and will last approximately 4 years with the new tunnel opening planned for 2022/23. A Tunnel Boring Machine (TBM) will be used to bore the main tunnel sections under the river with shorter sections of cut and cover tunnel at either end linking the bored sections of the tunnel to the portals. The proposal is to erect and launch the TBM from specially constructed chambers at Silvertown and Greenwich Peninsula where the bored sections and cut and cover sections of the tunnel connect. The main construction worksite will be located at Silvertown, utilising the existing barge facilities at Thames Wharf along with a new temporary jetty for the removal of spoil and delivery of materials by river. A secondary worksite will be located adjacent to the alignment of the proposed cut and cover tunnel on the Greenwich Peninsula.

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1.5 Introduction to Lidoka Estates Limited

- 1.5.1 This SoCG is with Lidoka Estates Limited (LEL). LEL has owned land at Boord Street on the Greenwich Peninsula, which is some 2.3 acres between Tunnel Approach and Millennium Way for almost 80 years (since the mid 1930s). Initially, the site consisted of back-to-back housing, but in the early 1970s, the site was cleared and let to the Royal Borough of Greenwich (RBG) on a long lease (99 years in 1972).
- 1.5.2 RBG used it for many years as a lorry park but since August 2013 have sub-let the site to The London Evening Standard (TLES) who now use it as their London Distribution Centre. TLES also sub-lease parts of the site to two other businesses (RRS and AusTrans).
- 1.5.3 LEL have a significant interest in the Silvertown Tunnel proposals as they include plans for TfL to acquire parts of the LEL site temporarily during construction of the tunnel (Land Parcels 01-046 and 01-047 on Land Plans Regulation 5(2)(i) Sheet 1 of 7 . drawing no. ST150030-MCO-ZZZ-06-DR-XS-0) and a proposal to acquire a permanent easement to enable emergency fire access for the neighbouring Studio 338 nightclub (Land Parcel 01-058 on Land Plans Regulation 5(2)(i) Sheet 1 of 7 . drawing no. ST150030-MCO-ZZZ-06-DR-XS-0).
- 1.5.4 On 8th August 2016, Studio 338 was destroyed by a fire. At the time of writing, Studio 338 had not confirmed their intentions for their site and TfL have not sought to change the proposals shown on Land Plans Regulation 5(2)(i) Sheet 1 of 7 . drawing no, ST150030-MCO-ZZZ-06-DR-XS-0. Both TfL and LEL await any announcements from Studio 338 and discussions between TfL and Studio 338 continue (as of 10th October 2016). Consequently, the situation relating to the LEL site could change.

2. Record of engagement undertaken

2.1 Key meetings

2.1.1 A summary of the key meetings and correspondence that has taken place between TfL and LEL is outlined in the table below.

Date	Form of correspondence	Key outcomes and points of discussion
16.06.14	Attended Land Interest Liaison meeting.	
02.10.14	Meeting	
16.02.15	Meeting	
22.06.15	Meeting	<p>TfL confirmed timeline for the DCO process.</p> <p>TfL and LEL agreed that stopping up one end of Boord St would have little impact on LEL's tenants' activities.</p> <p>TfL sent safeguarding plan to LEL.</p> <p>Options discussed regarding new access to Studio 338. LEL did not wish to sell TfL a freehold of a south-western portion of their holding, but requested TfL consider taking a lease. TfL to consider.</p>
16.10.15	Meeting	<p>Application timetable.</p> <p>Loss of access to Studio 338 from Dreadnought Street.</p> <p>Proposed new Studio 338 access, if inadequate some LEL land required permanently, otherwise is a temporary construction requirement.</p> <p>LEL strongly opposed selling land for re-routing the fire</p>

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		<p>escape. Instead LEL's strong preference was for land to be on a lease.</p> <p>LEL also stated that it did not seem appropriate to protect Studio 338's commercial interest at the expense of the London Evening Standard's land interest and that both business interests needed equal and appropriate consideration..</p> <p>Land required would reduce further if trees removed . tree survey needed.</p> <p>Timescale for how long land could be required.</p> <p>Other land options considered.</p> <p>Compensation requirements.</p>
02.10.15	S.42 letter sent from TfL to LEL	
29.11.15	Consultation response letter received	<p>LEL supports the Scheme. LEL objects to the temporary use of their land during construction as it is in active use. Want other sites to be considered.</p> <p>LEL has strong objection to use of LEL land to provide fire access for Studio 338 as Studio 338's commercial gain would be at LEL's/London Evening Standard's expense.</p>
17.02.16	TfL email to LEL attaching plan showing latest proposals.	
24.02.16	Meeting	<p>TfL confirmed permanent land-take requirements for Studio 338 fire escape and clarified the extent of LEL's holding.</p>

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		<p>LEL gave alternate proposals for a Studio 338 fire escape route. TFL explained that these would conflict with the replacement footbridge plans. LEL stated main objections to the fire escape land-take: antisocial behaviour and loss of land which is in active business use.</p> <p>TfL and Pinsent Masons confirmed TfL would be willing to seek an agreement with LEL to give greater certainty and that TfL will meet LEL's reasonable professional fees.</p> <p>LEL expressed disappointment that the fire escape land issue had been raised at a late stage. TfL explained the need for a fire escape had only arisen following consultation with Studio 338.</p> <p>TfL to send draft Head of Terms and technical notes to LEL.</p> <p>LEL to consider seeking an agreement to take effect in the event of compulsory acquisition.</p>
18.03.16	LEL email to TfL	<p>LEL asked for the following:</p> <ul style="list-style-type: none"> Obtain a copy of TfL's note of the 24th February 2016 meeting with LEL Obtain a copy of the revised Proposals Plan from TfL (TfL agreed to revise the plan in line with comments made by LEL in the meeting) Obtain a copy of the photos that TfL have of the paper recycling

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		<p>facility</p> <p>Obtain a copy of the Tree Survey from TfL (especially now that it appears that the trees are within LEL's land ownership)</p> <p>Obtain a copy of the Studio 338 Fire Escape Plan from TfL</p>
23.03.16	TfL email LEL with draft meeting minutes and draft Heads of Terms	
23.03.16	Draft Heads of Terms issued by TfL	<p>Heads of Terms include:</p> <p>TfL is proposing to occupy the Temporary Land for a period of 15 months.</p> <p>TfL wishes to acquire the Permanent Land in order to establish a public right of way.</p> <p>TfL wishes to acquire the Fire Escape Land to provide a fire egress route for the benefit of the land which Studio 388 occupies. The agreement provides for the construction of a boundary wall to avoid adversely affecting the remainder of the Subject Land.</p>
01.04.16	TfL email LEL attaching plan	
07.04.16	LEL email to TfL	<p>Asking for larger plan and for amendments to last meeting minutes. Also asking for tree survey and fire escape report.</p>
09.05.16	TfL email to LEL	<p>Informed them that DCO application now submitted.</p> <p>Amended the last meeting minutes as per Lidoka's request.</p>
20.07.16	Fire report from for Studio 338 sent to LEL	

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11.08.16	LEL call TfL and leave message.	Request discussion about S.56 response they have submitted and Studio 338 fire implications.
12.08.16	Phone call between TfL and LEL	Discuss possible Studio 338 fire implications, including what if any requirement there might now be for use of LEL land, use of advisers, fees - including costs of amending leases between LEL and RBG and RBG and The London Evening Standard, (NB it is very important to LEL that the lease between LEL and RBG should not be frustrated) . and S.56 response. LEL expressed strong view that fatality during fire when only 6 people were in the building raised serious concerns about the safety of the building itself when there might be 3000 customers, irrespective of the fire escape arrangements
12.08.16	LEL forward their S.56 response to TfL	
15.08.16	TfL email a note of the 12.08.16 phone call to Lidoka	
07.09.16	TfL email note of 12 August phone call to LEL amended for LEL comments.	
16.09.16	Call between TfL (Ardent) and Martin Crane (LEL)	Discussion re: recovery of reasonable professional and legal fees.
16.09.16	Email from TfL (Ardent) to Martin Crane (LEL)	Email setting out agreement to underwrite reasonable professional and legal fees.
17.09.16	Email from LEL (Martin Crane) to TfL.	Queries re: status of Studio 338 and requirement for fire exits . both temporary and permanent - (following fire at nightclub).

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		Queries over access over Boord St and Millennium Way.
19.09.16	Email from TfL (Ardent) to LEL (Martin Crane).	Responding to queries over requirement for Studio 338 fire exit, stating that the assumption has to be, at present, that the business will return and operate as was the position when the DCO was submitted.
20.09.16	Email from LEL (Martin Crane) to TfL.	Follow up questions re: planning position if Studio 338 was to seek to re-open and how TfL might respond if Studio 338 submitted a planning application to re-open.
20.09.16	Email from TfL (Ardent) to LEL (Martin Crane).	Email responding to position re: planning if required for re-opening of Studio 338, stating that it could not speculate on how TfL may respond if Studio 338 submitted a planning application (to re-open) as it was subject to a number of variables such as the development proposals themselves, the timing of any planning application, and where the Silvertown Tunnel project was in the consenting/delivery programme.
21.09.16	Email from TfL to LEL (Martin Crane).	Email responding to access queries in email sent 17.09.16.
22.09.16	Telephone call between TfL (Ardent) and LEL (Martin Crane).	Conversation covered planning discussions, lease arrangements for LEL site, and appearance at preliminary hearing. Concerns still expressed by LEL about the need for fire exit land given the fire that destroyed Studio 338.

3. Topics contained within this SoCG

3.1 Topics included in SoCG

3.1.1 The following topics have been discussed with LEL:

- Need to relieve the Blackwall Tunnel/ need for Silvertown Tunnel
- Access options for Studio 338
- Potential need for permanent land for Studio 338 access/ fire escape provision
- Need for temporary use of LEL land during construction
- Alternative land use options
- Need for permanent land to enable an adoptable public highway access for Studio 338 once the footbridge is constructed

4. Matters agreed

Ref	Description of matter	Details of agreement	Record of agreement
4.1 The need for the Silvertown Tunnel			
4.1.1	Support the Silvertown Tunnel in principle.	LEL support the tunnel as a means to address congestion and closures at Blackwall Tunnel and support future growth.	Consultation response received 29.11.15
4.2 Land Requirements			
4.2.1	Permanent acquisition of land parcel 01-046, subject to conditions being met.	Prior to the Studio 338 fire on 10 th August 2016, LEL stated it would consider granting TfL an option to permanently acquire land parcel 01-046 provided that access to the LEL site in this location is not affected and subject to the terms set out in the draft Heads of Terms/ <u>Option</u> Agreement. LEL understand that this land is essential to enable an adoptable public highway access for	Written in S.56 Relevant Representation submitted to PINS 09.08.16

Comment [I2]: Donq think we should append HOTs. We wond with other parties and should remain confidential.

Comment [s3]: LEL agree to simply refer to the HoTs and not to append them

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		<p>Studio 338 once the footbridge is constructed.</p> <p>Since the Studio 338 fire, TfL and LEL are awaiting a decision on if and when it will be rebuilt. Until plans are known it is impossible to know if any public highway access for Studio 338 is still required</p> <p>Meetings are ongoing between TfL and Studio 338 (as of 10.10.16).</p>	
4.2.2	<p>Temporary acquisition of construction land (land parcel 01-047), subject to conditions being met.</p>	<p>LEL agreed that if there is no alternative (TfL to demonstrate this) then TfL can use the site so long as it is for as short a period as possible (expected period is 15 months) subject to conditions as set out in the draft Heads of Terms/Option Agreement and if TfL are precise as to when they require it and for how long. Site to be returned to a state as pre-agreed with LEL.</p>	<p>Written in S.56 Relevant Representation submitted to PINS 09.08.16</p>

5. Matters still under discussion

Ref	Description of stakeholder issue	Transport for London response	Current position	Record of agreement
5.1.1	<p>TfL should be required to recognise that Studio 338 situation after the fire has now changed from when the draft DCO was submitted and should revise its proposals accordingly. Studio 338 should not be allowed to prevaricate and hold all involved to ransom especially if this involves upsetting operations on a site that is commercially active.</p> <p>It is unreasonable that Studio 338 commercial interests should take precedence over those of other surrounding landowners. If Studio 338 reinstate their operations, they should be obliged to provide all the relevant development required (including the required fire escapes) on their own land</p>	<p>TfL is still waiting to see Studio 338 position and if a planning application is submitted for rebuilding the club. Until more is known TfL has to proceed on the basis of requiring</p>		

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	<p>or other land that they have acquired but certainly not on land that they do not own and without that landowner's agreement.</p> <p>(NB this should be read in conjunction with our points in 5.1 above, where LEL argue that the proposed fire escape route is in any case ill-conceived and does not provide the necessary assurance that those inside will be able to escape in the event of a fire or other emergency. In particular, it should be remembered that, when during the recent fire there were no more than SIX people in the building, only FIVE were able to get out alive. Is Studio 338 not unsafe at any price?)</p>	<p>LEL land for fire escape provision.</p> <p>TfL's intention has been to mitigate the scheme impacts on operational businesses.</p>		
5.1.2	<p>TfL should also reimburse any costs incurred in amending the leases between LEL and RBG and between RBG and the London Evening Standard, if required to put into effect changes to accommodate Silvertown tunnel proposals</p>	<p>TfL has undertaken to cover the professional fees associated</p>		

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		with amending existing leases.		
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6. Matters not agreed

Ref	Description of stakeholder issue	Transport for London response	Current position	Record of agreement
6.1 Studio 338 Fire Escape access				
6.1.1	<p>Permanent easement plot (01-058). LEL's main concern relates to this plot, which is intended to provide permanent emergency fire access for Studio 338 night club. The Silvertown Tunnel scheme will remove land currently used by the nightclub for means of fire escape. LEL consider that the replacement fire escape route is ill-conceived and will not secure the safety of nightclub customers and object to it being provided on their land which will upset active commercial uses (LES London Distribution Centre).</p> <p>LEL have reviewed the Studio 338 Fire</p>	<p>TfL's intention has been to mitigate the scheme impacts on operational businesses.</p>	<p>Studio 338 suffered a major fire on 08.08.16</p> <p>Awaiting a decision on if and when it will be rebuilt. Until plans are known it is impossible to know if any fire escape land requirements remain.</p> <p>Meetings are ongoing between TfL and Studio 338 (as of 10.10.16).</p>	<p>Written in S.56 Relevant Representation submitted to PINS 09.08.16</p>

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<p>Escape Provision Report by Atkins dated July 2016. As well as some detailed points, they are not convinced that the capacity assumptions in Section 3.2.2 of the report are realistic as to potential numbers on busy nights. The nightclub has a 3,000-person capacity which is not referenced anywhere in the report. Section 3.4 refers to stacking capacity; however, in an emergency a stampede effect is much more likely, with everyone desperate to leave. Are concerned that a wider route could require additional LEL land-take.</p> <p>LEL also disagrees that TfL needs to permanently acquire, as opposed to taking a lease over, the required land if there is no alternative (TfL to demonstrate this). The whole site is currently on a long lease to RBG who have subleased it to the London Evening Standard and LEL wishes to maintain the integrity of the site as a single leasehold</p>			
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<p>with subleases.</p> <p>If TfL acquires the land, they have offered to give LEL the option of purchasing back the land when it is no longer required (subject to draft Heads of Terms/Option Agreement). LEL's preference is for TfL to temporarily rent the land needed (on terms agreed in the Heads of Terms/Option Agreement) for as long as they need the land only. Whilst Lidoka and TfL disagree regarding the above land-take, the parties agree that in the event of its occurrence the following condition would apply:</p> <p>A new boundary wall would be required to separate the 01-058 land-take from LEL's remaining plot, and there is provision for TfL to consult with LEL on further details regarding such a wall and general maintenance responsibilities relating to the LEL land including lighting, drainage, disposal of rubbish etc.) will be</p>		<p>If TfL acquires the site, TfL have offered to give LEL the option of purchasing back the land when it is no longer required (see Heads of Terms/Option Agreement)</p>	
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	the responsibility of TfL and/or Studio 338			
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7. Agreement

Signed	
Name	
Position	
Company	
Date	
Signed	
Name	
Position	
Company	
Date	