



## **North East Combined Authority, Leadership Board**

Tuesday 19th July, 2016 at 2.00 pm

Meeting to be held in a Committee Room, Northumberland County Council, County Hall,  
Morpeth, NE61 2EF

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## **SUPPLEMENTAL AGENDA 2**

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**To All Members**

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## North East Combined Authority

### Leadership Board

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**DATE:** 19 July 2016  
**SUBJECT:** Devolution Update  
**REPORT OF:** Head of Paid Service

#### **EXECUTIVE SUMMARY**

The purpose of this report is to update the Leadership Board on the assurances sought from Government following the result of the EU Referendum on the provisions of the Devolution Agreement for the North East.

#### **RECOMMENDATIONS**

The Leadership Board is recommended to:

- (1) Note the content of the report and consider next steps to be taken in relation to the North East Devolution Agreement.

# North East Combined Authority

## Leadership Board

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### 1 Background Information

- 1.1 On the 17<sup>th</sup> May the North East Combined Authority (NECA) Leadership Board endorsed the proposed Devolution Agreement and agreed to the establishment of the North East Combined Authority as a Mayoral Combined Authority.
- 1.2 On the 4<sup>th</sup> July the Leadership Board received a report summarising the review undertaken into the functions exercised by NECA and its governance arrangements and how additional powers and functions given to NECA would be likely to improve the exercise of statutory functions in the NECA area.
- 1.3 At the Leadership Board meeting on the 4<sup>th</sup> July it was agreed that NECA would write to Government and request assurances that the terms of the Devolution Agreement of October 2015 would be fully committed to; and that upon the receipt and consideration of those assurances the Leadership Board would further consider approving the scheme prior to agreeing its publication. A letter was sent to Government on the 7<sup>th</sup> July and a response was received on the 13<sup>th</sup> July.

### 2 Feedback from Government

- 2.1 The letter received on the 13<sup>th</sup> July from the Secretary of State confirms Government's commitment to the North East Devolution Agreement. The letter emphasises the point that devolution is more important than ever considering recent events and sets out a radically expanded role for Local Government moving forward.
- 2.2 The letter sets out the progress on implementing the deal including the Order establishing the position of a Mayor for the North East and the importance of the local consultation on the draft scheme commencing as soon as possible.
- 2.3 In addition to the benefits of the deal, the Secretary of State emphasises the benefits afforded to Mayoral Combined Authority in regards to Local Growth Fund, the submission for which is due the end of July.
- 2.4 The Secretary of State has committed to allowing councils to retain 100% of the taxes raised locally to support economic growth and refers to the consultation document published recently on the matter in addition to the call for evidence for the Fair Funding Review.
- 2.4 In regards to the potential impact on EU funds, the Secretary of State recognises the concerns of the North East and states that work is ongoing to ensure that the implication for local economies and the role of EU funds is fully considered and that an update on future funding will be provided shortly.

# North East Combined Authority

## Leadership Board

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### **3 Next Steps**

- 3.1 Following the assurances received from Government if the Leadership Board endorses the conclusion of the Governance Review and approves the Scheme, the Scheme will be published and forwarded to the Department for Communities and Local Government (DCLG). The Scheme will also be subject to extensive public consultation for a period of 6 weeks. A summary of the consultation responses will be forwarded to DCLG at the conclusion of the consultation exercise.

### **4 Potential Impact on Objectives**

- 4.1 If the Leadership Board endorses the findings of the Governance Review and approves the Scheme, the Leadership Board will have started the process of devolving powers from central government to the North East of England and for those powers to be exercised by those democratically elected by the people of the North East. This will have a positive impact on the objectives of NECA.

### **5 Finance and Other Resources**

- 5.1 The financial implications of the devolution deal itself were set out in the previous report on the Devolution Agreement agreed by the Leadership Board at its meeting on 17<sup>th</sup> May 2016.
- 5.2 The estimated additional costs of the consultation process relate mainly to the cost of printed materials and is estimated to be up to £3,000. This and the cost of the use of existing officer time will be met from within the NECA Devolution budget.

### **6 Legal**

- 6.1 As part of NECA's Devolution Agreement, additional powers and responsibilities are to be conferred on NECA by central government.

As part of that process, a Governance Review must be undertaken under Section 111 of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") to review how NECA currently exercises its powers and to ascertain if there can be an improvement in this regard by having the further powers conferred on it as set out in the Devolution Agreement. The conclusion of the Governance Review is that the exercise of the power by the Secretary of State to make an Order conferring powers on NECA would indeed be likely to improve the exercise of the statutory functions in the combined area.

The 2009 Act is enabling legislation and any powers conferred on a Combined Authority under the Act can only be achieved by way of Order. Such Orders can

# North East Combined Authority

## Leadership Board

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only be made with the consent of the Constituent Authorities and the Leadership Board.

The Secretary of State may make Orders under section 105 (exercise of local authority functions) or section 105A (other public authority functions – “public authority” includes Minister of the Crown or government department) of the 2009 Act conferring those powers to NECA. It is proposed that any powers conferred on NECA under such Orders will be exercisable by NECA concurrently with the public authority or local authority as appropriate. Such Order could not be made unless the consent of the Leadership Board and each Constituent Authority is given to such an Order. In relation to an Order made under section 105A the Secretary of State has to inform Parliament in a report of the consultation that he has taken into account when considering the appropriateness of making the Order. It is therefore essential that public consultation take place and the Secretary of State is made fully aware of the process of consultation undertaken.

Sections 114 and 116 of the 2009 Act enable the Secretary of State when making the Order to make incidental or consequential amendments to legislation to give the Order full effect or to amend, repeal or revoke provisions contained in an enactment to ensure that an Order is effective.

There is a duty placed on the Secretary of State under section 106 of the 2009 Act to make an Order removing an authority that does not consent to the creation of a Mayoral Combined Authority from NECA where NECA and at least 2 Constituent Authorities do consent. In doing so, the Secretary of State must as part of that Order designate the non-consenting Authority a Local Transport Area for the purposes of the Transport Act 2000. Such legislative changes as are necessary will be included in the Order excluding the non-consenting Authority.

The Order establishing NECA in 2014 will be amended to reflect changes to the governance arrangements. The proposed changes are set out in the Scheme including the proposed change to the name of the Authority from the Durham, Gateshead, Newcastle-upon-Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority to the North East Combined Authority.

In terms of decision-making the express preference of the Leadership Board is to take decisions on a consensus basis. However in the absence of consensus a decision to approve the Governance Review and Scheme and to proceed with consultation requires the support of the voting Members of the Leadership Board on a simple majority basis.

# North East Combined Authority

## Leadership Board

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### 7 Other Considerations

#### 7.1 Consultation/Community Engagement

The details of the approach to consultation were agreed at the meeting of the Leadership Board on 21 June 2016.

#### 7.2 Human Rights

There are no specific human rights implications arising from this report.

#### 7.3 Equalities and Diversity

There are no equalities and diversity implications in relation to this report.

To ensure compliance with the public sector equality duty in the Equality Act 2010, the Governance Review and Scheme have identified a need for NECA to become a 'public body' for the purposes of the Equality Act 2010. This will place a duty on NECA and the Mayor when exercising the functions set out in the Scheme must do so having regard to the public sector equality duty.

#### 7.4 Risk Management

There are no specific risk management implications arising from this report.

#### 7.5 Crime and Disorder

There are no specific crime and disorder implications arising from this report.

#### 7.6 Environment and Sustainability

There are no specific environment and sustainability implications arising from this report.

### 8 Background Documents

- The NECA Devolution Agreement
- Letter received from Secretary of State for Communities and Local government, dated 13<sup>th</sup> July 2016

### 9 Links to the Local Transport Plans

9.1 There are no immediate implications in relation to the Local Transport Plans.

### 10 Appendices

# North East Combined Authority

## Leadership Board

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Appendix 1 - Report for Leadership Board dated 4<sup>th</sup> July 2016

### **11 Contact Officers**

11.1 Adam Wilkinson, Head of Paid Service

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### **12 Sign off**

- Head of Paid Service
- Monitoring Officer
- Chief Finance Officer

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# North East Combined Authority

## Leadership Board

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**DATE:** 4 July 2016

**SUBJECT:** North East Combined Authority Governance Review and Scheme

**REPORT OF:** Head of Paid Service

### EXECUTIVE SUMMARY

The purpose of this report is to summarise the review undertaken into the functions exercised by the North East Combined Authority (NECA) and its governance arrangements and how additional powers and functions given to NECA would be likely to improve the exercise of statutory functions in the NECA area.

A draft Scheme that contains the additional powers and functions that it is proposed be conferred on NECA is attached to this report at Appendix 2 for consideration and endorsement by the Leadership Board. The full Governance Review that resulted in the draft Scheme is attached to this report at Appendix 1.

### RECOMMENDATIONS

It is recommended that:

- i. The Leadership Board consider the outcome of the Governance Review (Appendix 1) and the draft Scheme (Appendix 2);
- ii. Endorse the conclusion of the Governance Review that the making of an Order conferring on the North East Combined Authority the additional powers and functions in the Scheme and the associated revisions to the governance arrangements would be likely to improve the exercise of statutory functions in the North East Combined Authority area;
- iii. Approve and publish the Scheme pursuant to section 112 of the Local Democracy, Economic Development and Construction Act 2009; and
- iv. Note the arrangements for public consultation on the Scheme as set out in the report to the Leadership Board on 21 June attached to this report (Appendix 3) and authorise the Head of Paid Service in consultation with the Chair of the Leadership Board, the Monitoring Officer and Chief Finance Officer to provide the Secretary of State with a summary of the consultation responses received,
- v. Authorise the Head of Paid Service in consultation with the Chair of the Leadership Board, the Monitoring Officer and Chief Finance Officer to make minor amendments to the Scheme as a result of responses received to the consultation undertaken should such amendments be required and report such

# **North East Combined Authority**

## **Leadership Board**

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amendments to the Leadership Board at the next available opportunity.

# North East Combined Authority

## Leadership Board

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### 1 Background Information

- 1.1 Section 113 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) as amended by the Cities and Local Government Devolution Act 2016 (“the 2016 Act”) enables the Secretary of State by Order to make changes in relation to the functions exercised by an existing Combined Authority. Such changes can be made where the Combined Authority has prepared and published a Scheme following a Governance Review and that review concludes that the conferring of the additional functions set out in the Scheme would be likely to improve the exercise of the statutory functions in NECA’s area.
- 1.2 The report summarises the powers and functions that it is proposed be conferred on NECA and sets out how those powers will improve the ability of NECA to exercise its statutory functions.
- 1.3 It is a requirement that a public consultation be undertaken where additional functions are to be conferred on NECA. The arrangements for consultation were agreed by the Leadership Board on 21 June and are set out in the report to the Leadership Board attached at Appendix 3.
- 1.4 An Order to make provision for the election of a Mayor for the NECA area is currently proceeding through the appropriate Parliamentary processes. The Order provides for the election of the Mayor in May 2017 and the initial term of office.
- 1.5 Generic Orders applicable to all Mayoral Combined Authorities are also being progressed and, in particular provide for appropriate arrangements to be in place in relation to Overview and Scrutiny and Audit.
- 1.6 Other emerging legislation applicable to the Devolution Agreement includes the Bus Services Bill now before Parliament, which provides for decisions on bus franchising schemes to be the responsibility of the Mayor of a Mayoral Combined Authority. This legislation also provides for Smart and Integrated ticketing.
- 1.7 The Order conferring the new powers and functions on NECA as set out in the draft Scheme attached at Appendix 2 can only be made by the Secretary of State provided NECA and each Constituent Authority consent to the making of the Order.
- 1.8 The Order that confers the powers and functions on NECA can relate to:-
  - (a) any function of a Constituent Authority (not now limited to only transport and economic development and regeneration functions);
  - (b) any function of a public authority (including a Minister of the Crown or Government department) which is exercisable in the NECA area; and

# North East Combined Authority

## Leadership Board

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(c) any function corresponding to a function that a public authority has in relation to another area.

The Order may provide that the functions in (b) above may be exercised instead of by, or concurrently or jointly with the public authority or jointly with the public authority but with the function being exercised by the public authority alone.

- 1.9 The Governance Review was undertaken on the clear understanding that it was not intended to take any powers or functions away from the Constituent Authorities but about drawing down powers from central government or its agencies. Where it is proposed in the Scheme that a function of a Constituent Authority (in the area of education and skills) should be conferred on NECA these will only be exercisable concurrently with the Constituent Authorities and will be subject to agreed Protocols.
- 1.10 The powers and functions to be conferred on NECA are summarised in the table below which sets out in summary how the powers will improve the ability of NECA to exercise its statutory functions. The draft Scheme containing all of the proposed powers and functions is attached to the report at Appendix 2.
- 1.11 It should be noted that not all aspects of the NECA Devolution Agreement require legislative change to be implemented. So for instance the creation of a NECA Investment Fund and the North East Land Board can be achieved without any legislative change. The powers and functions contained in the table below where indicated do require some change in legislation before they can be exercised by NECA (as Cabinet) or the Mayor.

Power	Rationale
<b>Strategic Funding</b> NECA be given the discretionary power to introduce business rate supplement with the agreement of local businesses.  This will be a Mayoral function	This discretionary power can fund infrastructure projects when conditions set out in legislation are met.
<b>Transport</b> The Bus Services Bill introduces bus franchising schemes and specifies that a decision on whether or not to implement such a scheme is a Mayoral function.  NECA seeks bus service registration powers and traffic regulation powers	The conferring of powers to NECA/Mayor will provide NECA with an early opportunity to engage on a formal basis with bus operators.  Such powers would enable NECA to engage with bus operators and other

# North East Combined Authority

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<p>including the licensing of local lorries, coaches, buses and Goods Vehicles.</p> <p>NECA seeks the power to enter into agreements with Highways England as if it were a Local Highway Authority for the construction or improvements of roads with the agreement of the Local</p> <p><b>Human Capital</b> NECA will have the powers exercised concurrently with the constituent authorities and Secretary of State to promote education, training and apprenticeships across the NECA area and to make arrangements to assist in persons being able to select appropriate training and to obtain and retain suitable employment.</p> <p><b>Supporting and Attracting Business Innovation</b> NECA has provided an 'Investment Gateway' which handles and brokers incoming enquiries.</p> <p>Further work will be undertaken by the Government and NECA to devolve further responsibility for UK Trade and Investment (UKTI) Export Advice services to NECA.</p> <p>There are no specific powers required in relation to this area of the Devolution Agreement.</p> <p><b>More and Better Homes</b> NECA will have the responsibilities and functions of the Homes and Communities Agency (HCA) to be exercised concurrently with the HCA including a power of compulsory purchase.</p> <p>NECA will be able to exercise</p>	<p>operators prior to the introduction of the Bus Services Bill.</p> <p>This would enable more efficient coordination of transport responsibilities on major road works.</p> <p>These powers will enable NECA to play a part in creating an integrated employment and skills system tailored to the specific needs of the area, and thereby raise labour market participation and skills at all levels.</p> <p>These additional powers will enable NECA to drive development and regeneration across the combined area.</p>
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# North East Combined Authority

## Leadership Board

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<p>concurrently the functions of the constituent authorities to compulsorily acquire land for development or in the interests of proper planning of an area.</p> <p>NECA will have the power to acquire land by agreement for planning purposes and the development, appropriation and disposal of such land.</p> <p>NECA will have the power to develop the NEPDF (not a regional spatial strategy) that local planning authorities within the combined area should have regard to when preparing their development plan documents or any other local development documents.</p> <p>A North East Land Board will be established between the Secretary of State and NECA to investigate the best use of publicly owned land in NECA area.</p> <p>These are to be Cabinet functions save for Compulsory Purchase Orders that would be confirmed by the Mayor.</p> <p><b>Rural Growth and Stewardship</b> There is a commitment to work towards the devolution of rural growth programmes to the North East, including closer coordination of future stewardship and environmental programmes.</p> <p>There are no specific powers required in relation to this area of the Devolution Agreement.</p> <p><b>Tourism and Culture</b> NECA will have the power under, to be exercised concurrently with the</p>	<p>This will enable NECA to oversee the public sector estate and to support growth in the combined area.</p> <p>These additional powers will enable</p>
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# North East Combined Authority

## Leadership Board

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<p>Constituent Authorities to provide and support cultural activities and entertainments in the combined area.</p> <p><b>Regulatory Powers</b> NECA will be given the power to administer a regional flexible warranting scheme to enable enforcement officers appointed within the Constituent Authorities and /or other enforcement agencies to enforce legislation outside their own local authority area.</p> <p>NECA seeks the power to be able to confirm or revoke Byelaws made by the Constituent Authorities. The Mayor would be the confirming authority.</p> <p>NECA seeks the power to confirm, or refuse the designation of an area within a Constituent Authority as an area subject to additional licensing requirements in relation to houses in multiple occupation and selective licensing within the private rented sector, respectively.</p> <p>NECA seeks the power to relax restrictions on the Sunday trading hours.</p> <p><b>Information Sharing</b> NECA seeks amendment to legislation so that NECA is classed as a local authority to permit Government departments to share information with it.</p> <p><b>Constitutional and Governance Issues</b></p>	<p>NECA to play a role in promoting business, cultural and sporting events across the combined area.</p> <p>The confirmation of Byelaws is currently the responsibility of the Secretary of State. Permitting confirmation or revocation of Byelaws by the Mayor will make the process far more efficient.</p> <p>Confirmation of the designation of such areas is currently the responsibility of the Secretary of State. Whilst NECA becoming a confirming authority would streamline and speed up the existing approval mechanisms it will also significantly contribute to the development of strategic regulation of the private rented sector within the NECA area.</p> <p>Such powers will give NECA the ability to reflect the needs of local residents and the local business community in relation to Sunday trading.</p> <p>The need to share information/data across public bodies is essential to integrate public services.</p>
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# North East Combined Authority

## Leadership Board

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<p>The Mayor will have a functional power of competence to enable him/her to carry out matters incidental to their role as Mayor.</p> <p>The Mayor will be able to exercise functions jointly with other authorities by way of a joint committee.</p> <p>Provisions will be made for voting arrangements other than simple majorities to be included. This specifically relates to Transport Levies, confirmation of CPOs, Key Strategic Decisions, any proposed changes to indicative allocations of Highways Maintenance incentive funding, and powers to change the Mayoral Budget and Mayoral Plans.</p>	<p>Such arrangements need to be clear to ensure the effective operation of NECA governance arrangements and must ensure transparency and accountability.</p>
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## 2 Proposals

- 2.1 The Leadership Board is invited to agree the recommendations set out above to enable the Authority to operate effectively, and in accordance with the Order and the Authority's Constitution.

## 3 Next Steps

- 3.1 If the Leadership Board endorses the conclusion of the Governance Review and approves the Scheme, the Scheme will be published and forwarded to the Department for Communities and Local Government (DCLG). The Scheme will also be subject to extensive public consultation for a period of 6 weeks. A summary of the consultation responses will be forwarded to DCLG at the conclusion of the consultation exercise.
- 3.2 NECA is also seeking assurance from Government that the provisions of the Devolution including the EU commitments deal still stand following the result of the EU Referendum.
- 3.3 If the Secretary of State considers that making an Order conferring the powers on NECA set out in the Scheme is likely to improve the exercise of the statutory

# North East Combined Authority

## Leadership Board

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functions in the area, and having regard to securing effective and convenient local government then provided the consent of the Leadership Board and each of the Constituent Authorities is forthcoming then an Order can be made.

- 3.4 Provided the appropriate consents to the making of the Order is forthcoming, it is anticipated that the Order will be laid before Parliament in the Autumn with a view to the Order being made by the end 2016 or early 2017. Confirmation is being sought on the impact the EU referendum result will have on the parliamentary timetable and the timeline for establishing the Mayoral Combined Authority.
- 3.5 At present Gateshead has not consented to the making of an Order providing for the election of a Mayor for the NECA area. In these circumstances the Secretary of State has a duty to make an Order removing Gateshead from NECA. In doing so, the Order must designate Gateshead as a Local Transport Authority and may transfer appropriate transport related functions to Gateshead from NECA as a result.

## 4 Potential Impact on Objectives

- 4.1 If the Leadership Board endorses the findings of the Governance Review and approves the Scheme, the Leadership Board will have started the process of devolving powers from central government to the North East of England and for those powers to be exercised by those democratically elected by the people of the North East. This will have a positive impact on the objectives of NECA.

## 5 Finance and Other Resources

- 5.1 The financial implications of the devolution deal itself were set out in the previous report on the Devolution Agreement agreed by the Leadership Board at its meeting on 17<sup>th</sup> May 2016.
- 5.2 The estimated additional costs of the consultation process relate mainly to the cost of printed materials and is estimated to be up to £3,000. This and the cost of the use of existing officer time will be met from within the NECA Devolution budget.

## 6 Legal

- 6.1 As part of NECA's Devolution Agreement, additional powers and responsibilities are to be conferred on NECA by central government.

As part of that process, a Governance Review must be undertaken under Section 111 of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") to review how NECA currently exercises its powers and to ascertain if there can be an improvement in this regard by having the

# North East Combined Authority

## Leadership Board

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further powers conferred on it as set out in the Devolution Agreement. The conclusion of the Governance Review is that the exercise of the power by the Secretary of State to make an Order conferring powers on NECA would indeed be likely to improve the exercise of the statutory functions in the combined area.

The 2009 Act is enabling legislation and any powers conferred on a Combined Authority under the Act can only be achieved by way of Order. Such Orders can only be made with the consent of the Constituent Authorities and the Leadership Board.

The Secretary of State may make Orders under section 105 (exercise of local authority functions) or section 105A (other public authority functions – “public authority” includes Minister of the Crown or government department) of the 2009 Act conferring those powers to NECA. It is proposed that any powers conferred on NECA under such Orders will be exercisable by NECA concurrently with the public authority or local authority as appropriate. Such Order could not be made unless the consent of the Leadership Board and each Constituent Authority is given to such an Order. In relation to an Order made under section 105A the Secretary of State has to inform Parliament in a report of the consultation that he has taken into account when considering the appropriateness of making the Order. It is therefore essential that public consultation take place and the Secretary of State is made fully aware of the process of consultation undertaken.

Sections 114 and 116 of the 2009 Act enable the Secretary of State when making the Order to make incidental or consequential amendments to legislation to give the Order full effect or to amend, repeal or revoke provisions contained in an enactment to ensure that an Order is effective.

There is a duty placed on the Secretary of State under section 106 of the 2009 Act to make an Order removing an authority that does not consent to the creation of a Mayoral Combined Authority from NECA where NECA and at least 2 Constituent Authorities do consent. In doing so, the Secretary of State must as part of that Order designate the non-consenting Authority a Local Transport Area for the purposes of the Transport Act 2000. Such legislative changes as are necessary will be included in the Order excluding the non-consenting Authority.

The Order establishing NECA in 2014 will be amended to reflect changes to the governance arrangements. The proposed changes are set out in the Scheme including the proposed change to the name of the Authority from the Durham, Gateshead, Newcastle-upon-Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority to the North East Combined Authority.

In terms of decision-making the express preference of the Leadership Board is to take decisions on a consensus basis. However in the absence of consensus

# North East Combined Authority

## Leadership Board

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a decision to approve the Governance Review and Scheme and to proceed with consultation requires the support of the voting Members of the Leadership Board on a simple majority basis.

### **7 Other Considerations**

#### **7.1 Consultation/Community Engagement**

The details of the approach to consultation agreed at the meeting of the Leadership Board on 21 June 2016 are contained in the report attached at Appendix 3.

#### **7.2 Human Rights**

There are no specific human rights implications arising from this report.

#### **7.3 Equalities and Diversity**

There are no equalities and diversity implications in relation to this report.

To ensure compliance with the public sector equality duty in the Equality Act 2010, the Governance Review and Scheme have identified a need for NECA to become a 'public body' for the purposes of the Equality Act 2010. This will place a duty on NECA and the Mayor when exercising the functions set out in the Scheme must do so having regard to the public sector equality duty.

#### **7.4 Risk Management**

There are no specific risk management implications arising from this report.

#### **7.5 Crime and Disorder**

There are no specific crime and disorder implications arising from this report.

#### **7.6 Environment and Sustainability**

There are no specific environment and sustainability implications arising from this report.

### **8 Background Documents**

#### **8.1 The NECA Devolution Agreement**

### **9 Links to the Local Transport Plans**

#### **9.1 There are no immediate implications in relation to the Local Transport Plans.**

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## Leadership Board

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### 10 Appendices

Appendix 1 – Governance Review

Appendix 2 – Draft Scheme

Appendix 3 – Report for Leadership Board dated 21 June 2016

### 11 Contact Officers

11.1 Adam Wilkinson, Head of Paid Service

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### 12 Sign off

- Head of Paid Service
- Monitoring Officer
- Chief Finance Officer

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**APPENDIX 1**



**North East Combined  
Authority  
Governance Review**

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## 1. Introduction

1. This document has been prepared by the North East Combined Authority (NECA) and sets out the review of functions and governance arrangements of NECA now that the Cities and Local Government Devolution Act has been passed, including how additional functions and arrangements would be likely to improve the exercise of statutory functions in the North East. A draft scheme containing all proposed additional functions proposed to be conferred on NECA is attached at Annex A.

### 1.1 Context

2. In April 2014, building on strong working arrangements and to promote the economic regeneration and prosperity of the area, the seven local authorities of the North East formed NECA. The Members of NECA are County Durham, Gateshead, Newcastle, Northumberland, South Tyneside Sunderland and North Tyneside. Working with the North East Local Enterprise Partnership, the Combined Authority establishes a statutory democratic framework for decision making across the region. It is not a new tier of government, but a basis for collaboration between authorities with a common purpose. The existence of the Combined Authority enables the devolution of decision making powers to the North East region. One Constituent Authority, Gateshead Council, has not consented to the making of an order creating a Mayoral Combined Authority and will therefore be removed from NECA unless there is a change of position.
3. In January 2015, the Leadership Board agreed and consulted on a set of outline proposals to assess support for devolution of powers and resources from Government. The initial process of engagement with the public, local and regional stakeholders, generated significant interest and the principle of devolution to the North East attracted support.
4. Following consultation, the North East Combined Authority Leadership Board published a Statement of Intent and commenced a process of detailed negotiation with Treasury. A proposed agreement was signed by the Leadership Board, the Chancellor and Commercial Secretary to the Treasury on 23 October 2015. Similar Agreements have also been signed by Greater Manchester, Sheffield City Region, the Tees Valley Combined Authorities and other areas seeking to establish Combined Authorities.

### The Devolution Agreement

5. In summary the North East Devolution Agreement includes:

- Additional resources of £30 million a year revenue funding, committed for 30 years, to support the financing costs of a North East Investment Fund worth up to an estimated £1.5bn
- An opportunity to bid for an allocation from the Local Growth Fund, committed until 2020, on a programme basis, rather than on a project-by-project bidding approach.
- The opportunity for the Mayor to raise additional funding for infrastructure through a supplement on business rates, subject to support from business through the Local Enterprise Partnership. This is estimated to raise up to £25m a year if it were to cover the whole NECA area.
- An Employment and Skills Board to oversee creation of a devolved and integrated system to raise skills, help people into work, improve the life chances of young people, increase employment and overcome skills shortages experienced by North East employers.
- The fully integrated transport system, bringing together responsibilities for rail, local highways, metro, buses and ferries. This would include a consolidated local transport budget, integration of the metro with rail services, long-term investment in the metro system, and the opportunity to deliver a new approach to bus services through powers in the forthcoming Buses Bill.
- Greater local influence over the management of around €500 million in European funding.
- Devolution of business support, and greater responsibility for securing inward investment in the region.
- Establishment of a North East Land Board to identify land for new homes and to improve the quality of existing housing in the North East.
- A Commission for Health and Social Care Integration to consider opportunities for devolution and integration to reduce inequalities and improve the health and wellbeing of residents across the region; reporting by Summer 2016.
- A review of regulatory and planning powers that could be deployed by Authorities to create safer, more attractive environments for all of the region's communities. For example, this could allow local bylaws to improve public health, which currently can only be delivered with the approval of Ministers.
- Identifying ways for the North East to play a major role in the UK's business, cultural and sporting events.
- A commitment from both Government and the Combined Authority to consider further opportunities for devolution over time.

#### Changes in legislation

6. Prior to 2016, it was only possible for a combined authority to exercise statutory functions relating to economic development, regeneration and transport within the area of the combined authority. The Cities and Local Government Devolution Act 2016 makes provision for conferring additional functions on combined authorities established under Part 6 of the Local Democracy, Economic Development and Construction Act 2009. Section

1(2)(e) of the Cities and Local Government Devolution Act 2016 refers to “the principle that powers should be devolved to combined authorities or the most appropriate local level except where those powers can more effectively be exercised by central government.” The Devolution Act has amended the Local Democracy, Economic Development and Construction Act so that a combined authority is no longer restricted to the exercise of statutory functions relating to economic development, regeneration and transport.

7. Section 113 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”), as amended by the Cities and Local Government Devolution Act 2016 (“the 2016 Act”) enables the Secretary of State by order to make changes in relation to the functions of an existing combined authority (CA). Such changes can be made where the authority has prepared and published a scheme which in turn can be done after the authority has carried a governance review and concluded that conferring on the CA the additional functions set out in the scheme would be likely to improve the exercise of statutory functions in the CA’s area and secure effective and convenient local government.
8. The amendments made by the 2016 Act now enable an order to confer on NECA:
  - a) any function of a constituent council (not limited to transport economic development or regeneration);
  - b) any function of a public authority (including that of a Minister of the Crown or government department) which is exercisable in the NECA area;
9. The order may provide that functions in (b) above may be exercised instead of, by, concurrently or jointly with the public authority, but with the public authority being able to exercise the function alone. An order conferring additional powers to a combined authority can only be made with the consent of the Constituent Authorities (and in the case of an order in relation to an existing combined authority) the combined authority

#### Non-Consenting Authorities

10. One Constituent Authority is not in a position to consent to the making of an order creating a Mayoral Combined Authority and as such may become a Non-Consenting Authority (NCA). In this event, the Secretary of State has a duty to make an Order under section 106 of the 2009 Act removing an NCA from NECA and therefore changing the boundaries of NECA area.
11. This review recognises the impact that a NCA’s removal would have on NECA and the impact is addressed in Section 3 – Review of Functions and Powers.

## 2. Case for Change

### 2.1 Enhancing Governance for Growth – Overarching case for change

12. NECA recognises its role in rebalancing the economy by creating the right conditions for sustainable economic growth and resilience, encouraging investment and promoting employment. The area is one of the largest ‘economic centres’ in the north of England, but with a distinct and complex geography. A wide range of issues must therefore be addressed across the area, recognising that activities and interventions need to respond to the specific characteristics and functional linkages within the economy.
13. NECA already has an agreed framework of devolved powers and responsibilities so that the North East can develop a clear and comprehensive plan for growth, trading even more competitively in the global market, attracting further international investment and creating much greater wealth that will contribute to UK growth and secure prosperity for our residents. The initial focus has been on economic development and transport with the Devolution Agreement setting out further devolution of powers, responsibilities and resources in relation to transport, economic growth, human capital, housing and planning and rural growth.
14. NECA has agreed with Government the devolution of power, funding and responsibilities, to transform the North East’s economy. This agenda cannot be delivered through “business as usual”. Our experience is that centralised government decision-making will rarely align with the long-term interests of our region. The North East wants to take on a greater level of responsibility to deliver our own future, with adequate funding, delivered more flexibility according to our specific needs and to meet our specific opportunities.
15. As evidenced in the 2013 Governance Review undertaken before NECA was established, there is a strong case that co-ordinated action against agreed priorities across the NECA area will bring improvements. With a detailed understanding of our local areas, their opportunities and challenges, NECA is uniquely placed to shape the strategic direction as well as support delivery of the key interventions that will deliver growth and prosperity. NECA provides a stable and accountable platform for devolution of resources and powers from central government. And this was the basis for the Devolution Agreement.
16. This Governance Review has enabled NECA to consider the optimal arrangements to implement the Devolution Agreement and to drive growth. This means bespoke arrangements that address the issues, challenges and opportunities that are particular to the North East.

17. NECA provides:
- Strong and visible collective leadership of the Area recognised by government with greater democratic accountability and transparency
  - A unified and influential voice to have a single conversation with government, national agencies and business leaders in the development of local growth policy, strategic interventions, securing a greater share of national resources and influencing national decision making
  - Alignment of decision-making on transport, skills and economic growth at a strategic level under a coherent strategy and investment programme, maximising the opportunity of all available levers to assist growth
  - A stable and accountable platform underpinned by statutory powers to access significant devolved powers and funding delegated from central government to enable locally devised interventions that are delivered in a coherent and planned way. A single politically accountable body will take a holistic view of the area and the likely economic impact of decisions for greatest impact across the Area.
  - A more robust governance framework to make decisions, manage risk, set strategy, manage delivery, assess performance and report on progress giving confidence of a strong advocate for the area and effective local leadership in driving economic growth
  - An integrated governance model that formalises an active and transparent role for private sector involvement
  - An opportunity to draw together a range of funding sources including EU funds and a devolved single local growth fund, enabling a holistic approach to tackling shared priorities and driving growth
  - Closer working across the wider public sector on integrating functions and services and providing innovative solutions to the challenges of reduced budgets
  - Strengthened capacity through a combined and co-located resource supported with better information and analysis will improve effectiveness. Addressing issues once rather than multiple times will be more efficient.
  - Reduced potential ambiguity, duplication and overlap of decision-making in relation to strategic functions. The strength of shared intelligence and analysis will provide a basis for more efficient and robust decision-making.

## 2.2 Current Arrangements

18. Building on the successful track record of joint working we now have an accountable, stable and enabling platform which reinforces and strengthens existing partnership arrangements to collectively drive forward change and enable economic growth. We are able to bring together a democratic mandate with a strong business voice which will enable us to plan for growth in the long-term in a global context. NECA has evolved from established joint working arrangements and is evolving to take on devolved functions from Government and public authorities and enhance local delivery.

19. NECA is now fully established, making progress in delivering an investment programme for the long-term, with new responsibilities for transport, leveraging investment from the private sector, and investing in innovation. NECA is not a new layer of government. It is a framework for collaboration between independent local authorities, pooling their resources, expertise and democratic authority, to make decisions together and secure more and better jobs, and drawing powers and resources previously decided in London. Leaders are open to discussion about further development of this model, on the basis of effective democratic decision-making, inclusive and transparent governance and effective scrutiny.
20. The North East Local Enterprise Partnership (“the LEP”) will continue to provide a strong business voice, working closely with NECA, overseeing the Strategic Economic Plan. Business members will participate directly in the work of NECA, ensuring a stronger and more integral voice for business. NECA is the accountable body for the LEP, and in this role NECA is exercising best practice in accountability and performance management of public funding, with the democratic mandate of locally elected leaders.
21. Further devolution will strengthen NECA with additional powers. There is no intention to take existing powers from Local Authorities. Indeed, through devolution local councils and local leaders will be better able to exercise their democratic responsibilities through more influence over greater levels of public spending in their localities.

### NECA Structure

22. Each of the Constituent Authorities has appointed its Leader or Elected Mayor to be a Member of the Leadership Board and another Member to act in the absence of the appointed Member. The Leadership Board has appointed a LEP member and a substitute, as nominated by the LEP, as a non-voting member of the Leadership Board.
23. The Leadership Board has appointed a Chair and Vice Chairs and there will be thematic areas linked to the powers sought through devolution. Members of NECA will be identified as Thematic Leads by Cabinet and will lead on their thematic areas.
24. The functions of NECA are those conferred upon it by the Order establishing NECA. The Leadership Board has the power to delegate its functions, which are not reserved to it, to committees, sub-committees, officers, joint committees or other local authorities pursuant to section 101 of the Local Government Act 1972.
25. The Leadership Board has delegated responsibility for the discharge of its functions to, the Transport North East Committee, the Transport North East (Tyne and Wear) Sub-Committee, the County Council of Durham and Northumberland County Council and officers of NECA in accordance with the Constitution. In the absence of specific and express delegations to other

bodies, all functions of NECA will remain with the Leadership Board. This will continue to be the case following the election of the Mayor with the Leadership Board becoming “the Cabinet”.

26. Nexus is an executive body of NECA for the purposes of Part 5 of the Local Transport Act 2008 and Part 6 of the Local Democracy, Economic Development and Construction Act 2009.
27. Nexus has power to discharge any function that is the subject of arrangements entered into with NECA. Transport functions relating to information provision, infrastructure delivery, commissioning/procurement of subsidised bus services and concessionary travel have been delegated by the Leadership Board to the County Council of Durham and Northumberland County Council in relation to their respective administrative areas.
28. NECA has established a Transport North East Committee (“TNEC”) to be a joint committee of the Constituent Authorities and NECA. NECA has also established a sub-committee of TNEC (the Transport North East (Tyne and Wear) Sub-committee “TWSC”) comprising representatives from the Tyne and Wear authorities only and an Economic Development and Regeneration Advisory Board (“EDRAB”). NECA has also established a Governance Committee and an Overview and Scrutiny Committee to address governance and audit issues.

#### North East Local Enterprise Partnership (LEP)

29. The North East Local Enterprise Partnership (LEP) brings together business leaders, universities and elected members of the North East Leadership Board. It is the fourth largest local enterprise partnership in the UK, covering the local authority areas of County Durham, Gateshead, Newcastle, North Tyneside, Northumberland, South Tyneside and Sunderland.
30. LEP is a business-led, strategic partnership responsible for promoting and developing economic growth in the area. NECA supports the work of the enterprise partnership and they work together to ensure co-ordination across their range of activities.
31. The board includes representatives from across the private and public sectors. Each of the Leaders and the Elected Mayor representing the Constituent Authorities are members of LEP, and the Chair of LEP is their nominated representative and a non-voting member of NECA. The Combined Authority provides the formal accountability arrangements for LEP.

### **3. Review of functions and powers**

32. This chapter sets out the current arrangements and the functions that are the subject of this review and seeks to establish that the proposed changes will be likely to improve the exercise of statutory functions in relation to NECA area and secure effective and convenient local government.
33. The review has operated on the principle that devolution is not about taking away powers from Constituent Authorities, but about drawing down powers from central government or government agencies or alternatively drawing into the North East powers that are exercisable in London. Therefore, where the scheme proposes that there should be conferred on NECA functions of Constituent Authorities, these will only be exercisable concurrently with the Constituent Authority and will be subject to agreed protocols.
34. It should be noted that not all aspects of the North East Devolution Agreement requires legislative change to implement it. The Devolution Implementation Plan sets out progress against all the commitments in the Devolution Agreement and for example, the preparatory work for implementing the Investment Fund is well underway. The following sections specify the functions and powers that require legislative or regulatory change before they can be exercised by NECA or Mayor.

#### **3.1 Current Functions**

##### **Economic Development and Regeneration (including skills)**

35. NECA's economic development and regeneration responsibilities currently include:
  - Setting the growth plan and investment strategy for the North East.
  - Economic intelligence and analysis as a basis for strategic planning and coordination.
  - Acting as the accountable body for a range of devolved funding e.g. local major transport schemes, Single Local Growth fund, EU Structural & Investment funds, Skills Funding Agency funding.
  - Strategy and decision-making on the skills agenda across the North East.
  - Coordinating inward investment activity through an 'Investment Gateway' working with local authority economic development teams.

The economic development and regeneration functions exercisable concurrently with the Constituent Authorities are:

- Duties and powers related to the provision of education and training for persons over school compulsory age.
- Power to encourage visitors and provide conference and other facilities.
- Duty to prepare an assessment of the economic conditions of an area and to revise that assessment.

## **Transport**

36. Strategic transport functions previously undertaken across Tyne & Wear, Northumberland and Durham are now undertaken by NECA. The transport functions undertaken by NECA in relation to Tyne & Wear are those previously undertaken by Tyne and Wear Integrated Transport Authority in accordance with the general functions contained in the Transport Act 1968 and subsequent legislation, such as the formulation of policies relating to public transport services.
37. NECA has various transport responsibilities to enable these matters to be addressed across the entire NECA area including:
  - a. Preparation of the Local Transport Plan
  - b. Preparation of a Bus Strategy
  - c. Powers to make a Quality Partnership Scheme or Quality Contract Schemed.
  - d. The making of joint and through Ticketing Schemes
38. The following operational transport responsibilities have been delegated to Northumberland and Durham to enable local delivery arrangements to continue:
  - a. Information Provision
  - b. Infrastructure Delivery
  - c. Commissioning/procurement of subsidised bus services
  - d. Concessionary Travel

Decisions taken using this delegated authority are subject to call in by the Overview and Scrutiny Committee.

## **LEP**

39. The LEP are responsible for driving the delivery of the Strategic Economic Plan which sets out the North East's ambitious vision to strengthen the area's economy and provide more opportunities for businesses and communities.
40. The seven Leaders and Elected Mayor together with the business board members are committed to a seamless approach to delivering a shared ambition for growth. Building on the political leadership of NECA, the Strategic Economic Plan for the area provides a clear pathway for local decision-making and the complementary roles of the LEP and NECA.
41. The North East Devolution Deal and this Governance Review and Scheme set out an enhanced role for NECA moving forward with additional roles and responsibilities. As part of this new role both the NECA Leadership Board and LEP are committed to incorporating strong working arrangements into the new governance proposals which fully reflect the voice of the North East business community and build on the cooperation and partnership

arrangements in place thus far. The full proposals are set out in section 4 of this Governance Review.

### **3.2 Review of Functions and Responsibilities**

#### **Scope of Review**

42. The Devolution Agreement includes a number of commitments from Government and NECA across a number of themes. Ensuring that the current Devolution Agreement is implemented in full NECA has carried out this Governance Review to clarify the undertaking of arrangements, the devolution of proposed Functions and Responsibilities and any additional Functions and Responsibilities and powers necessary to enable delivery of the Devolution Agreement. For the purpose of this review NECA has taken into account the amendments made by the 2016 Act which now enable an order to confer on NECA:
- (a) any function of a constituent council (not limited to transport economic development or regeneration); and
  - (b) any function of a public authority (including that of a Minister of the Crown or government department) which is exercisable in relation to NECA area;
43. As part of this review of the functions of NECA under section 111 of the 2009 Act (the “Review”), NECA has considered the various functions that the Government has agreed should be conferred on NECA under the Devolution Agreement and whether there are any related additional functions, responsibilities and powers that NECA should seek in order to enable NECA and the Mayor to exercise their devolved functions as effectively as possible. As a result of the significant amendments to the 2009 Act the Review carried out by NECA has also considered more generally whether there are any local authority functions that are exercisable within the combined area that would be more appropriately exercised at a NECA level concurrently with the Constituent Authorities and if there are any “public authority” functions that are exercisable within the NECA area that could be more effectively exercised at NECA level. Where powers are to be exercised concurrently, these will be exercised according to protocols which will be set out in the Constitution and the powers will be exercised subject to consent of the relevant Constituent Authorities
44. In carrying out this Review NECA has considered the various functions that the Government has conferred on either the Greater London Authority (the “GLA”) or the London Mayor pursuant to the Greater London Authority Act 1999 (as amended) (the “GL Act”) and the Localism Act 2011. In some instances, the result of the Review has been to propose that NECA should ask the Government to confer on either NECA or the Mayor similar powers to those that are devolved to the GLA or the London Mayor.
45. As part of this Review, NECA has also considered:
- the decision making arrangements for the functions of NECA

- whether the additional functions that NECA proposes should be conferred on NECA should be NECA functions or “mayoral functions”; and
- whether all of the additional functions that NECA proposes should be conferred on NECA should be exercised by NECA concurrently with the Constituent Authorities and/or the public authority which has the function by virtue of any enactment;

### **3.2.1 Strategic Funding**

46. The 2013 Governance Review highlighted the significant changes to the economic development landscape and funding regimes which have reduced institutional capacity to coordinate and align funds around wider economic priorities and the impetus to ensure the Area is maximising the use of these new funds alongside existing local resources, together with our understanding of the strengths and challenges of our economy.
47. One of the main purposes of creating NECA originally was to bring additional institutional capacity to take on more functions and responsibilities and provide the governance framework for a single approach to investment supporting economic growth across the entire area.
48. Since it was established, NECA has achieved:
  - improved efficiency and implemented robust and objective mechanisms for allocating funding to priority projects based around added value to economic growth
  - greater clarity and alignment of priorities, deliverables and funding contributions of partners
  - greater alignment and matching of disparate funding sources
  - greater local determination and support of economic priorities
  - better forward thinking and confidence to pursue long-term projects as the approach provides funding stability to achieve those ambitions which are beyond the limitations of some current funding streams
49. In relation to Strategic Funding the Devolution Agreement makes the following commitments:
  - The creation of a North East Combined Authority Investment Fund, bringing together funding for devolved powers and used to deliver a 15 year programme of transformational investment in the region. As an initial allocation to the Investment Fund, an allocation of £30 million a year for 30 years (2016-46) in revenue funding for capital financing and other costs will be made, allowing the North East Combined Authority to create an investment fund up to £1.5 billion, subject to 5-yearly gateway assessments to confirm the investment has contributed to national growth.
  - The North East will bring forward a bid for consideration by Government for a single allocation of the Local Growth Fund to support a programme

of investment, including an element of flexible revenue funding, committed over a 5 year period, and devolved to the Combined Authority.

- The Mayor will be given the power to place a supplement on business rates to fund infrastructure, with the agreement of the local business community through the local enterprise partnership, up to a cap. In the North East this could provide up to an additional £30 million a year in revenue funding.
  - The Combined Authority and Government will pilot a scheme which will enable the Combined Authority to retain all business rate growth that would otherwise have been paid as central share to government, above an agreed baseline, for an initial period of five years. Government and the Combined Authority will also discuss wider localisation of business rates.
  - The Government agrees to delegate to the North East Combined Authority project selection powers for the European Regional Development Fund and the European Social Fund. The Combined Authority will be granted Intermediate Body status to deliver these delegated powers.
  - Where functions are agreed to be devolved or to be jointly accountable, the Spending Review will identify a fair level of revenue funding for those functions over the Spending Review period, in the form of a place-based funding settlement for the North East Combined Authority
50. Fair funding is a critical component of the devolution deal and following discussions with Government the following commitments and assurances have been made:
- Government has committed to providing the amounts that have already been set out in the multi-year settlement offer which includes the Revenue Support Grant, Transitional Grant and Rural Services Delivery Grant allocations.
  - Looking to the future and the introduction of 100% Business Rates Retention, Government have provided assurance that there will be redistribution between councils so that areas have funding adjusted where they currently collect less in local taxes.
  - The Fair Funding Review will consider the appropriate funding needs of different types of areas and assurances have been received that the Government intends to fully engage with the North East on this, and places great value on specific circumstances being recognised and accommodated.
  - Government have confirmed they will consider the impact on all parts of the country carefully where they implement the New Homes Bonus reforms.

### Additional Functions and Powers required

51. The Investment Fund will allow NECA to make long-term investments across a wide range of priorities and would give freedom to flex resources between programmes and across years. The ability to borrow would enable the frontloading of expenditure on infrastructure and investment to help grow the economy across NECA area. Current restrictions prevent NECA from borrowing in respect of any non-transport functions that NECA may subsequently assume. In order for NECA to take forward any arrangements that require borrowing one of the Constituent Authorities has to borrow in its own right which is administratively burdensome and inconvenient, potentially causing delays and additional costs. The transfer of wider prudential borrowing powers will ensure the more efficient, effective and economic discharge of NECA functions. All borrowing would have to comply with the prudential code in terms of the sustainability and affordability of any borrowings and would be limited to the Authorised Borrowing limits formally set by the NECA
52. Local authorities including the Greater London Authority have been granted the power to raise a supplement on the business rate and to help fund new projects aimed at developing their local economies. The new discretionary power is contained in the Business Rate Supplements Act 2009. A Combined Authority should become a “levying authority” for the purposes of section 2 of the Business Rate Supplements Act 2009 (“BRSA 2009”) so that it has the power to impose a business rate supplement. It is proposed that section 2 of the Act be amended so as to define a “levying authority” as including a Combined Authority for the purposes of the BRSA 2009. It is proposed that the conditions that must be met before imposing a business rate supplement in accordance with section 4 of the BRSA 2009 applies to a Combined Authority.
53. A Memorandum of Understanding is being developed between North East Combined Authority and the Department for Communities and Local Government (DCLG) concerning the delegation of tasks in respect of the European Regional Development Fund. For the purposes of this Memorandum, DCLG is acting as the Managing Authority (MA) for England in respect of the European Regional Development Fund (‘ERDF’) 2014-2020 Programme. Under this Memorandum, DCLG delegates certain tasks under the ERDF 2014-2020 Programme, which are to be carried out on behalf of DCLG by NECA. This Memorandum sets out the ERDF tasks that DCLG will delegate to NECA as an Intermediate Body for the purposes of Article 123(6) of Regulation (EU) No 1303/2013, and constitutes the formal written record of that arrangement as required under Article 123(6). In addition NECA will work with the Department of Work and Pensions (DWP) and the Department of Environment, Food and Rural Affairs (DEFRA) to agree other Memoranda of Understanding in regards to the European Social (ESF) and the European Agricultural Fund for Rural Development (EAFRD).

### Impact of a Non-Consenting Authority

54. NECA will still be able to progress with North East Investment Fund and the programme level bid for Local Growth Fund if Gateshead is removed from NECA. Government have confirmed that the £30m revenue grant for 30 years will not be reduced as a result of there being a NCA. In relation to Local Growth Fund it is possible that this future funding stream could be reduced if Gateshead remains a NCA and has the potential to adversely impact on the strategic approach to investment. The level of the business rates supplement will also be reduced.
55. There are also implications for the European Structural and Investment Funds (ESIF). In devolution areas, Managing Authorities have committed to delegating greater control to Combined Authorities as part of an Intermediate Body (IB) model. Under this model, a Combined Authority will be able to decide whether an application for funding fits strategically with the local economic needs and opportunities. This allows the Combined Authority to integrate and align EU investments with other aspects of the devolution deal. Other local partners will continue to be engaged in decisions via the existing LEP area ESI Funds subcommittee. All other decisions, e.g. on the eligibility of projects, will remain with the Managing Authorities. The IB status for Sustainable Urban Development (SUD) is linked to the agreement of a SUD strategy and to which the Local Authorities involved will be part of irrespective of the Devolution Agreement. However, the IB status linked to the wider ESIF pot outside of SUD is linked to agreement of a Devolution Agreement. Under the North East devolution deal, work is already underway to delegate IB status. If a constituent authority chooses not to be part of North East Combined Authority, this authority will have a reduced advisory role and will not enjoy the delegated decision-making powers of the Combined Authority.

### **3.2.2 Transport**

56. The 2013 Governance Review recognised the importance of the link between transport provision and wider economic growth, highlighting transport as a core function of NECA.
57. Transport is seen as a key driver of growth and the strategic alignment of transport within economic growth strategies emphasises a clear link between transport and skills, housing and economic prosperity. NECA has ensured political leadership at the highest level on strategic transport planning, set within the context of the wider economic strategy for the area.

58. On the abolition of the Tyne and Wear Integrated Transport Authority (ITA), on the establishment of NECA, NECA had transferred to it all the statutory powers and functions of the ITA.
59. Since its establishment NECA has facilitated greater co-operation amongst regional and local partners which has resulted in improvements to the region's public transport network, increased opportunity to address congestion on the local road network, and a step change in information and ticketing provision for the travelling public. The inclusion of Northumberland and Durham within an integrated transport area will provide particular benefits for cross-boundary transport, including commuter routes into our primary urban centres.
60. NECA is producing a Transport Plan for the North East, which will replace the existing Local Transport Plans for Tyne and Wear, Northumberland and Durham. The development and production of the LTP will be the responsibility of the Mayor, however the plan must be agreed by Cabinet. As part of this, a high-level Transport Manifesto has been produced and consulted upon between February and April 2016. This Manifesto had the following draft goal:
- Transport needs to be easy to use, reliable, affordable and accessible
  - Transport should work for businesses that are located here, or are thinking of moving to the North East
  - Transport needs to support economic growth, equality of opportunity, good access to workplaces, better air quality and reduced emissions
61. Aligning the geographical footprint of transport governance across a functional economic area will improve the efficiency of the transport system, and create a framework for more effective decision-making on transport in the context of wider economic objectives.
62. The Government is bringing forward legislation, to allow for the devolution of some transport powers and funding given to a Mayoral Combined Authority to be exercised by the Mayor.
63. In relation to Transport the Devolution Agreement makes the following commitments
- Specific transport delivery arrangements will reflect the particular transport needs and challenges of areas within the region, including the option for the Mayor to delegate their specific responsibilities to individual Cabinet members, for example over rural transport.
  - Government will devolve a consolidated local transport budget with a multi-year settlement to be agreed at the Spending Review, including all relevant local highways and sustainable travel funding.
  - Government will consider establishing and devolving a long-term funding programme to support investment in the Metro.

- Rail North will, in partnership with DfT, assume full responsibility for oversight of the Northern and TransPennine Express franchises from April 2016, with the aim of delivering further improvements in rolling stock quality, frequency and quality of services, and new connections. As part of this arrangement, the Mayor and Combined Authority, with Tees Valley, Cumbria and North Yorkshire, will oversee rail matters included within the North East Business Unit area. As part of this, the Combined Authority and Government will consider a business case for the re-establishment of passenger services on the Ashington, Blyth and Tyne line.
- Longer-term, the Mayor and the Combined Authority, will bring forward a business case, for consideration by Government, for the unification and full devolution (beyond the forthcoming Northern franchise) of the management of rail and metro services within the North East, with the aim of creating the UK's first integrated regional rail network combining light and conventional rail.
- The Mayor and the Combined Authority will deliver a fully multi-modal smart ticketing and transport information network across the North East, aligned with the plans of Transport for the North on the implementation of integrated smart ticketing across the North.
- To support better integration between local and national transport networks, the Government and the North East Combined Authority will enter into joint working with Highways England and Network Rail on operations, maintenance and local investment through a new joint agreement on the delivery of investment and operations, which will be established by 2016.

#### Additional function and powers required

64. The current powers of NECA allow for implementation of the commitments in the Devolution Agreement and the forthcoming Bus Services Bill will address the bus franchising functions. As part of the wider scope of the review however NECA considered what powers could ensure more effective delivery of transport functions across the area.
65. The following powers are requested to support bus franchising ahead of the Bus Services Bill:-
  - Bus service registration powers - **Section 6 of the Transport Act 1985**
  - Traffic regulation powers including licensing local lorries, coaches, buses and Goods Vehicles - **Sections 7 and 8 of the Transport Act 1985**
  - Power to make grants to operate buses in the region - **Section 154 of the Transport Act 2000**
66. It is proposed that the Mayor will play a leading role in the contribution to the delivery of smart and integrated ticketing across the combined area and the wider Rail North area. NECA proposes to introduce ticketing that will enable those travelling within the NECA area as well as those travelling to and from the area to be able to purchase and use a smart and integrated ticket for use on all modes of transport. NECA seeks the powers to enable it to deliver smart and integrated ticketing and to require transport providers

operating within the combined area to accept the use of such a ticketing arrangement on its services.

67. Section 6 and 8 of the Highways Act 1980 enable the Secretary of State, Highways England and local highways authorities to enter into agreements with each other for the construction and improvement of roads for which one party to the agreement is the highway authority. It is proposed that these sections should be modified so that NECA can be a party to such agreements as if they were a highway authority. This would enable more efficient coordination of transport responsibilities on major works. The Constituent Authorities will remain the local highways authorities in relation to the day to day operation or maintenance of such highways and this power would only be utilised in relation to road improvement schemes as and when deemed necessary and with the consent of the relevant Constituent Authorities
68. The devolution proposals included the devolution of a single transport pot to be the responsibility of the Mayor, with an allocation of £273.4m over the next 5 years. A significant element of this funding is the current Highway capital maintenance funding. As part of the Single Pot announcement NECA secured the maximum amount of incentive funding over the next five years. This guarantees the highest level of incentive funding worth almost £20m, of which up to £8m would be additional funding, based on the current performance levels.
69. The highway allocations are based on national formula and reflect the backlog maintenance requirements of roads including the roads in the larger rural areas of the region. For this reason, the allocation to Durham and Northumberland are significantly higher than simple measures such as population. NECA have already agreed the current planned geographic distribution of the highways maintenance and incentive funding over the next five years. This has significant advantages in terms of being able to plan and implement the programme with more confidence and providing an opportunity to secure better value for money through tendering arrangements. The allocation of the highway maintenance fund is to be a Mayoral function. In making such allocations the Mayor must have regard to the existing five year indicative funding allocations by HM Government and to each Highway Authority's commitments and statutory responsibilities; in relation to the five years for which the indicative allocation of funding has been made, the Mayor may only change the indicative amount allocated to a Highway Authority with the consent of that Highway Authority.

#### Impact of a Non-Consenting Authority

70. Transport functions and responsibilities currently rest with NECA, as the Local Transport Authority for all 7 Constituent Authority areas. Following the removal of a Non-consenting Authority, from NECA, the Non-Consenting Authority will become the Local Transport Authority for their administrative

area. The precise arrangements for the delivery of transport functions and responsibilities following this change will be the subject of further legislation which will provide for the delivery of transport functions and responsibilities moving forward.

71. The Order removing the Non-Consenting Authority from NECA will designate the Authority a Local Transport Authority and will provide for new arrangements for the delivery of Passenger Transport Executive responsibilities in the Tyne and Wear Constituent Authority areas.

### **3.2.3 Human Capital**

72. The 2013 Governance review set out a proposition to deliver a coherent and effective skills system in the long term that will meet the needs of the North East economy, enabling investment in the skills that will deliver our growth aspirations. The proposition was to:
  - Reduce ambiguity and overlap of roles and responsibilities through the development of one co-ordinated skills plan which will improve cost effectiveness and avoid duplication;
  - Improve efficiency in the skills system by developing a co-ordinated and cohesive approach to delivery across the functional labour market;
  - Create a more flexible incentivised system which encourages learning providers to develop new and responsive learning opportunities which will supply a skilled workforce to maximise economic growth;
  - Develop a strengthened framework for improved choices by individual learners, ensuring that individuals have better access to information advice and guidance to make sound career decisions and have appropriate access to skills provision which reflects existing and future labour market opportunities;
  - Significantly improve the involvement of employers in the design and delivery of skills programmes which will improve the articulation of demand, to ensure that current and future workforce needs help to drive up productivity and competitiveness;
  - Stimulate employers investment in skills alongside publicly funded provision;
  - Improve the rate of return of investment in skills for the individual, the employer and the economy.
73. Considerable progress has been made against the initial proposition however issues remain. Although many people in the North East have a strong and economically-relevant skills base, developed with the support of excellent schools, colleges and training providers, the North East continues to suffer from a relatively low overall skills base. As a result, productivity is reduced, jobs are too often insecure, paid less than a living wage, and vulnerable to competition in a global economy where future jobs will require greater levels of skills than ever before.

74. The North East Strategic Economic Plan clearly identifies a mismatch between supply and demand in the area and further challenges compounded by an ageing workforce and projected replacement demand that cannot be met by the current skills base. There is a pronounced lack of the required, technical, intermediate, and professional level skills required to drive productivity.
75. Our skills plan, drawing on extensive consultation with employers, schools and providers concluded that:
- The system remains overly complicated;
  - There are opportunities for better co-ordination of activities and initiatives;
  - There is a need for widespread recognition of the benefits of investment in skills and greater confidence in the skills system – from firms and individuals;
  - There will be a large number of job opportunities in the region, particularly from replacement demand from retirement and other factors. Without concerted actions some sectors face the threat of significant skills shortages through a mismatch of demand and supply;
  - It has been unclear who has overall responsibility for ensuring that the skills needs of the North East economy are met, and that individuals are able to maximise their future labour market opportunities.
76. Continued austerity has forced unprecedented cuts to public services across the region. This challenge has been compounded by increasing and changing demands on services, driven in large part by an ageing population but, also by expectations of more personalised services. Also, public sector budget reductions, together with economic instability, have merely shifted pressures across public services rather reducing overall demand in the long-term. These competing pressures mean there is simply no alternative to radical public service reform, requiring public services to work together and, in many cases, integrate as never before.
77. The Troubled Families programme delivered across the combined area is evidence that more integrated, family-based approaches (focused on the people who have long-term, complex dependency on services) can produce tangible results in terms of reducing cost and improving outcomes. Analysis by Core Cities shows that for every 1,000 troubled families that are turned around, the potential avoided costs are between £62 million and £75 million per annum.
78. The overall barrier continues to be a national, departmental approach to public services which creates differing local priorities as well as an unequal sharing of resources and rewards amongst different public service agencies. This makes it difficult for services to integrate effectively around shared outcomes and results in reductions in one public service merely serving to shift pressure onto another part of the public sector (e.g. from welfare services to health). This also perpetuates single-agency responses which too often fail to deliver long-term positive outcomes for people who suffer from long-term, complex dependency on high-cost services.

79. While the emphasis will continue to be on service delivery at the local and community level, there is now an increasing interest in the role that coordination at the Combined Authority level could play in supporting the on-going reform of local public services. Examples include the development of a devolved approach to supporting people into work, alongside other services such as health, social care and housing which are harder to integrate using approaches managed from central government. As a Combined Authority, we therefore propose to develop over time an integrated approach to public service delivery, supported by the integrated management of all public assets in the region.
80. In relation to Human Capital the Devolution Agreement makes the following commitments
- To address the issues above, the Devolution Agreement set out the commitment to create an integrated employment and skills system tailored to the specific needs of the area, and thereby raise labour market participation and skills at all levels, to increase productivity, improve the life chances of young people, help people into work and meet the skills shortages experienced by North East employers.
  - There will be a joint NECA and Government responsibility for an Employment and Skills Board, that will undertake: a comprehensive review and redesign of the post-16 education, skills and employment support system in the North East, delivered through the area-based review of post-16 provision; full devolution of adult skills funding by 2018/19; co-design by Government and NECA of employment support for harder-to-help claimants; and examination of the case for further devolution of employment and skills powers and budgets.
  - In addition NECA has committed to creating a Service Transformation Fund, to support early intervention for individuals and families with complex needs, to reduce high dependency on public services and support economic participation, supported by a data sharing agreement and other measures to promote the integration of local public services.

Additional functions or powers required

81. Schedule 2, paragraph 3 of the 2014 Order that established NECA conferred upon NECA the duties under sections 15ZA, 15ZB, 15ZC, 17A and 18A(1)(b), of the Education Act 1996 and the power under sections 514A and 560A of that Act (duties and powers related to the provision of education and training for persons over compulsory school age). These powers, exercised concurrently with the Constituent Authorities, ensure delivery against the Human Capital element of the Devolution Agreement.
82. Pending completion of the work of the Employment and Skills Board where further functions and powers may be identified, this Review has identified

additional legislation which will allow NECA to expand the range of skills, education and employment powers and functions available so that, with the Constituent Authorities and the Secretary of State they can continue to improve education, skills and employment provision for the NECA area.

83. These powers will help the region's young people, residents and workforce get the relevant, high-quality skills and employment provision, from school through to work. Devolved legislation that is now sought includes:
- The Education and Skills Act 2008
  - Further and Higher Education Act 1992
  - Employment and Training Act 1973
  - The Apprenticeships, Skills, Children and Learning Act 2009

Any powers relating to the above legislation will be exercised concurrently with Constituent Authorities and subject to their agreement and the exercise of such powers will be set out in relevant protocols to be included in the NECA Constitution.

84. NECA seeks the new duties given to local authorities (to be exercised concurrently with Constituent Authorities) by the Education and Skills Act 2008 (sections 10, 12, 68, 70, 71 and 85) which says that every 16 and 17 year-old in their area should be involved in some education or training (known as 'raising the participation age') by:

- promoting effective participation of those in the area who should be getting some education or training
- making arrangements to identify those in the area who are not getting the education or training they should
- transferring to NECA the current statutory duties on the Secretary of State to secure appropriate further education for adults and for it to be free in certain circumstances
- transferring the Adult Education budget to NECA.

85. NECA is also requesting local authority powers under section 13A of the Education Act 1996: in relation to post 16 education and training to promote high standards, ensure fair access and promote fulfilment and powers under sections 15ZA and 15ZB. These powers are to be exercised concurrently with Constituent Authorities.

86. Further powers are requested pursuant to section 51A of the Further and Higher Education Act 1992: to require further education institutions to provide specified individuals between the ages of 16-18 with such education as is appropriate to the individual's abilities and aptitudes. These powers are to be exercised concurrently with Constituent Authorities.

87. NECA seeks the power under section 2 of the Employment and Training Act: "to make arrangements for the purpose of assisting persons to select, train for and obtain and retain employment suitable for their ages and

capabilities". NECA also seeks the power under section 10A of the above act: to enter into agreements for the supply of goods and services. These powers are to be exercised concurrently with Constituent Authorities.

88. It is proposed that NECA in relation to the NECA area is given the power of the Secretary of State, pursuant to section 83 of the Apprenticeships, Skills, Children and Learning Act 2009 to secure the provision of facilities for suitable apprenticeship training for persons aged between 16 and 18 (and for those between 19 and 24 for whom an Education Healthcare Plan is maintained).
89. It is proposed that all new Human Capital functions will be non-Mayoral functions exercisable by NECA, the Secretary of State and Constituent Authorities concurrently and subject to agreed protocols.
90. Other areas identified within the Devolution Agreement require no additional powers and areas for future work e.g. apprenticeship levy opportunities will identify any additional functions and powers in due course.

#### Impact of a Non-Consenting Authority

91. The Employment and Skills Board proposed in the Devolution Agreement is an informal partnership and may include the Non-Consenting Authority with the agreement of the other Board Members including Government as the Commercial Secretary to the Treasury is the Chair. The Board is responsible for a wholesale/system review of employment and skills regionally and such review would require some cooperation on the part of the Non-Consenting Authority. However, any proposed system changes would need to reflect NECA geography.
92. Any further devolution of powers and funding would be to NECA in its new geography. NECA would be restricted in the extent that devolved employment and skills programmes could be delivered in NECA area, and it would be expected that devolution of the funding for those programmes would not include the element delivered within a Non-Consenting Authority area, which would remain delivered by Department for Work and Pensions directly.

#### **3.2.4 Supporting and Attracting Business and Innovation**

93. As the 2013 Governance Review identified, inward investment remains of key importance to the North East Economy as a whole and the area has been successful in attracting both foreign and UK based inward investment over recent years. Working closely with partners in the area, the Constituent Authorities play a significant role in Inward Investment through a range of bodies (NGI, Make it Sunderland, Business Durham, Arch (Northumberland) Invest North Tyneside and Invest South Tyneside).

94. NECA has provided an 'Investment Gateway' which handles and brokers incoming enquiries and promotes a key proposition for investors that has a clear focus on key sectors. It supports strengthened relationship/information flows with UKTI, including with national, international and specialist functions and operate a CRM system to link partner activity. The 'Investment Gateway' has added strategic capacity for enquiry handling and relationship building while playing to the strengths of the Constituent Authorities. It importantly allows for a combined and more cohesive offer and promotion of the area, using our significant assets and strengths and avoiding duplication of effort.
95. In regards to Supporting and Attracting Business and Innovation the Devolution Agreement makes the following commitments:
- Government and North East Combined Authority will work to devolve further responsibility for UK Trade and Investment (UKTI) Export Advice services. This will include ring-fencing and a dual key approach to activities, and enhanced reporting on outputs and outcomes by UKTI.
  - Government and the Combined Authority will take joint responsibility for the delivery of inward investment into the region. There will be a strengthened partnership between locally delivered services and UKTI, with a quarterly board to follow-up on progress.
  - Government and the Combined Authority will agree a joint programme to create the right environment to drive the commercial rollout of ultrafast broadband following successful testing and to ensure 4G services are available to at least 95% of the North East's population. Government will also support the Combined Authority to reinvest funds into creative solutions to supply superfast broadband to remaining premises.
  - The Combined Authority will commission a feasibility study into the establishment of a National Smart Data Institute in the North East.

#### Additional functions or powers required

96. No additional powers are required to deliver against the commitments in the devolution deal and the review has not identified any other powers to be conferred upon NECA.

#### Impact of a Non-Consenting Authority

97. The NECA Investment Gateway team would continue to promote Gateshead alongside the rest of the region, including acting as the conduit for work with UKTI. This would be subject to a separate agreement and funding arrangements to support the joint work moving forward.

### **3.2.5 More and Better Homes**

98. A strong housing, employment and urban core offer is critical in securing the North East's sustained economic growth. The North East is an area with great assets, vibrant cities, metropolitan areas, towns and rural areas. With

a population of over 2 million and over 57,000 businesses NECA's role is to create the conditions to enable an appropriate quantity, of good quality developments in the right places to meet the North East's demands and aspirations and build on well-connected infrastructure — ultimately to deliver more and better jobs and to increase the supply of the right type and mix of homes in the right location.

99. The housing stock and markets of the North East have their own distinct characteristics bringing with them unique opportunities and challenges in the region's drive to secure better economic growth. As recent house price rises have shown, the market is strong and growing, there is land available to support housing growth and North East Local Authorities are pro-growth therefore planning is less of an issue here than elsewhere. The challenges come from not only driving the delivery of new homes but also from more unique issues such as the economic viability of brownfield sites, areas where the existing stock no longer matches the demands of the 21st Century and affordability in some rural areas.
100. In addition, the national funding model for housing does not fully meet the challenges set out above. The multiple funding streams managed through the Homes and Communities Agency (HCA) are attuned more to the needs of the housing market in the south east than the specific challenges of the North East and are not available over a long enough horizon to support long term generational solutions. A lack of gap-funding for brownfield site remediation and regeneration creates pressure on greenfield sites, when many other areas of the North East could provide popular and sustainable sites. The HCA's focus is increasingly national which inhibits the development of long term and North East specific deal.
101. These diverse local issues mean that 'one size fits all' national policies and programmes are not always suited for the North East housing market. Greater decentralisation of powers and funding with locally developed and agreed solutions will support the delivery of more and better homes for the area.
102. In regards to More and Better Homes the Devolution Agreement makes the following commitments:
  - Establish a North East Land Board to review all land and property held by the public sector, and all suitable brownfield land, to identify surplus land in suitable locations for housing or economic development use.
  - Devolve statutory planning powers, including Compulsory Purchase Order (CPO) powers and those powers available to the Homes and Communities Agency (HCA) with such powers being used to acquire land within a Constituent Authority's boundary with the consent of the Cabinet member for the area.
  - The creation of a North East Planning Development Framework (NEPDF), not a regional spatial strategy, led by the Mayor, to enable the Constituent Authorities to deliver on housing growth.

103. NECA does not currently hold any housing or planning related function or powers and this Review has identified the following functions to implement the commitments in the devolution deal and to support local housing delivery. The following powers will be supported by the power to carry out assessment of housing need pursuant to section 8 (1) of the Housing Act 1985.
104. All powers currently vested by the Secretary of State in the HCA should be devolved to NECA. This would include the CPO powers, New Town Commission powers and the Urban Regeneration Company powers. These powers would be exercised, where needed, by NECA to drive housing delivery and improvements in the existing stock of housing in the North East. The Mayor will have the power to confirm CPO's agreed to by NECA provided that the Cabinet member for the area in which the property is located consents to the CPO being made.
105. A North East Land Board will be established under the Combined Authority with the full engagement of Government, to review all Government held land and other land held by public bodies and identify any surplus land in suitable locations for housing or economic development use. Land brought to the market will help drive housing growth and improvement in the housing stock of the North East. Local Authority land in the North East is already used to promote development and economic growth. However, some other public bodies have not identified this as a priority and as a result opportunities to release surplus land are not progressed in a timely way.
106. The North East is open for business and is aiming to maximise economic opportunities by attracting investment and promoting development. However, whilst the National Planning Policy Framework (NPPF) ensures that there is a consistent approach to planning throughout the country and sets a framework to which Local Plans must conform, some critical policies do not work in the North East. The 'one size fits all' policies have no regard to regional differences in respect of viability, local market conditions, scale of development, or regeneration benefits; all of which have impacts on the delivery of development.
107. Whilst not a regional spatial strategy, the North East Planning Development Framework (NEPDF), enabling the Constituent Authorities to deliver housing growth is a cornerstone of the Devolution Agreement. This will enhance the NPPF, in line with the specific needs of North East communities, to deliver through a more flexible, growth-orientated and responsive policy, supporting local development frameworks, and incorporating the duty to cooperate between the Constituent Authorities.
108. There are elements of the NPPF which seemingly have a bias towards southern England. Some policies are based on high land values, large scale, high-value developments and in a context of some authorities who

find it difficult to keep up with the market in respect of decision making. In the North East of England there is the opposite; a pro-development culture and need to get development going but with much lower land values, a small number of hot spots in terms of market and the need to continue regeneration.

109. This means that the national policy response to the south of England's traditional constraint of housing supply and the higher relative land values does not always reflect issues and opportunities within the North East market. The NEPDF will be a NECA document that will interpret the NPPF for the North East and be the overarching framework for the Constituent Authority local plans.
110. The NEPDF would create the opportunity to develop a strategic planning framework to supplement the duty to cooperate which would serve to:
  1. Support economic growth objectives;
  2. Support the delivery of more and better homes; and
  3. Recognise the constraints and opportunities posed by the North East market context.
111. The scope of the NEPDF will include:
  - Supplementing national planning policy to ensure that the planning framework for the north east enables the north east's shared economic growth objectives and delivers more and better homes.
  - Providing a policy framework that will enable Constituent Authorities to deliver housing growth and not to constrain the housing supply.
  - Enhancing the national planning policy framework in line with specific needs of the North East's communities whilst recognising the constraints and opportunities within the local market context.
  - Providing a more responsive, flexible and growth-orientated policy that supports local development frameworks and streamlines the plan making process.
  - Incorporating the duty for cooperation between the Constituent Authorities
  - Supporting the distinct operational context of the North East compared to that of southern England that is characterised by typically pro-growth local authorities, associated with lower land values (and high viability for development) and experience high development pressures.
  - Providing a framework that will provide direction on key strategic issues such as land supply, development targets, Green Belt, housing target for the whole NECA area and a pipeline of strategically important projects.
  - Developing a streamlined route for the planning process within the north east
112. It is proposed that the NEPDF would be an agreed variance to national planning policies with Government; as opposed to new regional planning policy. The variances would be very specific so as not to create an

additional layer of planning policies for all areas of planning – there is no intention to create a new Regional Spatial Strategy. However, the variations would need to have some legal credibility, therefore we propose that they are treated as material considerations by NECA members and acknowledged in the NPPF.

### New Functions and Powers

113. NECA seeks the objects and functions of the Homes and Communities Agency (“HCA”) under Section 2(1) (with a limitation to NECA area) and Section 3-12, 17 and 18 of the Housing and Regeneration Act 2008 (“H & R A 2008”) to be exercised concurrently with the HCA.
114. The objectives are:
  - to improve the supply and quality of housing;
  - to secure the regeneration or development of land or infrastructure;
  - to support in other ways the creation, regeneration and development of communities or their continued well-being; and
  - to contribute to the achievement of sustainable development and good design.
115. These functions include powers enabling the achievement of the above objects, including a power of compulsory purchase in Section 9 of the H & R A 2008 (subject to the authorisation of the Secretary of State), in respect of which NECA should have the benefit of exemption from Section 23 of the Land Compensation Act 1961 enjoyed by the HCA under section 23(3)(d) of that Act.
116. NECA seeks the powers corresponding to the powers of the Greater London Authority (“GLA”) under Section 333 ZA of the Greater London Authorities Act 1999 (GLAA 1999) to CPO land for the purposes of housing and regeneration, and the consequential powers under Section 333 ZB (powers in relation to acquired land), Section 333 ZC (disposal of land) and Section 333 ZD (power to enter and survey land).
117. NECA seeks to be able to exercise concurrently the functions of the Constituent Authorities under Section 226 of the Town and Country Planning Act 1990 (“the T & CPA 1990”) to compulsorily acquire land for development or in the interests of proper planning of an area. These powers will be subject to the Cabinet member for the area in which the property is located consenting to the CPO being made
118. NECA seeks the additional or consequential powers under Sections 227, 229, 230, 232 and 235 to 241 of the T & CPA 1990, including powers to acquire land by agreement for planning purposes and the development, appropriation and disposal of such land.
119. The CPO powers in Section 9 of the H & RA 2008, Section 333 ZA of the GLAA 1999 and Section 226 of the T & CPA 1990 would be Mayoral

functions, but would only be exercisable by the Mayor with the consent of the Cabinet member(s) for the area(s) of the land being compulsorily acquired.

120. NECA seeks the power to develop the NEPDF (not a regional spatial strategy) that local planning authorities within the NECA area should have regard to when preparing their development plan documents or any other local development documents in accordance with the section 19 of the Planning and Compulsory Purchase Act 2004 (“P & CPA 2004”) and that local planning authorities must comply with the NEPDF in accordance with section 24 of the P & CPA 2004. The NPPF needs to be amended to include consideration of the NEPDF.
121. The Secretary of State is required to consult certain bodies before making a national policy in relation to planning. It is proposed that section 8(4) of the Planning Act 2008 is amended to include NECA as a body that will be consulted before the Secretary of State makes a national policy.
122. A North East Land Board will be established between the Secretary of State and NECA to investigate the best use of publicly owned land in NECA area. This does not require any new statutory provision. However, it would be appropriate if NECA were to be put in the same position as the HCA and the GLA pursuant to Section 31 of the Infrastructure Act 2015.
123. The Infrastructure Act 2015 inserts a new Section 53A of the H & RA 2008 and Section 333 DA of the GLAA 1999 which enables the Secretary of State to make schemes transferring designated property, rights or liabilities of specified public bodies to the HCA or GLA, provided that the public body consents. The Treasury may make regulations varying the tax consequences of such transfers.
124. It is proposed that the statutory provision is modified pursuant to Section 114 of the 2009 Act to enable the Secretary of State to make schemes transferring property of public bodies in NECA area (with their consent) to NECA.
125. NECA also seeks the power to carry out assessment of housing need pursuant to section 8 (1) of the Housing Act 1985 to support the functions mentioned above.
126. All the functions set out in this section will be Cabinet functions with the exception of the specific compulsory purchase powers set out above.

#### Impact of a Non-Consenting Authority

127. The powers sought (including CPO powers) to enable the increase in provision of new homes will not cover the area of a Non-Consenting Authority. So although participation on a Land Board would (with agreement

of the other participants) be possible it would not be possible to apply the new powers to secure details of available land from other public authorities or to acquire the land using any new powers. Only pre-existing powers could be applied.

128. The application of a North East Planning Development Framework beyond the scope of NECA new geographical area would be at the discretion of the Secretary of State. The current National Planning Policy Framework will be amended by the Secretary of State to introduce flexibility for NECA area and the Secretary of State will need to consider whether that area should also include a Non-Consenting Authority.
129. Close working between the HCA and NECA as envisaged by the Devolution Agreement may be extended with agreement of Government to include the Non-Consenting Authority area but this would require an extension of the current Devolution Agreement.

### **3.2.6 Rural Growth & Stewardship**

130. The Devolution Agreement set out commitments by Government to support the existing North East Rural Growth Network and approved LEADER programmes, and to work towards the devolution of rural growth programmes to NECA, including closer coordination of future stewardship and environmental programmes, to a timetable to be agreed by 2016.
131. The Government have also committed to exploring with the Combined Authority and Northumberland National Park Authority the options to give the Park Authority greater commercial freedom.

#### Impact of a Non-Consenting Authority

132. The Devolution Agreement sets out a series of actions in regards to the devolution of rural growth programmes which a Non-Consenting Authority would not have access to. Overall resources devolved could be reduced for NECA.

### **3.2.7 Tourism and Culture**

133. Under Schedule 2, paragraph 2 of the 2014 Order NECA already has the power under section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities). The Devolution Agreement set out the commitment for NECA to work with the Government to identify ways for the North East to play a major role in the UK's programme of business, cultural and sporting events.

Additional functions and powers.

134. NECA seeks the power under section 145 of the Local Government Act 1972 (to be exercised concurrently with the Constituent Authorities) to provide and support cultural activities and entertainments.

**3.2.8 Regulatory Powers**

135. The Devolution Agreement states that Government and NECA will review which regulatory and planning powers that are currently held by ministers and public authorities should be transferred to the Combined Authority, to be exercised with the agreement of, or following a proposal from, the Constituent Authority or Authorities in which those powers are applied. The powers to be reviewed include those that:
- a. support NECA's transport, regeneration and housing functions;
  - b. promote safe and high quality neighbourhoods and town centres;
  - c. support housing growth;
  - d. support improvements in the quality of housing and challenge poor quality landlords; and
  - e. promote public health by addressing obesity, smoking and substance misuse.
136. The relevant regulatory powers are included in the appropriate section and we envisage that a further review of regulatory powers will be needed as and when NECA considers it appropriate to progress with any devolution of Health and Social care functions.
137. Future reviews by NECA will consider options for further devolution to support public sector reform and through regulatory change and the development of a robust regional regulatory framework will support the delivery of strategic regulation which promotes economic growth and wellbeing within the North East.

New functions and powers

**To support collaborative working across local authority boundaries NECA is seeking the power to introduce a regional flexible warranting scheme for NECA area which will enable authorised officers from the Constituent Authorities to act across the relevant Constituent Authority boundaries.**

138. Flexible warranting is a scheme that allows one enforcing authority to appoint inspectors from another authority or enforcement agency to undertake work on its behalf and provides a flexible approach that allows local deviation from the local authority establishment which is dependent on available resources, risk profile and economic activity within a locality.

139. Whilst existing enforcing authorities can already authorise other persons to act on their behalf this process involves varying authorisation procedures and constitutional arrangements within individual authorities. The benefits of a flexible warranting scheme which is administered by NECA would therefore provide a consistent approach which would be advantageous in terms of time and overall efficiency savings.
140. The introduction of a regional flexible warranting scheme for the NECA area is intended to support the Government policy of improving the effectiveness and efficiency of local authority regulatory services (LARS). The introduction of this scheme would support cross border-working arrangements within the combined authority area and provide a simple and efficient administration for LARS, ensuring that authorisations are clear and consistent and promote the delivery of better regulatory outcomes through collaborative working across the region.
141. The government have previously considered the introduction of national flexible warranting scheme however the North East LARS would consider that a regional scheme would be more manageable to administer and deliver.
142. It is proposed that NECA is given the power to administer a regional flexible warranting scheme to enable enforcement officers appointed within the Constituent Authorities and /or other enforcement agencies to enforce legislation outside their own local authority (LA) as appropriate. We are seeking to achieve that in the least burdensome way to both LARS as well as local businesses.
143. These arrangements will streamline local authority authorisation procedures across the combined authority area and provide increased flexibility for local authorities to organise their resources more effectively and efficiently across the region to support collaborative working, contingency and mutual aid arrangements.

**Devolving to the North East Combined Authority the power to determine and approve local byelaws.**

144. Byelaws are useful for dealing with emerging problems for communities that are too minor to be covered by national legislation. The national set of model byelaws is rarely updated, and approval procedures are cumbersome, slow and inefficient.
145. The proposal to give 'Confirming Authority' powers to NECA for the making and approval of model and local byelaws would streamline and accelerate the approval systems as well as provide a local focus when reviewing and updating any model sets of byelaws to enable the needs and priorities of our local communities to be taken into consideration.

146. NECA would not be seeking powers to give approval for byelaws without the powers and functions of the 'Confirming Authority' being conferred on NECA as the identified benefits of devolution would otherwise not be fully realised.
147. These proposals mirror the relatively new powers granted to local authorities to make local orders to deal with antisocial behaviour, e.g. Public Spaces Protection Orders. Such powers enable a local authority to react to issues with tailor made solutions which are enforceable by the Police or a Local Government officer. It is not expected however that all matters for which local model byelaws would be appropriate would be sufficiently severe to be included within these new antisocial behaviour powers.

**Devolving to the North East Combined Authority the power to designate additional and selective licensing schemes.**

148. Section 58 and 82 of the Housing Act 2004 give powers to the Secretary of State to confirm, or refuse a designation for additional licensing in relation to houses in multiple occupation and selective licensing within the private rented sector, respectively.
149. NECA is seeking the power to designate such areas under these existing powers which would involve the transfer the functions of the 'national authority' to NECA.
150. Whilst this would streamline and speed up the existing approval mechanisms it will also significantly contribute to the development of strategic regulation of the private rented sector within the NECA area. Devolving this power would provide the ability to achieve greater improvements in housing stock condition, tenancy management and vetting, meeting local housing demand as well as overall health and wellbeing. In addition, local communities and businesses will benefit from reductions in anti -social behaviour, rogue landlords, empty properties, inequalities in health and crime and disorder.
151. These functions would facilitate the delivery of a co-ordinated approach across the NECA area enabling the Constituent Authorities to work more collaboratively to support the delivery of more and better homes and promote economic growth and regeneration within the region.
152. In order for NECA and the Constituent Authorities to exercise these powers effectively, NECA will be given the power under section 3 of the Housing Act 2004 to undertake a review of housing conditions across the NECA area. This power will be exercised concurrently with the Constituent Authorities.

### **Devolving powers to the North East Combined Authority to determine whether an area may benefit from a relaxation in the Sunday Trading rules.**

153. The devolution of this power to Combined Authorities has already been the subject of national consultation. NECA is seeking these powers which will give accountability to the local community and reflect the needs of local residents and our local business community.

#### **3.2.9 Information Sharing**

154. There are, or will be, a number of instances where NECA has assumed a function concurrently with a local authority or public authority and where, in connection with those functions, various enactments enable or require that local or public authority to share information with other persons or bodies and in particular enable /require those other persons or bodies to share information with the local or public authority.
155. For the purposes of exercising functions concurrently with the Constituent Authorities or a public authority, NECA needs to rely on the same information sharing gateways applicable to those authorities.
156. For this reason it is proposed that the following enactments be amended to ensure the data sharing provisions specified below apply to NECA. Though these provisions would be expected to flow from acquiring the relevant functions, in most instances the statutory provisions contain a local authority definition that does not specifically recognise a combined authority.

#### **NECA to be able to share information pursuant to sections 14, 16, 17, and 77 of the Education and Skills Act 2008**

157. As a consequence of the powers sought in relation to sections 10,12, 68, 70 and 71 of the ESA 2008, NECA seeks application of the data sharing provisions outlined below. It should be noted that the definition of a “local authority” for the purposes of ESA 2008 is set out in section 65 of the Children Act and this definition does not include a combined authority.
- If requested to do so, educational institutions will be obliged under section 14 ESA 2008 to supply relevant information about a student or pupil to NECA.
  - NECA will have the power to seek the supply of information from other public bodies.
  - NECA will be able to rely on the information sharing provisions in section 17 ESA 2008 (primarily concerning the exchanges between local authorities and their service providers) and; in section 77 ESA 2008 to support local authorities to deliver their duties under section 68 ESA 2008.

**158. NECA to be able to share information pursuant to section 122 of the Apprenticeships, Skills, Children and Learning Act 2009.**

159. Section 122 of the Apprenticeships, Skills, Children and Learning Act 2009 provides for the sharing of relevant information for education and training purposes between local authorities and their service providers and for similar exchanges between these bodies with the Secretary of State and/or their service provider.

**NECA to be able to share information pursuant to sections 17A and 115 of the Crime and Disorder Act 1998**

160. Under section 17 of the Crime and Disorder Act 1998 NECA has a duty when exercising its functions to consider crime and disorder implications and NECA therefore seeks relevant authority status to enable it to share information in accordance with the provisions in sections 17A and 115 of this Act.

161. NECA to be able to share information pursuant to section 113 of the Environment Act 1995

162. This provision facilitates the disclosure of prescribed information between relevant Ministers of the Crown, relevant agencies and local enforcing authorities for the purposes of discharging environmental functions which NECA requires in relation to its air quality functions. It should be noted that the definition of a “local enforcing authority” at section 113(5) of the Environment Act does not include a combined authority.

**NECA to be able to share information pursuant to section 72 of the Welfare Reform and Pensions Act 1999**

163. Section 72 of the Welfare Reform and Pensions Act 1999 enables the Secretary of State to make regulations allowing certain persons, including the Department for Work and Pensions, to share social security and employment and training information with other Government Departments and their service providers, certain types of local authorities and their service providers.

164. NECA seeks designation as a relevant authority under section 72(2) of the Welfare Reform and Pensions Act 1999 in order to facilitate the exchange of information for employment and training purposes under regulation 13 of the Social Security (Claims and Information) Regulations 1999/3108 (as amended).

165. Regulation 2 of The Social Security (Claims and Information) Regulations 1999 (the “1999 Regulations”) deals with “Interpretation” and provides that

for the purposes of the 1999 Regulations “the Act” means the Welfare Reform and Pensions Act 1999 and “relevant authority” means a “person within section 72(2) of the Act”. If NECA is designated as a “relevant authority” under section 72(2) of the Welfare Reform and Pensions Act 1999, then NECA will be able to share the information referred to in those of the 1999 Regulations referred to below:

- Regulation 13(1)(b)(iv): 13(1) A relevant local authority which holds social security information may - (b) supply the information (iv) to any other relevant authority in connection with any scheme operated by, or any arrangements made by, the authority for purposes connected with employment or training;
- Regulation 13(1A): 13(1A) A relevant authority which holds employment or training information about a person (“P”) may supply that information to another relevant authority for use by that second authority in connection with the provision to P (pursuant to arrangements made by the Secretary of State) of advice, support and assistance which P may need in order to acquire or enhance P’s skills and qualifications with a view to improving P’s prospects of finding and retaining employment.
- Regulation 13(4): A relevant authority which holds social security information or information relating to employment or training, may supply that information to any other relevant authority for the purposes of research, monitoring or evaluation in so far as it relates to any of the purposes specified in paragraph (5).

### **NECA to be able to share information pursuant to section 131 of the Welfare Reform Act 2012**

166. This provision enables the Secretary of State or a person supplying services to the Secretary of State, to supply relevant information to qualifying persons for certain purposes, including welfare services and for the use of that information.
167. Welfare services include support, assistance, advice or counselling to individuals with particular needs, and for these purposes “assistance” includes assistance by means of a grant or loan or the provision of goods or services.
168. NECA seeks designation as a qualifying person under section 131(11) of the Welfare Reform Act 2012 in relation to the provision of welfare services either as a local authority or as a person prescribed or of a description prescribed by the Secretary of State. (A local authority in relation to England and Wales is defined under section 191 of the Social Security Administration Act 1992 as “a council of a district or London borough, the Common Council of the City of London or the Council of the Isles of Scilly”).

The effect of this designation would ensure regulation 5 of the Social Security (Information Sharing in relation to Welfare Services etc) Regulations 2012 (SI 2012/1483) applies to NECA (the "2012 Regulations").

169. Regulation 5 of the 2012 Regulations permits the Secretary of State to supply relevant information for the purposes of identifying households eligible for support under a Troubled Families Programme, providing advice support and assistance to members of such households and for monitoring and evaluating such programmes.
170. The 2012 Regulations define "a Troubled Families Programme" as meaning any programme of assistance provided by a local authority in England, for the purpose of engaging with households who face multiple disadvantages (such as crime, worklessness, truancy and antisocial behaviour), in the form of the funding, planning, monitoring or delivery of support services which assist members of such households to obtain employment, education or training, improve school attendance, or address crime and anti-social behaviour.

### **3.2.10 Health and Social Care**

171. The Devolution Agreement sets out the commitment for NECA and the NHS to jointly establish a Commission for Health and Social Care Integration to establish the scope and basis for integration, deeper collaboration and devolution across the NECA area, in order to improve outcomes and reduce health inequalities.
172. The Commission was set up jointly by NECA and the NHS to look into how the NHS, councils and other public, private and community and voluntary sector bodies could further develop the work they do together to improve the health and wellbeing of the local population. Poor health is a key issue within the region and despite excellent health and social care provision, outcomes are among the poorest in the country so there is a need to look at the whole system and address the wider issues that impact on people's health and wellbeing
173. It is acknowledged that improvements to health and wellbeing must be done in a climate of constrained resources and that the current system is unsustainable both financially and clinically. As such there is a need to explore how resources can be freed up to focus more on health improvement and reduce reliance on hospitals.
174. The Commission represents the first phase of the important work that will be carried out as part of the proposed devolution agreement to identify the opportunities for greater collaboration, integration and devolution across NECA's area, in order to improve outcomes and reduce health inequalities.

175. The Commission has identified the following themes of work:
- How can we shift the focus of our effort and investment towards prevention, including the need to reduce reliance on hospital based services?
  - How can we link the prosperity of the North East to the health and wellbeing of local people?
  - How do we develop the right leadership, relationships and governance to enable implementation of the Commission recommendations and the wider integration agenda, both within NECA area and between NECA and central government?
176. Commission members have been exploring how to build on existing arrangements for joint working to place greater emphasis on prevention and support the shift from hospital-based care to self-care and care closer to home, to improve health and independence. They have also been looking at what financial arrangements would be needed to underpin these shifts, as well as how decisions would be made within the combined authority area and with central Government. The final report will be ready in summer 2016.
177. The devolution of health and Social care functions, powers and resources will be considered by NECA following the report of the commission and a further Governance Review and Scheme will be prepared in the event that further powers are to be conferred to NECA.

### **3.2.11 Future areas for devolution**

178. The Devolution Agreement represents a first step in a progressive process of devolution of funding, powers and responsibilities to the North East. As well as the areas set out in the deal, NECA and Government will consider further opportunities for devolution moving forward, including but not limited to:
- a) Business cases for the relocation of significant government functions from London to the North East;
  - b) Devolution of funding and assets held by central government which could be devolved to support faster housing and regeneration;
  - c) Devolution of climate change initiatives, support for investment in energy efficiency and technological development;
  - d) Measures to implement the Prime Minister's commitment to protect Newcastle Airport from the impact of devolution of Air Passenger Duty to Scotland;
  - e) Opportunities for joint initiatives between the North East and Scotland, in areas such as tourism, culture, transport and industrial collaboration.
  - f) Proposals for an appropriate relationship between the functions of a Mayor and future role of the Police and Crime Commissioners,

including in relation to fire services, to be developed, subject to local consent and a business case developed jointly by PCCs and council leaders, and in consultation with the Fire and Rescue Authorities.

179. As and when necessary further governance reviews will be undertaken to support the preparation of additional schemes as appropriate.
180. County Durham is in a unique position within the NECA area regarding the police, fire and health and social care as the geographical footprint of these services extends beyond the NECA.
181. The geography for health services for County Durham residents involves significant provision and patient flows in Tees Valley as opposed to the NECA area. The Council is also part of an NHS unit of planning which comprises, Durham, Darlington and Tees.
182. In relation to police and fire, while the policing arrangements for six of the seven NECA Constituent Authorities are shared (via Northumbria Police and the Northumbria Police and Crime Commissioner) and those for fire and rescue are coterminous with the NECA area (via the Northumberland and Tyne and Wear fire and rescue services/authorities), Durham is different. Its police service and police and crime commissioner, and its fire and rescue service and associated authority 'look south' as opposed to north, covering County Durham and Darlington.
183. Any proposed devolution in these areas will be subject to consent of Durham County Council (and all other Constituent Authorities) and NECA. Such devolution proposals would be supported by the inclusion of appropriate safeguards in decision-making to protect the interests of Durham County Council or other Constituent Authorities in a minority voting position in decision making.

## 4 Governance

199. New functions, powers responsibilities are sought to be devolved to NECA. For such devolution to progress NECA must become a Mayoral Combined Authority. As a result it is proposed that in May 2017 an election of a Mayor for the combined area will take place. As a result of these changes, NECA will also change the way in which decisions are taken within NECA. The Leadership Board will in future be known as the Cabinet and the Mayor will be Chair of the Cabinet.
200. Some of the new areas of responsibility will require decisions to be taken by the Mayor. Other decisions will be the responsibility of the Mayor and the Leaders together. The decisions taken by the Mayor and Leaders together will be referred to as “Cabinet decisions”.
201. The areas of responsibility where decisions of the Mayor are required will be set out in the legislation that devolves the various powers to NECA as set out in the Devolution Agreement. Unless the legislation specifies that a decision is the responsibility of the Mayor, the decision will be a Cabinet decision.
202. The first election of the Mayor is to take place on 4 May 2017. The subsequent election the Mayor will take place in May 2020. The first term of office for the Mayor of 3 years will promote the efficient use of resources for NECA and the Constituent Authorities as the election for the second term of office for the Mayor will coincide with the local elections of the Tyne & Wear Constituent Authorities.
203. The election of the Mayor will be every fourth year thereafter on the same day as the ordinary day of election and will correspond with the cycle of local elections taking place within the Tyne and Wear Constituent Authorities.

### 4.1 Mayoral Decision Making

204. The Mayor’s responsibilities will be:-
- The franchising of bus services and, through Rail North, rail services
  - Contributing to the introduction of smart and integrated ticketing across the combined area and the wider area of the North East
  - Formulating and developing a Local Transport Plan
  - Oversight of the creation of a North East Planning Development Framework, and the confirmation of compulsory purchase orders sought by Cabinet in addition to undertaking the role of the Chair of the North East Land Board

- With the agreement of the local business community, placing a supplement on business rates to fund infrastructure projects across the combined area.
  - Responsibility for a devolved and consolidated transport budget
205. It is not proposed that the Mayor will have a general power of competence. However, the Mayor will have, as an ancillary power, a functional power of competence that is similar to the power under Section 113A of the 2009 Act given to combined authorities. This general power will enable the Mayor to do things appropriate or incidental to, or connected with, their powers and functions.
206. When making decisions that are the responsibility of the Mayor, save in exceptional circumstances the Mayor will consult with Cabinet. The Mayor's decisions will be taken in an open and transparent manner and save for urgent matters (where urgency is agreed by the Chair of Overview and Scrutiny Committee), will be taken during the course of Cabinet meetings which will also promote efficiency in decision making within NECA.
207. The Mayor may decide to ask the Deputy Mayor, a Cabinet member or officer of the NECA to make decisions on his/her behalf. NECA seeks the definition of "officer" to be wide enough to include the Passenger Transport Executive (Nexus) to permit the Mayor to ask the Passenger Transport Executive to undertake the Mayoral transport responsibilities on his/her behalf should this be needed. Currently responsibility for operational transport matters within the County Council areas of Durham and Northumberland is delegated to Durham and Northumberland County Councils respectively to undertake these responsibilities on behalf of NECA. NECA will require the flexibility the current arrangements to continue as appropriate.
208. NECA also seeks the power for the Mayor to enter into joint working arrangements with local authorities in relation to his/her responsibilities through a joint committee should such an arrangement be needed.
209. The Mayor, or with their agreement a Cabinet member with responsibility for the Transport thematic area, will represent NECA on Transport for the North and Rail North, with appropriate deputies also designated. This will enable the Mayor to take a lead role on franchised rail services and to contribute to the delivery of smart and integrated ticketing, not just across the combined area, but also across the wider Rail North and, as appropriate, Transport for the North area.
210. All Mayoral decisions will be fully recorded and published, (unless there are specific reasons why non publication is permissible) and will be subject to full scrutiny to ensure transparency and that decisions are taken in line with local authority decision making statutory obligations and processes.

## 4.2 Cabinet Decision Making

211. All decisions taken by Cabinet will be by way of consensus. If it is not possible for all members of Cabinet to agree on a particular issue, a vote will be taken. All voting members of the Cabinet, including the Mayor, will have one vote and any decision will be taken by way of simple majority unless it relates to matter that needs to have the support of a greater number of Cabinet members. Those matters will be set out in legislation and NECA's Constitution. The Constitution will also specify when all members of Cabinet (or their substitute member) must be present before a matter may be considered.
212. If a vote is tied the matter under consideration will be viewed as not agreed.
213. The Cabinet may decide that one of the members of Cabinet will have responsibility for a particular area of work and to take a lead on that area. That area of work will be called a "thematic area" and the Cabinet member will be known as a "thematic lead".
214. The Mayor, as a member of the Cabinet may be a "thematic lead". When acting as a thematic lead, the Mayor will be acting as a Cabinet member and not acting in his/her capacity as Mayor.
215. All decisions taken by Cabinet will ordinarily be made in public. Decisions will be recorded and published (unless there are specific reasons why non publication is permissible). All decisions will be subject to scrutiny by the Overview and Scrutiny Committee of NECA.
216. In order to promote efficient decision making, Cabinet may arrange for a Committee, or officer of NECA to take decisions in specified areas on behalf of the Cabinet.
217. Some matters to be decided by Cabinet are considered to be so significant that NECA is of the view that representatives of each of the Constituent Authorities must be present before the decision can be taken and that 2/3 of the Cabinet members must be in agreement over the matters in question. This provides for high level of support for decisions to be taken with the introduction of some flexibility as unanimity is not required. These matters, known as Key Strategic Decisions, are listed below:-
- i. adoption of any strategic growth plan as provided for in the Combined Authority's standing orders;
  - ii. adoption of any local transport plan under section 108(3) of the Transport Act 2000;
  - iii. approval of the Combined Authority's annual budget;

- iv. setting of any transport levy under section 74 of the Local Government Finance Act 1988 and in accordance with regulations made thereunder;
  - v. allocation of any transport funding to the individual Constituent Authorities not otherwise devolved to the Mayor;
  - vi. approval of growth schemes set out in any adopted strategic growth plan, including the local major schemes devolved funding;
  - vii. approval of borrowing limits, treasury management strategy including reserves, investment strategy and capital budget of the Combined Authority; and
  - viii. such other plans and strategies as may be determined by the Combined Authority and set out in its standing orders.
218. Cabinet may identify other matters where representatives of each of the Constituent Authorities must be present before decisions can be taken and these will be set out in the NECA Constitution.
219. If the Mayor does not vote with the majority of Cabinet members in relation to any of the Key Strategic Decisions or any other significant matter as identified in NECA's Constitution, the Mayor may seek a review of the decision taken by Cabinet (the Mayoral Review). Such a review will cause the Cabinet decision to be re-considered by Cabinet and Cabinet may confirm or change its original decision. The reasons for the Cabinet's decision will be published.

#### **4.3 Role of Business**

220. NECA will establish a private sector representative Business Board that will work closely with NECA on significant regional and wider strategic issues. The new Business Board will be fully incorporated in NECA's governance arrangements ensuring that business leaders, representing the North East's business community, help determine the strategic priorities for the NECA area and advise on key issues. The Business Board will continue to have joint responsibility with NECA for the Strategic Economic Plan, which sets out a series of priorities to secure sustainable economic growth making the North East a place where more businesses invest, grow and prosper, delivering more and better jobs for everyone. The Business Board will also have responsibility for the North East Innovation Strategy and the Business Support Strategy and any other commissions jointly agreed with the Mayor and Cabinet. Although the Board will not have direct responsibility for the Single Investment Fund or other funding, the governance and partnership arrangements proposed ensure that the business community and other key stakeholders will be able to advise on investment decisions
221. The business membership of the Board will be expanded, in comparison to the membership of LEP as it currently stands, to include business representative organisations. The membership will also include the Mayor

of NECA and the Cabinet member with the responsibility for Business Growth. In addition to the expanded membership of the Business Board and the direct link to the Mayor and Cabinet, a representative from the Business Board will be a non-voting member of the NECA Cabinet, in line with the current arrangements. The private sector members of the Business Board will also be offered seats as non-voting members on other NECA committees and boards as appropriate. This approach builds on the current model of cooperation between NECA and LEP and formalises the joint working arrangements moving forward. Shadow arrangements will be put in place to ensure a smooth transition from the current partnership model.

#### **4.4 Budget Setting**

222. NECA will have one budget containing two elements. One element will relate to the costs incurred by the Mayor in undertaking his/her responsibilities and the other element will relate to the costs incurred by the Cabinet in undertaking its responsibilities.

##### **Mayoral Budget Setting**

223. The Mayor will prepare a draft annual budget for their areas of responsibility that will be considered by Cabinet members and scrutinised by NECA's Overview and Scrutiny Committee. The Mayor may decide to change their proposal following Cabinet's consideration of the budget or scrutiny.

224. The Cabinet will be able to amend the Mayor's proposal if 2/3 of the Cabinet members (excluding the Mayor) agree to the amendment.

225. The Mayor will have the power to issue a council tax Precept on behalf of NECA in relation to their areas of responsibility where grants and other sources of funding including contributions from the Constituent Authorities fall short of the Mayor's requirements. However such a proposed precept, being part of the Mayor's budget proposals, will be subject to scrutiny and amendment if a 2/3 majority of the Cabinet members (excluding the Mayor) agree to the amendment.

##### **Cabinet Budget Setting**

226. The Cabinet will prepare a draft annual budget. The budget will be scrutinised by the Overview and Scrutiny Committee and may be changed by Cabinet following such scrutiny.

227. A 2/3 majority of all Cabinet members will be required to agree the draft budget. However decision-making on the levies has specific additional requirements as set out below.

228. However, if the Mayor is not part of that 2/3 majority they may pursue a Mayoral Review as referred to above. However the decision may be confirmed by Cabinet. Such a review will be subject to completion of the review process within any statutory deadlines for issuing any Precept, Levy or the setting the Budget.

### **Levies**

229. The CA will continue to issue three separate levies in relation to the cost of the transport responsibilities that it has. The three levies are:-

- A levy in relation to Constituent Authorities of the county of Tyne and Wear
- A levy in relation to Durham County Council
- A levy in relation to Northumberland County Council

230. In setting a levy, there will be a 2/3 majority of the Cabinet members in favour of the proposed levy will be required for it to be agreed, subject to that majority including the vote of the Cabinet member(s) from the area(s) subject to the levy.

231. It is expected that responsibilities of NECA will increase over time. In recognition of that NECA seeks the power to issue a levy or levies to cover the cost of non-transport responsibilities undertaken by NECA in the future.

### **4.5 Mayoral Plans and Strategies**

232. The Mayor will develop and publish plans and strategies relating to their areas of responsibility that must be submitted for agreement by the Cabinet.

233. When developing a plan or strategy the Mayor will consult with Cabinet and Overview and Scrutiny seek their views. When the Mayor seeks to adopt a plan or strategy it will be presented to Cabinet and may be changed by Cabinet if 2/3 of the Cabinet members (excluding the Mayor) agree to do so.

234. Mayoral plans and strategies will be specified in the Order and additional Mayoral plans and strategies may also be specified in the NECA Constitution. Cabinet may specify the timescale for the production of plans and strategies for approval and date of any subsequent review. In addition, the Mayor will be responsible for the formulation and development of the draft. Local Transport Plan but this plan must be agreed by Cabinet.

#### **4.6 Existing Governance Arrangements**

235. NECA will continue to discharge all non-Mayoral transport functions through the Cabinet. The Cabinet will continue to delegate some responsibilities to the Transport North East Committee (TNEC) and the Transport North East (Tyne and Wear) Sub-Committee or to the County Councils of Durham and Northumberland to undertake on its behalf.
236. The Mayor may become the Chair of both TNEC and TWSC given the significance of the proposed role of the Mayor in relation to responsibilities for transport.

#### **4.7 Public Sector Equality Duty**

237. NECA seeks an amendment to the Equality Act 2010 so that the public sector equality duty has to be met by the Cabinet and the Mayor when exercising their respective functions. Schedule 19 of the Act will be amended so that a Combined Authority is a “public authority” for the purposes of the 2010 Act and thereby bound by the public sector equality duty.

#### **4.8 Amendments to the existing Governance Arrangements and the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014 (“the 2014 Order”)**

##### **Overview and Scrutiny Committee**

238. NECA appointed a committee to be an Overview and Scrutiny Committee. The committee already scrutinises decisions taken by the Leadership Board, any of NECA’s committees, Nexus, Durham and Northumberland County Councils in relation to the transport functions undertaken by them on behalf of the CA and the NELEP but does not have the power to Call in decisions.
239. The Committee is subject to political balance and will continue to be so. It is proposed that political balance will be achieved by allocation of seats based on the political balance applicable across the whole NECA area.
240. In the future the Committee will be able to “Call in” the decisions of the Mayor and Cabinet.
241. The Chair and Vice Chair of the Committee will not be from the same political party as the Mayor to support appropriate scrutiny of the Mayor’s decisions.

242. The Committee will consist of three elected members from each Constituent Authority although co option of other members with appropriate or relevant experience may supplement the Committee membership.

### **Audit Committee**

243. NECA has a Governance Committee that combines responsibility for both Audit and Risk and matters relating to the Code of Conduct for Members. The committee has an independent Chair and Vice Chair. The Committee will continue to operate as it does now, subject to the outcome of review of its effectiveness that the Committee has agreed to undertake this summer.
244. The Committee already undertakes the audit responsibilities that it will be required to undertake as the Audit Committee of a CA.

### **Necessary Amendments to the 2014 Order**

245. Given the proposed changes to the governance arrangements as a result of the CA becoming a Mayoral Combined Authority and other changes that are required by changes in the law, the Order that established the CA in 2014 will be amended to reflect the proposed arrangements.
246. The detailed changes to the Order are contained the Scheme attached to this Review document.

### **Remuneration and Allowances**

247. An independent panel may be established by future legislation that will permit examination into whether or not there should be Special Responsibility Allowances for Cabinet members and other Constituent Authority representatives as appropriate (excluding the Mayor) and make recommendations to the Constituent Authorities about any appropriate level of Special Responsibility Allowances which the Constituent Authority may agree to award to their members or representatives on NECA.
248. The remuneration of the Mayor will be in accordance with the requirements set out in new statutory provisions being determined by the Department for Communities and Local Government and will be agreed by NECA.

## 5 Conclusion and closing remarks

249. This Governance Review has recognised the role of NECA in rebalancing the economy by creating the right conditions for sustainable economic growth and resilience, encouraging investment and promoting employment. As a Combined Authority, NECA already has an agreed framework of devolved powers and responsibilities so that the North East can develop a clear and comprehensive plan for growth and deliver against it. The Devolution Agreement has initiated the further devolution of powers, responsibilities and resources in relation to transport, economic growth, human capital, housing and planning and rural growth.
250. The creation and operation of a statutory body for the area has offered significant opportunities to accelerate the economic development and effectiveness of the North East. Bringing together additional key functions and legal powers which augment and enhance the role of NECA can create real change to advance the interests of the area and its people. This Governance Review has enabled NECA to consider the optimal arrangements to implement the Devolution Agreement and to drive growth. This means bespoke arrangements that address the issues, challenges and opportunities that are particular to the North East.
251. As evidenced in the 2013 Governance Review undertaken before NECA was established, there is a strong case that co-ordinated action against agreed priorities across the area will bring improvements. With a detailed understanding of local areas, their opportunities and challenges, NECA is uniquely placed to shape the strategic direction as well as support delivery of the key interventions that will deliver growth and prosperity. NECA provides a stable and accountable platform for devolution of resources and powers from central government.
252. It is considered that the conferral of additional functions on NECA and the associated governance changes as recommended by this review and incorporated in the attached Scheme would be likely to improve the exercise of statutory functions in relation to the area of NECA. The draft Scheme prepared, sets out the powers sought to achieve this. The subsequent Order, based on this draft Scheme would reflect the identities of the communities and secure effective and convenient government.

## Appendix 2

### Draft 2016 Scheme

This scheme is prepared and published by the North East Combined Authority (“NECA”) under section 112 of the Local Democracy Economic Development and Construction Act 2009, (“the 2009 Act”) as amended by the Cities and Local Government Devolution Act 2016 (“the 2016 Act”). It is published pursuant to a review under Section 111 of the 2009 Act, as amended, which concluded that the making of an order conferring additional functions on the NECA, as set out in the scheme, and changes to the constitutional arrangements of the NECA would be likely to improve the exercise of statutory functions in relation to the area of NECA. The proposals in the scheme will be the subject of a public consultation.

There should be conferred on NECA the following additional functions, all of which (unless otherwise stated) are to be exercised concurrently with the Constituent Authorities and/or public authority which have the function by virtue of any enactment. There is no proposal or intention to remove any function or responsibility from any Constituent Authority of NECA.

#### 1. Housing, Regeneration and Land Acquisition

- 1.1 NECA will have the responsibilities and functions of the Homes and Communities Agency (“HCA”) under **Section 2(1)** (with a limitation to the NECA area) and **Section 3-12, 17 and 18 of the Housing Regeneration Act 2008 (“H & R A 2008”)** to be exercised concurrently with the HCA.
- 1.2 The responsibilities and functions include the power of compulsory purchase in **Section 9 of the H & R A 2008** (subject to the authorisation of the Secretary of State), in respect of which NECA will have the benefit of exemption from **Section 23 of the Land Compensation Act 1961** enjoyed by the HCA under section 23(3)(d) of that Act.
- 1.3 NECA will have the powers corresponding to the powers of the Greater London Authority (“GLA”) under **Section 333 ZA of the GLAA 1999** to compulsorily purchase land for the purposes of housing and regeneration, and the consequential powers under **Section 333 ZB** (powers in relation to acquired land), **Section 333 ZC** (disposal of land) and **Section 333 ZD** (power to enter and survey land).
- 1.4 NECA will exercise concurrently the functions of the Constituent Authorities under **Section 226 of the Town and Country Planning Act 1990 (“the T & CPA 1990”)** to compulsorily acquire land for development or in the interests of proper planning of an area.
- 1.5 NECA will have the additional or consequential powers under **Sections 227, 229, 230, 232 and 235 to 241 of the T & CPA 1990**, including powers

to acquire land by agreement for planning purposes and the development, appropriation and disposal of such land.

- 1.6 The Compulsory Purchase Order powers in **Section 9 of the H & RA 2008, Section 333 ZA of the GLAA 1999** and **Section 226 of the T & CPA 1990** will be mayoral functions, but would only be exercisable by the Mayor with the consent of the Cabinet member(s) for the area(s) of the land being compulsorily acquired.
- 1.7 NECA will be given the power to develop a North East Planning Development Framework (NEPDF) that local planning authorities within the NECA area should have regard to when preparing their development plan documents or any other local development documents in accordance with **the section 19 of the Planning and Compulsory Purchase Act 2004** (“P & CPA 2004”) and that local planning authorities must comply with the NECA regional strategy in accordance with **section 24 of the P & CPA 2004**. National Planning Framework Documents needs to be amended to include consideration of the NEPDF.
- 1.8 **Section 8(4) of the Planning Act 2008** will be amended to include NECA as a body that will be consulted before the Secretary of State makes a national policy.
- 1.9 NECA also seeks the power to carry out assessment of housing need pursuant to **section 8 (1) of the Housing Act 1985 to support the functions mentioned above.**
- 1.10 **All the functions set out in this section will be non-mayoral functions with the exception of the specific compulsory purchase powers set out above. The Mayor will confirm compulsory purchase orders proposed by Cabinet. No compulsory purchase order will be made unless the Cabinet member for the area in which the land is to be compulsorily purchased agrees to such an order being made.**

## 2. Land Board

- 1.11 A North East Land Board (NELB) will be established **between** the Secretary of State and NECA to investigate the best use of publicly owned land in the NECA area. The creation of the Land Board does not require any new statutory provision. However, NECA will be afforded the same status as the HCA and the GLA pursuant to **Section 31 of the Infrastructure Act 2015.**
- 1.12 The Infrastructure Act 2015 inserts a new **Section 53A of the H & RA 2008** and **Section 333DA GLAA 1999** which enables the Secretary of State to make schemes transferring designated property, rights or liabilities of specified public bodies to the HCA or GLA, provided that the public body consents. The Treasury may make regulations varying the tax

consequences of such transfers. NECA seeks to be afforded the same status as the HCA and GLA for the purposes of **Section 53A of the H & RA 2008** and **Section 333DA GLAA 1999**.

- 1.13 The statutory provision set out at 2.2 will be modified pursuant to **Section 114 of the 2009 Act** to enable the Secretary of State to make schemes transferring property of public bodies in the NECA area (with their consent) to NECA.

## 2. Transport and Highways

- 2.1 The following powers will support bus franchising prior to the implementation of the Bus Services Bill.
- 2.2 The responsibilities and functions of the Traffic Commissioner under **Section 6 of the Transport Act 1985** to register bus services that operate wholly or mainly within the NECA area, should be transferred so as to be exercisable by the Mayor on behalf of NECA instead of by the Traffic Commissioner.
- 2.3 The responsibility and functions of the Traffic Commissioner under **Sections 7 and 8 of the Transport Act 1985** in relation to traffic regulation conditions will be transferred from the Traffic Commissioner to the Mayor on behalf of NECA in so far as such conditions relate to the NECA area.
- 2.4 The functions and responsibilities of the Secretary of State for Transport to make grants to bus service operators under **Section 154 of the Transport Act 2000** in relation to services which operate wholly or mainly within NECA area, will be exercised jointly between the Secretary of State and NECA.
- 2.5 Through the powers and responsibilities proposed in the Bus Services Bill NECA will be responsible for developing any Scheme for bus franchising. Whether to proceed to implement such a Scheme within the NECA area will be a decision of the Mayor.
- 2.6 The Mayor will be responsible for the delivery of smart and integrated ticketing across the NECA area and the wider Rail North area. NECA will be able to introduce ticketing that will enable those travelling within the NECA area as well as those travelling to and from the area to be able to purchase and use a smart and integrated ticket for use on all modes of transport. The powers to introduce such ticketing are currently contained within the Bus Services Bill. Pending the Bill becoming law NECA seeks the powers to enable it to deliver smart and integrated ticketing and to require transport providers operating within the NECA area to accept the use of such a ticketing arrangement on its services.

- 2.7 The transport functions where indicated above will be mayoral functions.**
- 2.8 Section 6 of the Highways Act 1980** will be modified to include NECA as an authority that enables the Secretary of State or Highways England to delegate to, or enter into an agreement with, in relation to the construction, improvement or maintenance of trunk roads (subject to NECA's consent).
- 2.9 Section 8 of the Highways Act 1980** will be amended so that local Highway Authorities or Highways for England can enter into agreements with NECA in relation to the construction, improvement, maintenance etc of a highway.

### **3. Education and Skills**

- 3.1** NECA will have the responsibilities and functions of a "local authority" under **Sections 10 and 12 of the Education and Skills Act 2008** to ensure that its functions are exercised so as to promote the effective participation in education and training of relevant persons in its area aged 16 and 17.
- 3.2** NECA will have the responsibilities and functions of a "local authority" under **Sections 68, 70, 71 and 85 of the Education and Skills Act 2008** to make available to young persons and relevant young adults such support services as it considers appropriate to encourage, enable and assist the effective participation of such persons in education and training.
- 3.3** NECA will have the responsibilities and functions under **Section 13A of the Education Act 1996** to ensure that their education and training functions are exercised with a view to promoting high standards, fair access to opportunity for education and training, and the fulfilment of learning potential, and the functions under **section 15ZA and 15ZB of the Education Act 1996** in respect of education for persons between 16 and 18 and over 19 years.
- 3.4** NECA will have the responsibility and functions under **Section 51A of the Further and Higher Education Act 1992** to require relevant institutions in the further education sector to provide appropriate education to specified individuals aged between 16 and 18 years.
- 3.5** NECA will have the responsibility and functions of the Secretary of State under **sections 2 and 10A of the Employment and Training Act 1973** to be exercised in the NECA area to make appropriate arrangements for the purpose of assisting persons to train for, obtain and retain suitable employment, and to enter into agreements for the provision of ancillary goods and services.

- 3.6 NECA will have the functions and responsibilities under **Section 83 of the Apprenticeships, Skills, Children and Learning Act 2009** to be exercised in the NECA area to secure the provision of facilities for suitable apprenticeship training for persons between 16 and 18 years and for those between 19 and 24 years (for whom an EHC plan is maintained).
- 3.7 **The above functions will be non-mayoral functions and exercisable concurrently with the Constituent Authorities or the Secretary of State, as applicable.**

#### 4. Regulatory Powers

4.1 NECA will be given the power to introduce a regional flexible warranting scheme for the NECA area that will enable authorised officers from the Constituent Authorities to act across the relevant Constituent Authority boundaries. Section 116 of the Local Democracy, Economic Development and Construction Act 2009 will amend any enactment that permits only a Constituent Authority to issue a warrant to its officers so that NECA will have the power to issue a Warrant, with the consent of the relevant Constituent Authority, to officers of any of NECA's Constituent Authorities.

4.2 NECA will have the following responsibilities and functions:-

- a) To be a confirming authority as specified in **Sections 235-238 of the Local Government Act 1972** for Byelaws made by the Constituent Authorities under this Act and Byelaws made under any other enactment conferring on the Constituent Authorities a power to make a Byelaw.
- b) To be the Confirming Authority for Byelaws made by the Constituent Authorities.
- c) To draft regional model Byelaws.
- d) Designation of an area as being subject to additional licensing requirements under **Section 58 of the Housing Act 2004**.
- e) Designation of an area as being subject to selective licensing under **Section 82 of the Housing Act 2004**.

5.2 NECA will have the power under section 3 of the Housing Act 2004 to review the conditions of housing in the NECA area to be exercised concurrently with the Constituent Authorities.

4.3 NECA will act as the confirming authority under **Section 235(2)** of the **Local Government Act 1972** and exercise powers in accordance with **Section 236** to make Byelaws for good rule and government and suppression of nuisances.

- 4.4 NECA will be given the power to determine the subject matter of any Byelaws applicable within the NECA area subject to the procedures laid down in **Section 236** of the **Local Government Act 1972 Act**.
- 4.5 NECA will be given the power to prescribe the classes of byelaws to which **Section 236** of the **Local Government Act 1972** will apply subject to any byelaws made using alternative procedures under **Section 236A** and make provision for the making of such byelaws under **section 236** of the **Local Government Act 1972**.
- 4.6 NECA will have the power under **Section 236B(5)** of the **Local Government Act 1972** to revoke any byelaw which appears to have become spent, obsolete or unnecessary.
- 4.7 In relation to any byelaws made by order under **section 236 of the Local Government Act 1972**, NECA will have the power to make:
- a) such incidental, consequential, transitional or supplemental provision (including provision amending, repealing or revoking enactments) as it considers appropriate, and
  - b) different provision for different areas or localities and for different Constituent Authority areas within the NECA area.
- 4.8 NECA will have power under **Article 82(2)** of the **Selective Licensing of Houses Additional Conditions (England) Order 2015** to either confirm, or refuse to confirm a designation of an area as subject to selective licensing as it considers appropriate.
- 4.9 NECA seeks an amendment to the **Sunday Trading Act 1994** so that **NECA** is given powers to amend restrictions on Sunday trading hours for large shops made under **Schedule 1 of the Sunday Trading Act 1994** in consultation with the Secretary of State.

## 5. Cultural & Events

- 7.1 The NECA will have the responsibilities and power under **Section 145 of the Local Government Act 1972** (to be exercised concurrently with the Constituent Authorities) to provide and support cultural activities and entertainments across the NECA area.

## 6. Information Sharing

- 6.1 There are, or will be, a number of instances where NECA has assumed a function concurrently exercised with a local authority or public authority and where, in connection with those functions, various enactments enable

or require that local or public authority to share information with other persons or bodies and in particular enable or require those other persons or bodies to share information with the local or public authority.

6.2 The following enactments will be amended to give NECA the same standing as a local or public authority for the purpose of information sharing:

- Sections 14, 16, 17 and 77 of the Education and Skills Act 2008;
- Section 122 of the Apprenticeships, Skills, Children and Learning Act 2009;
- Sections 17A and 115 of the Crime and Disorder Act 1998;
- Section 72 of the Welfare Reform and Pensions Act 1999;
- Regulation 13 of the Social Security (Claims and Information) Regulations 1999;
- Section 131 of the Welfare Reform Act 2012; and
- Regulation 5 of the Social Security (Information-sharing in relation to Welfare Services etc.) Regulations 2012

## 8. Public Bodies Sector Equality Duty

8.1 NECA seeks an amendment of Schedule 19 of the Equality Act 2010 so that a combined authority is a 'public body' for the purposes of the 2010 Act and so that the public sector equality duty that a public body, or a person exercising a public function, must have regard to when exercising that function, in accordance with section 149 of the Equality Act 2010, applies to a combined authority.

## 9. Mayoral Functions

9.1 The functions and powers to be exercised by the Mayor on behalf of NECA are set out in the Devolution Agreement and are:-

- The franchising of bus services and, through Rail North, rail services
- Contributing to the introduction of smart and integrated ticketing across the combined area and the wider area of the North East
- Formulating and developing a Local Transport Plan
- Having powers over strategic planning through the creation of a North East Planning Development Framework, and the confirmation of compulsory purchase orders sought by Cabinet in addition to undertaking the role of the Chair of the North East Land Board
- With the agreement of the local business community, placing a supplement on business rates to fund infrastructure projects across the combined area.
- Responsibility for a devolved and consolidated transport budget

9.2 It is **not** proposed that the Mayor will have a general power of competence. However, the Mayor will have, as an ancillary power, a

functional power of competence that is similar to the power under **Section 113A of the 2009 Act** given to combined authorities. This general power will enable the Mayor to do things appropriate or incidental to, or connected with, their powers and functions.

**Section 107D of the 2009 Act** enables the Mayor to delegate the discharge of the Mayor's functions to another member or officer of NECA. Some transport functions will be mayoral functions, it is therefore proposed that the definition of "officer" should include the Tyne and Wear Passenger Transport Executive (Nexus) for the purposes of **Section 107D of the 2009 Act** in the same way as the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Order 2014 defines the Tyne and Wear Passenger Transport Executive as an "officer" for the purpose of delegations by the NECA under section 101 of the Local Government Act 1972.

- 9.3 NECA will be a levying authority for the purposes of **Section 2 of the Business Rate Supplements Act 2009** ("BRSA 2009") so that it has the power to impose a business rate supplement. It is proposed that section 2 of the Act be amended to include "combined authorities" as a levying authority.

The conditions that must be met before imposing a business rate supplement in accordance with **section 4 of the BRSA 2009** will apply to NECA.

- 9.4 The Mayor will have responsibility for a consolidated transport budget which includes the allocation by him/her of Highway Maintenance incentive funding to the Highway Authorities. In making such allocations the Mayor must have regard to the existing five year indicative funding allocations by HM Government and to each Highway Authority's commitments and statutory responsibilities; in relation to the five years for which the indicative allocation of funding has been made, the Mayor may only change the indicative amount allocated to a Highway Authority with the consent of that Highway Authority.

## 10. Key Strategic Decisions

- 10.1 NECA has identified certain significant decisions, known as Key Strategic Decisions that require greater than a simple majority decision to be carried. Currently Paragraph 3(6) of Schedule 1 of the NECA Order 2014 identifies matters that require a unanimous vote in favour by all seven Constituent Authorities to be carried. This shall be amended to enable the following matters to be voted on and carried by a two-thirds majority of the Cabinet:

- i. adoption of any strategic growth plan as provided for in the Combined Authority's standing orders;
- ii. adoption of any local transport plan under section 108(3) of the Transport Act 2000;

- iii. approval of the Combined Authority's annual budget;
- iv. setting of any transport levy under section 74 of the Local Government Finance Act 1988 and in accordance with regulations made thereunder;
- v. allocation of any transport funding to the individual Constituent Authorities not otherwise devolved to the Mayor;
- vi. approval of growth schemes set out in any adopted strategic growth plan, including the local major schemes devolved funding;
- vii. approval of borrowing limits, treasury management strategy including reserves, investment strategy and capital budget of the Combined Authority; and
- viii. such other plans and strategies as may be determined by the Combined Authority and set out in its standing orders.

10.2 Paragraph 3(6) of Schedule 1 of the Order will also be amended to provide for a decision to set a transport levy for Tyne and Wear, Durham or Northumberland to require a two-thirds majority of Cabinet members in favour of the proposed levy to be carried, subject to that majority including the votes of the Cabinet member representatives of all the Tyne and Wear members when setting the Tyne and Wear levy and the vote of the Cabinet member representatives of Durham or Northumberland when setting their respective levies.

## **11. Financial – Precept, Levies, Remuneration**

### **11.1 Mayoral Budget**

The Mayor will be required to maintain a fund in relation to receipts arising and liabilities incurred in the exercise of his/her functions. The governance arrangements in respect of this resource are set out in Section 12.4 below.

### **11.2 Levies**

The costs of the Authority in relation to the exercise of transport functions that are the responsibility of the Cabinet will continue to be met by means of three separate levies issued by the Authority to:

- a. The metropolitan Borough Councils of Tyne & Wear;
- b. Durham County Council; and,
- c. Northumberland County Council.

When setting the transport levies the decision making procedures set out in paragraph 10.1, 10.2 and 12.6 apply.

### **11.3 Precepts**

As a major precepting authority, the Mayor may issue a precept to the Constituent Authorities in relation to the expenditure attributable to the mayor in connection with the exercise of his/her mayoral functions.

#### **11.4 Remuneration and allowances**

An independent remuneration may be established to examine Special Responsibility Allowances for Cabinet members and other Constituent Authority representatives as appropriate (excluding the Mayor) and make recommendations to the Constituent Authorities about any appropriate level of Special Responsibility Allowances which the Constituent Authority may agree to award to their members or representatives on NECA. This will require an amendment to existing legislation before such a panel can be established

The remuneration of the Mayor will be in accordance with the requirements set out in new statutory provisions being determined by Government and the level of remuneration will be agreed by NECA.

#### **11.5 Finance and Borrowing**

NECA seeks the making of the appropriate Regulations pursuant to **section 74** of the **Local Government Finance Act 1988** so that provision is made for NECA to issue a levy (or levies) to the Constituent Authorities in relation to the expenditure by NECA reasonably attributable to the exercise of all non-mayoral functions.

NECA requires borrowing powers to exercise its functions and seeks the making of the necessary Regulations under **Section 23(5) of the Local Government Act 2003** to enable this to happen.

### **12. Governance**

All powers and functions devolved to NECA will be exercised by Cabinet unless there is a contrary legislative requirement for the power or function to be exercised by the Mayor.

The functions and powers that the Mayor will discharge are set out elsewhere in this Scheme.

#### **12.1 Decision Making**

In accordance with the NECA Constitution, all decisions taken by Cabinet will be by way of consensus save for those matters specified in the Order as requiring a 2/3 majority to be agreed (referred to at paragraph 10.1 above) and those matters that are subject to change by 2/3 of the Cabinet members (excluding the Mayor), that is the Mayoral

budget, and Mayoral plans and strategies. If it is not possible to reach a consensus on a matter that requires a decision, the matter will be put to the vote. All voting members of the Cabinet, including the Mayor, will be given one vote and any decision will be by way of simple majority. The Chair will have no casting vote.

If the vote is tied the matter will not be carried.

The Cabinet may delegate the discharge of its functions to a committee or officer of NECA or at the discretion of Cabinet, the Mayor.

Cabinet members, including the Mayor, may be appointed as thematic lead in accordance with NECA's Constitution. Thematic Leads will provide leadership in their identified thematic area.

The Mayor may be appointed as a Thematic Lead for a specified area but as a consequence of such an appointment will receive no additional decision making powers over and above those allocated by legislation, unless specifically delegated to them by Cabinet.

## **12.2 Cabinet Decisions Subject to Mayoral Review**

If the Mayor does not vote with the majority of Cabinet members in relation to any of the matters set out at paragraph 9.1 above, the Mayor may seek a "Mayoral Review" of the decision in accordance with the procedure set out in the NECA Constitution. Such a review will cause the decision to be re-considered by the Cabinet and at the conclusion of the Mayoral Review process the decision may be confirmed or changed in part or otherwise by the Cabinet. The reasons for the Cabinet's decision will be published. The Mayor is not able to veto any decision of Cabinet.

## **12.3 Budget**

NECA has one overall budget which will comprise two budgetary elements. One element will relate to the income and expenditure incurred by the Mayor in undertaking their Mayoral functions and responsibilities (referred to below as the Mayor's budget) and the other element will relate to the income and expenditure of the Cabinet in undertaking functions and responsibilities of the Cabinet (referred to below as the Cabinet's budget).

## **12.4 Mayoral Budget Setting**

The Mayor is required to maintain a fund in relation to receipts arising and liabilities incurred in the exercise of their functions. The Mayor will prepare proposals for a draft annual budget for their areas of

responsibility that will be scrutinised by Cabinet members and the Overview and Scrutiny Committee. The Mayor may change their proposals as a result of such scrutiny.

Cabinet will be able to amend the Mayor's proposal if a 2/3 majority of the Cabinet members (excluding the Mayor) agree to such an amendment.

The Mayor will have the power to issue a precept of behalf of NECA in relation to their areas of responsibility where grants and other sources of funding including contributions from the Constituent Authorities do not meet the Mayor's requirements. However such a proposed precept, being part of the Mayor's budget proposals, will be subject to scrutiny by Cabinet and the Overview and Scrutiny Committee and amendment if a 2/3 majority of Cabinet members (excluding the Mayor) agree to the amendment.

## **12.5 Cabinet Budget Setting**

Cabinet will maintain a fund in relation to receipts arising and liabilities incurred in the exercise of its functions and responsibilities. Cabinet will prepare a draft budget. The budget will be subject to scrutiny by Overview and Scrutiny Committee and may be changed by Cabinet following such scrutiny.

In accordance with paragraphs 10.1 and 12.1 above a 2/3 majority of the Cabinet members will be required to agree the budget.

## **12.6 Levies**

As referred to in paragraph 11.2 above NECA will continue to issue three separate levies in relation to its exercise of transport functions, namely:-

- A levy in relation to Constituent Authorities of the county of Tyne and Wear
- A levy in relation to Durham County Council
- A levy in relation to Northumberland County Council

In setting the levy in respect of the Tyne and Wear area, a 2/3 majority vote of the Cabinet members in favour of the proposed levy will be required to be carried, subject to that majority including the vote of the Cabinet members from the Tyne and Wear Constituent Authorities.

In setting the levy for the Counties of Durham and Northumberland, a 2/3 majority of the Cabinet members in favour of the proposed levy will be

required to be carried, subject to that majority including the vote of the Cabinet member from either Durham or Northumberland as appropriate.

## **12.7 Mayoral Decision Making**

The Mayor will have the power to discharge the functions given to him/her by legislation. The Mayor may, however, delegate a mayoral function so that the exercise of the function is undertaken by the Deputy Mayor, a Cabinet member or officer of NECA. The Mayor will comply with the requirements of the NECA Constitution including the Principles of Decision Making as set out in the Constitution which require appropriate consultation with Cabinet when discharging Mayoral functions.

As the Tyne and Wear Passenger Transport Executive (Nexus) is an 'officer' of NECA for the purposes of section 101 of the Local Government Act 1972 (arrangement for the discharge of functions), it is proposed that the Passenger Transport Executive be an 'officer' of NECA for the purposes of section 107D (3) of the Local Democracy, Economic Development and Construction Act 2009 (functions of Mayors; general).

The Mayor will have the power to enter into joint arrangements with other local authorities to discharge his/her functions through a joint committee if the Mayor considers it appropriate in accordance with section 107E of the Local Democracy, Economic Development and Construction Act 2009 (Joint exercise of general functions).

## **12.8 Mayoral Plans and Strategies**

The Mayor will develop and publish plans and strategies relating to their areas of responsibility that must be submitted for agreement by the Cabinet.

When developing a plan or strategy the Mayor will consult with Cabinet and Overview and Scrutiny seek their views. When the Mayor seeks to adopt a plan or strategy it will be presented to Cabinet and may be changed by Cabinet if 2/3 of the Cabinet members (excluding the Mayor) agree to do so.

Mayoral plans and strategies will be specified in the Order and further Mayoral plans and strategies may also be specified in the NECA Constitution and Cabinet may specify the timescale for the production of plans and strategies for approval and date of any subsequent review.

## **13 Non-Consenting Authority**

- 13.1 The Non-Consenting Authority must be removed by Order from NECA and must become a Local Transport Authority in its own right.
- 13.2 The additional powers and functions sought by NECA, as referred to above, and given to NECA by Order will only apply to the NECA area existing at the time the Order is made. The additional powers and functions given to NECA will not apply to the area of the Non-Consenting Authority.
- 13.3 The transport responsibilities currently undertaken by NECA across the NECA area and its Executive (Nexus) in the Tyne and Wear area are to remain with NECA.
- 13.4 Nexus will continue to be the Passenger Transport Executive for NECA.

## **14 Amendments to the existing Governance Arrangements and the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014 (“the 2014 Order”)**

### **14.1 Overview and Scrutiny Committee**

NECA, in accordance with the Order establishing the Authority, appointed a politically balanced Overview and Scrutiny Committee.

The Committee currently scrutinises the decisions taken by the Leadership Board, any of NECA’s committees, Nexus, Durham and Northumberland County Councils in relation to the transport functions delegated to them by NECA, and the NELEP insofar as the CA is the accountable body for the NELEP.

The Committee will continue to scrutinise the decisions made by those listed above. In addition the Committee will scrutinise decisions taken by the Mayor or those exercising functions and responsibilities on his/her behalf.

Paragraph 4 of Schedule 1 of the NECA Order will be amended to comply with **Schedule 5A** of the **Local Democracy, Economic Development and Construction Act 2009**, as amended, in relation to the powers of NECA’s Overview and Scrutiny Committee. In addition, in accordance with **Schedule 5A**, the following arrangements will also apply to the Committee:-

- The Chair and Vice Chair of the Committee will be “appropriate person[s]” as defined in **Paragraph 3 of Schedule 5A of the Local Democracy, Economic Development and Construction Act 2009**.

- NECA will appoint members to the Committee that reflect, so far as reasonably practicable, the balance of the political parties across the NECA area as a whole.
- NECA will appoint a Scrutiny Officer for the Authority

## 14.2 Audit Committee

NECA is required to appoint a committee to act as an Audit Committee. NECA appointed a Governance Committee in May 2014 that fulfils responsibilities for both audit and matters relating to the Code of Conduct for Members. The Committee has an independent Chair and Vice Chair and will continue to do so.

The Committee will continue to undertake the functions set out in **Paragraph 4 of Schedule 5A of the Local Democracy, Economic Development and Construction Act 2009** and will continue to do so.

## 14.3 Consequential Amendments to the 2014 Order

NECA has adopted and is known locally, regionally and nationally as the “North East Combined Authority”. This nomenclature is also reflected in the Devolution Agreement agreed in October 2016 which refers to the “North East Combined Authority”. NECA seeks the formal recognition of this common usage and seeks a change in the name of the combined authority from the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority to the “North East Combined Authority”. This change could be made under **Section 115 of the Local Democracy, Economic Development and Construction Act 2009**.

The 2014 Order will be amended to make reference to the Mayor as appropriate.

**Article 5** of the 2014 Order will be amended to make provision for the funding of non-transport functions exercised by the Cabinet to be met, if considered appropriate by the Cabinet, by the issuing of a levy or levies by NECA.

**Article 10** will be amended to ensure that in the application of section **107D of the Local Democracy, Economic Development and Construction Act 2009** and the provision of a function to be discharged only by the Mayor, the Passenger Transport Executive (Nexus) is to be treated as if it were an “officer” of the CA.

**Paragraphs 1 and 2 of Schedule 1** of the 2014 Order will be amended to reflect that fact that the membership of the CA will include the Mayor and that he/she is to be the Chair of the CA.

**Paragraph 3(6) of Schedule 1** of the 2014 Order will be amended to reflect the decision making arrangements set out in paragraph 9.7 above.

**Paragraph 4 of Schedule 1** of the 2014 Order will be amended to reflect the requirements now imposed by Schedule 5A of the Local Democracy, Economic Development Act 2009 and the proposals made by the NCA in relation to the Overview and Scrutiny Committee.

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# North East Combined Authority

## Leadership Board

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**DATE:** 21 June 2016

**SUBJECT:** The Governance Review and Scheme for the proposed Mayoral Combined Authority

**REPORT OF:** Head of Paid Service

### EXECUTIVE SUMMARY

The purpose of this report is to update the Leadership Board on the progress so far in developing the Governance Review and Draft Scheme and outline the proposals for consultation and the next steps in the process.

### RECOMMENDATIONS

It is recommended that:

- i. The Leadership Board consider the contents of this report.
- ii. Note that the Governance Review and draft Scheme will be submitted to the Leadership Board on 4 July for approval prior to submission to the Secretary of State.
- iii. Endorse the consultation approach for the Governance Review and Scheme set out in this report.

## 1 Background Information

- 1.1 Following the Leadership Board and Constituent Authorities decision in May 2016 to agree to the establishment of the North East Combined Authority as a Mayoral Combined Authority, a draft Order to make provision for the election of a Mayor for the NECA area is currently proceeding through the Parliamentary process including scrutiny by a Joint Committee. This Order will set out the arrangements for the election of the Mayor in May 2017.
- 1.2 Section 113 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) as amended by the Cities and Local Government Devolution Act 2016 (“the 2016 Act”) enables the Secretary of State by Order to make changes in relation to the functions exercised by an existing Combined Authority. Such changes can be made where the Combined Authority has prepared and published a Scheme following a Governance Review and that review concludes that the conferring of the additional functions set out in the Scheme would be likely to improve the exercise of the statutory functions in NECA’s area.

# North East Combined Authority

## Leadership Board

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- 1.5 Emerging generic draft Orders that apply to all Mayoral Combined Authorities are also being consulted on and will provide for appropriate arrangements to be in place in relation to Overview and Scrutiny and Audit.
- 1.6 Other regulatory and legislative amendments that need to be made to ensure that NECA's Devolution Agreement can be achieved are being progressed. The Bus Services Bill which is now before Parliament if enacted will provide that a decision on whether or not a Mayoral Combined Authority should make a bus franchising scheme is a function exercised only by the Mayor. That legislation will also deal with the issue of Smart and Integrated ticketing.

### 2. Progress

- 2.1 The Governance Review is being undertaken on the clear understanding that it is not intended to take any powers or functions away from the Constituent Authorities but about drawing down powers from central government or its agencies. The Governance Review and draft Scheme will include the functions to be exercised by NECA, the governance arrangements and how additional powers and functions given to NECA would be likely to improve the exercise of statutory functions in the NECA area. The draft documents as they stand have been developed in consultation with constituent authorities and comments that have been received so far have all been incorporated
- 2.2 It should be noted that not all aspects of NECA's Devolution Agreement require legislative change to implement. So for instance the creation of a NECA Investment Fund and the North East Land Board can be achieved without a requirement for a change in legislation.
- 2.3 To date one Constituent Authority has not been in the position to consent to the making of the order to create the Mayoral Combined Authority. In the event that there is a Non Consenting Authority, the secretary of State must exclude that authority from NECA. To ensure the potential for the exclusion of an authority is appropriately considered, the Governance Review and Scheme must address the possibility and the impact of the removal of the authority on the powers and responsibilities sought. The full extent of the impact of a NCA is still being considered and a clear position is now emerging on the NCA between Government, NECA and the constituent authorities. Once this information is available it will be incorporated in the current drafts of the Governance Review and Scheme before the documents are considered by the Leadership Board at their meeting on the 4<sup>th</sup> July.
- 2.4 It is important to note that the Order that will confer the powers and functions on NECA as set out in the Scheme can only be made by the Secretary of State if the Leadership Board and each Constituent Authority consent to such an Order.

# North East Combined Authority

## Leadership Board

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### **3 Consultation Approach**

- 3.1 It is a requirement that a public consultation be undertaken where additional functions are to be conferred on NECA.
- 3.2 The consultation is intended to seek views from the public and stakeholders on the additional functions proposed to be conferred on NECA as set out in the Scheme. The consultation will be led by NECA in conjunction with the constituent local authorities. Every resident, business and stakeholder in the NECA area will have the opportunity to respond if they wish to do so.
- 3.3 The consultation documents will be available through the NECA website and printed copies will be made available in key public buildings including libraries. Consultees will be able to submit their feedback through the NECA website, email and by letter.
- 3.4 The consultation approach will also include focused activity to raise awareness of the consultation including:
- pro-active media releases and pro-active engagement of regional and local media throughout the consultation;
  - regional stakeholder engagement;
  - specific consultation section on the NECA website;
  - content on constituent authority websites;
  - social media activity using NECA and partner channels; and
  - NECA and constituent authority staff communication
- 3.5 A toolkit will be developed to ensure that all constituent authority communications teams have draft content for websites, social media, printed publicity and staff messaging. Constituent authorities will be able to run local stakeholder events if they choose to and a consistent framework will be provided for running the events and capturing the consultation responses.

### **4 Next Steps**

- 4.1 If the Leadership Board endorses the conclusion of the Governance Review and approves the Scheme at the Leadership Board on the 4<sup>th</sup> July 2016, the Scheme will be published and forwarded to the Department for Communities and Local Government (DCLG). The Scheme must be received by DCLG during the week commencing 4 July 2016.
- 4.2 The Scheme will be subject to extensive public consultation for a period of 6 weeks commencing on the 8<sup>th</sup> July. A summary of the consultation responses will be forwarded to DCLG at the conclusion of the consultation exercise.
- 4.3 If the Secretary of State considers that making an Order conferring the powers on NECA set out in the Scheme is likely to improve the exercise of the statutory functions in the area, and having regard to securing effective and convenient local government then provided the consent of the Leadership

# North East Combined Authority

## Leadership Board

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Board and each of the Constituent Authorities is forthcoming an Order can be made.

- 4.4 Provided the appropriate consents to the making of the Order is forthcoming, it is anticipated that the Order will be laid before Parliament in the Autumn with a view to the Order being made by the end 2016 or early 2017.

### **5 Potential Impact on Objectives**

- 5.1 If the Leadership Board endorses the findings of the Governance Review and approves the Scheme on the 4<sup>th</sup> July 2016, the Leadership Board will have started the process of devolving powers from central government to the North East of England and for those powers to be exercised by those democratically elected by the people of the North East. This will have a positive impact on the objectives of NECA.

### **6 Finance and Other Resources**

- 6.1 The financial implications of the devolution deal itself were set out in the previous report on the Devolution Agreement agreed by the Leadership Board at its meeting on 17<sup>th</sup> May 2016.

### **7 Legal**

- 7.1 As part of NECA's Devolution Agreement, additional powers and responsibilities are to be conferred on NECA by central government.
- 7.2 As part of that process, a Governance Review has to be undertaken under Section 111 of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") to review how NECA currently exercises its powers and to ascertain if there can be an improvement in this regard by having the further powers conferred on it as set out in the Devolution Agreement.
- 7.3 The 2009 Act is enabling legislation and any powers conferred on a Combined Authority under the Act can only be achieved by way of Order. Those Orders cannot be made without the consent of the Constituent Authorities and the Leadership Board.

### **8 Other Considerations**

#### **8.1 Consultation/Community Engagement**

It is a legal requirement that public consultation be undertaken in most cases where additional functions are to be conferred on a Combined Authority. The consultation will relate to the proposals contained in the Scheme. If the Leadership Board approve the Scheme then public consultation will be

# North East Combined Authority

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launched on the 8<sup>th</sup> July 2016 and will run for a six week period to 19<sup>th</sup> August 2016. The proposed consultation timetable has been developed to ensure alignment with the Order making process.

Once the consultation period is concluded, NECA is obliged to provide the Secretary of State with a summary of the consultation responses. The Secretary of State must be satisfied that no further consultation is required.

### 8.2 Human Rights

There are no specific human rights implications arising from this report.

### 8.3 Equalities and Diversity

There are no equalities and diversity implications arising from this report.

### 8.4 Risk Management

There are no specific risk management implications arising from this report.

### 8.5 Crime and Disorder

There are no specific crime and disorder implications arising from this report.

### 8.6 Environment and Sustainability

There are no specific environment and sustainability implications arising from this report.

## 9 Background Documents

- The NECA Devolution Agreement
- Leadership Board report 17<sup>th</sup> May - North East Combined Authority – The Devolution Agreement

## 10 Links to the Local Transport Plans

10.1 There are no links to the Local Transport Plan in relation to this report.

## 11 Appendices

None.

## 12 Contact Officers

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# North East Combined Authority

## Leadership Board

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### 13 Sign off

- Head of Paid Service ✓
- Monitoring Officer ✓
- Chief Finance Officer ✓

✓

## North East Combined Authority

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**DATE:** 19 July 2016

**SUBJECT:** Transport for the North: Proposal to establish a statutory body with devolved powers

**REPORT OF:** Chief Executive Officer for Transport

#### **EXECUTIVE SUMMARY**

Transport for the North is a partnership of local transport authorities from across the whole of the North of England, coming together to secure investment in the North's road and rail infrastructure. The North East Combined Authority is a full member of the partnership, through which we aim to deliver our ambitions to radically improve connections between the North East and the rest of the North, and beyond.

Under the Cities and Local Government Devolution Act 2016, Transport for the North can propose to become a statutory body, drawing down powers from central government to deliver investment and improve services.

Transport for the North's Partnership Board has developed a proposal and is now seeking support from all member authorities within the North of England to submit the proposal to central government to begin the process of creating the statutory body.

This report is intended to update the Leadership Board on the direction of travel and to seek endorsement of it. It does not however seek approval for a binding commitment to enter into the arrangements at this point.

#### **RECOMMENDATIONS**

It is recommended that the Leadership Board:

- supports Transport for the North's proposal to become a statutory body with devolved powers and agrees that the proposal shall be submitted to central government;
- agrees, in principle, that, subject to further development of the proposal with central government, the North East Combined Authority should become a full member of the proposed statutory body; and
- authorises the Chief Executive Officer for Transport, in consultation with the Thematic Lead for Transport, to progress the proposal with a view to a further report being brought to Leadership Board before NECA makes a final decision to become a full member of the statutory body.

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### 1. Background

- 1.1 Transport for the North is a partnership of all the transport authorities across the North, including NECA. It was formed to promote investment in inter-regional transport investment across the North. It has proposed a radical improvement in the speed and quality of connections between the North's cities, for both road and rail. Further information, and the key strategic documents, are available at <http://www.transportforthenorth.com/>.
- 1.2 For the North East, Transport for the North represents an opportunity to secure progress in our transport ambitions which cannot be met through our devolved programmes alone. These include:
- radical improvements to trans-Pennine rail services, reducing the journey time from Newcastle to Leeds, Manchester and Liverpool;
  - necessary upgrades to the East Coast Main Line routes between Newcastle and York/Leeds, including improvements to secure benefit from HS2;
  - improved links between the North of England and Scotland;
  - improvements to the strategic road network in the North East – the A1(M), A19, A66 and A69;
  - better networks for the movement of freight, including investment in regional distribution centres;
  - stronger international connections, particularly from Newcastle International Airport, as the North's second most important international airport with a catchment area complementary to Manchester; and
  - inter-operable smart ticketing across the North of England.
- 1.3 Reports have been provided regularly to the Leadership Board and Transport North East Committee. NECA is represented on the TfN Partnership Board by Cllr Nick Forbes, in his capacity as Thematic Lead for Transport, with Cllr Neil Foster as alternate member. David Land is also a member of the Partnership Board as NE LEP board member. NECA and Nexus officers are fully engaged in the various workstreams at official level.
- 1.4 In parallel, Rail North has been created to improve the influence of the North over Northern and Transpennine rail services. As a result, the new franchises secure significant improvements in the services provided across the North, with greater involvement of Northern transport authorities over time.
- 1.5 The Cities and Local Government Devolution Act 2016 makes provision to create Sub-national Transport Bodies ("STBs") with powers devolved from central government. Transport for the North proposes to be the first such body.

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### 2. The TfN Proposal

2.1 The Act does not stipulate the powers which an STB will have. Instead, it is for the member authorities who will make up the STB to propose to central government which powers they are seeking. The TfN Partnership Board, in discussion with its member authorities, has therefore developed a proposal to become a statutory body with devolved powers. The latest draft of the proposal is attached at Appendix 1 (“the Proposal”). The list of member authorities, which comprise both Combined Authorities (“CAs”) and Local Transport Authorities (“LTAs”), is set out in section 1 of the Proposal.

2.2 The Proposal aims to achieve a greater devolution of responsibility from the Secretary of State to the North, to be delivered in a partnership covering all parts of the North. The key features of the Proposal are that TfN will seek powers to:

- facilitate the development and implementation of the Northern Transport Strategy where this will further economic growth for the North;
- co-ordinate and deliver a new north-wide system of smart and integrated ticketing; and
- commission delivery agencies, in particular Network Rail and Highways England, to ensure their investment programmes are driven by the North’s economic and connectivity priorities (NB: initially this commissioning will be carried out jointly with central government but over time it is proposed that TfN will assume sole responsibility for this client role).

The drawdown of these powers is considered essential to achieving economic growth in the North and is reflective of government’s challenge to the North to be ambitious in its plans. The approach set out in the Proposal will establish TfN on a permissive statutory framework that will allow it to build capability and capacity over time, where this has the explicit agreement of its members.

### 3. Powers drawn down from central government

3.1 An effective TfN will have the responsibility to set the strategic pan-northern transport objectives for Highways England and Network Rail, as well as fully devolved responsibility for specifying franchised rail services. In short, this means transferring the “client” role from DfT to the North. This model follows similar principles of devolution in Scotland and Wales where transport investment priorities are determined locally and according to economic priorities.

3.2 This will require powers that are currently exercised by central government to be exercised by TfN instead and includes:

- setting the objectives and priorities for the Rail Investment Programme;
- determining the franchise rail service specification for Northern Rail and Transpennine Express; and

# North East Combined Authority

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- setting and varying the objectives and priorities for the Road Investment Programme.
- 3.3 There will need to be a transitional period of ‘co-decision making’ with government before TfN assumes fully devolved responsibilities to allow the capacity and capability of TfN to mature. This is similar to the way that Rail North and government’s relationship has evolved.
4. **Powers exercised concurrently with CAs/LTAs and PTEs**
- 4.1 It is not proposed that any transport powers exercisable by a combined authority (“CA”), local transport authority (“LTA”) or passenger transport executive (“PTE”) should be exercisable by TfN instead of by that body, but it is proposed that various transport powers should be exercisable by TfN concurrently with the relevant CA, LTA or PTE as set out in section 11 of the Proposal. In brief, these powers are as follows:
- the power to promote the economic, social and environmental well-being in TfN’s area;
  - the power to promote or oppose local or personal bills in parliament or apply for Transport and Works Act orders;
  - the power to make a pan-northern smart ticketing scheme;
  - the power to carry passengers by rail throughout the North and from the North to other places in Great Britain;
  - the right to be consulted on invitations to tender for rail franchise agreements affecting the North and the power to enter into agreements with the Secretary of State (“SoS”) or franchise operators in connection with such franchises;
  - the power to make capital grants to persons for the provision or improvement of facilities for public passenger transport;
  - the right to be party to voluntary agreements with the SoS, Highways England or local highway authorities in relation to the construction or improvement of highways; and
  - the power to acquire land.
- 4.2 These powers could only be exercised concurrently and with the explicit agreement of the CA/LTA in question. It is considered that the use of concurrent powers by TfN will not reduce the powers available to local areas but will enable TfN to be a real vehicle for transport devolution rather than an advisory body to government.
- 4.3 TfN will continue to work with officers from the member authorities over the summer to develop the TfN operating model including key principles and heads of terms for the working arrangements, operating agreements and protocols that would need to be put in place. These will be available for consideration when central government issues the draft STB regulations, after which TfN member authorities will be asked to formally consent to the regulations and membership of the STB.
- 4.4 The development and implementation of the STB’s strategy will also fully

# North East Combined Authority

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involve the member authorities and be agreed by the elected members of its 19 constituent authority areas. This, together with the arrangements described above, will ensure that where the exercise of concurrent powers is required, consensus and workable solutions will be achieved.

### 5 Proposed constitutional arrangements

5.1 The constitutional arrangements upon which TfN will be established as a statutory STB include the following key principles:

- voting arrangements;
- integration of Rail North;
- local accountability and operating model; and
- funding.

5.2 The Proposal aims to replicate as far as possible the arrangements already established for TfN in its non-statutory form, which has gained support from authorities and business leaders from across the North. Further refinement will continue as government drafts the regulations and member authorities will again have an opportunity to formally consent to the arrangements within the regulations in the autumn.

### 6 Voting arrangements

6.1 As set out in section 4 of the Proposal, each member authority of TfN will appoint one of their councillors/members or their elected mayor as a member of TfN. It is expected that this person will be that authority's elected mayor, chair, leader or cabinet member for transport. The authority may also appoint a substitute member to act in his/her absence.

6.2 TfN will continue to endeavour to reach consensus on all its decisions. Nevertheless, as a statutory body, it will need to specify arrangements to reach decisions where unanimity is not possible.

6.3 A number of options for voting structures have been considered by officers and discussed by TfN's Partnership Board. As set out in section 4.3 of the Proposal, it is proposed that, where consensus cannot be reached, decisions will generally be taken on the basis of a system of weighted voting to reflect differences in the populations of the constituent authorities. The weighted voting entitlement of the constituent authorities will be determined on the basis of one vote for each 200,000 or part thereof of the resident population of its area. The table at Appendix 2 sets out the voting allocations according to the size of the respective authorities.

6.4 Most decisions will be taken by way of a simple majority decision according to the weighted votes. However, certain decisions will require both a super-majority consisting of 75% of the weighted vote and a simple majority of the members appointed by the constituent authorities. It is proposed that such decisions will be :

- the approval and revision of TfN's transport strategy;

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- the approval of TfN's annual budget; and
- any changes to TfN's constitution.

6.5 The specific voting arrangements for Rail North matters and funding contributions are set out at paras 7.3 and 9.1 below.

### 7 **Integration of Rail North Limited**

7.1 It is proposed that Rail North be included within the new statutory arrangements for TfN by TfN becoming the sole owner of Rail North (which is a limited company). This will allow Rail North to benefit from new statutory powers to strengthen its role and, over time, support a further shift of responsibility from central government to the North, allowing rail services to be managed more directly from the North, on behalf of the North. As noted above, it is envisaged that the Secretary of State's current responsibility to award franchise contracts will be devolved to TfN.

7.2 Nineteen of the authorities that currently constitute Rail North will have full membership of TfN, given their geographical and statutory responsibilities for all modes of transport within the TfN area. The 6 midland authorities who are also members of Rail North will have co-opted member status in TfN, given the inclusion of TPE/RN rail services within their boundaries.

7.3 Rail North currently operates on a model of voting weighted by the share of each authority in the overall rail patronage of those services (and this is also shown on the table at Appendix 2). It is proposed that this voting mechanism is retained where TfN takes decisions on Rail North matters. Further consultation will take place with the directors of Rail North to ensure the final proposal for statutory functions and governance secures their support.

### 8 **Local Accountabilities**

8.1 TfN is seeking to establish its powers through devolution from central government, not through any loss of powers, responsibilities or funding from local level. TfN will work on the basis of 'subsidiarity', with local responsibilities exercised at a local level, and cross-northern collaboration focused where it adds value and becomes greater than the sum of its parts.

8.2 TfN will continue to work with member authority officers during the legislation drafting period to clearly define the roles and boundaries between TfN and its member authorities. However, there are already some key principles established through the emergence of TfN:

- the STB transport strategy will focus on enabling economic growth across the North;
- TfN allows the North's transport authorities to adopt a coherent and integrated approach to strategic transport infrastructure planning across the North that enables local areas to grow their economies;

# North East Combined Authority

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and

- TfN exists to present a coherent and clear position to Government and to national delivery agencies in respect of setting the strategic transport objectives for the region upon which subsequent interventions can be developed, appraised and implemented.

### **9 Funding and Finance**

9.1 TfN is currently funded by government grant, supporting a budget of £50m over the lifetime of this Parliament.

9.2 Whilst it is proposed to introduce a provision for TfN members to contribute to TfN costs, this would require the unanimous agreement of all member authorities. At this point in time, there is no budget provision to cover any costs associated with NECA's membership of TfN if there was unanimous agreement to such a proposal.

9.3 In respect of the NECA's participation in Rail North (and the costs of establishing and managing the North East Rail Management Unit), these costs are currently met from Rail Administration Grant paid by DfT to Nexus. It should be noted however, that this grant is only confirmed on an annual basis and the use of this funding will be subject to ongoing review.

### **10 Next Steps**

10.1 It is intended to submit the Proposal to government during the summer parliamentary recess. The Chair of TfN, on behalf of its Partnership Board, has invited each of the 19 transport authorities within the proposed STB area to consent to submit the Proposal to the Secretary of State.

10.2 Subject to the Secretary of State's review of the Proposal and decision to proceed, it is anticipated that DfT lawyers will draft the necessary regulations over the summer. The Secretary of State will then consult on the draft regulations and we expect a further update to be brought to the TfN Partnership Board and Association of Rail North Partner Authorities in September.

10.3 Constituent Authorities will then have a further final opportunity in the autumn to review the regulations and ratify their consent to the same and to being a member of TfN. Once all of the necessary consents are in place DfT will institute parliamentary proceedings to establish TfN as a STB during 2017.

### **11. Potential Impact on Objectives**

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11.1 Many of NECA's objectives for transport can be secured through devolved powers and resources. However, transport crosses regional boundaries, and the elements of the transport system which extend into other regions need to be addressed in partnership. Historically the North has not secured a fair allocation of investment, and its rail services have been franchised on a "no growth" basis. Partnership across the North, with devolved powers, can help address this over time.

### 12. Legal

12.1 The legal implications are set out in the body of this report.

### 13. Other Considerations

#### 13.1 Human Rights

There are no specific human rights implications arising from this report.

#### 13.2 Equalities and Diversity

There are no specific equalities and diversity implications arising from this report.

#### 13.3 Consultation / community engagement

TfN has consulted with all member authorities during the drafting of the Proposal and is now seeking consent from each to submit the Proposal to government. The Secretary of State will subsequently consult on the draft regulations to establish TfN as an STB, affording each of the 19 authorities the opportunity to formally consent to the regulations and membership of TfN.

#### 13.4 Risk Management

Any risks associated with this process will be managed through TfN's risk management arrangements.

#### 13.5 Crime and disorder

There are no specific crime and disorder implications arising from this report.

#### 13.6 Environment and Sustainability

Delivery of improved rail services across Northern England and the reduction of congestion through road improvements will contribute to NECA's objectives for a more sustainable transport system and improved air quality.

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### 14. Background Documents

None.

### 15. Links to plans in the policy framework

This report has no direct link to plans in the policy framework.

### 16. Appendices

Appendix 1 – Proposal to establish a sub-national transport body (STB)  
Appendix 2 - TfN Legislation - Voting Arrangements

### 17. Contact Officers

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### 18. Sign off

Head of Paid Service ✓  
Monitoring Officer ✓  
Chief Finance Officer ✓

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## APPENDIX 1

### TRANSPORT FOR THE NORTH (TfN)

#### PROPOSAL TO ESTABLISH A SUB-NATIONAL TRANSPORT BODY (STB)

*This proposal is made by the constituent authorities set out below pursuant to section 102F of the LTA 2008 for the establishment of a sub-national transport body (STB) covering the area of the constituent authorities. In making the proposal the constituent authorities have consulted the appropriate authorities and other persons set out in Schedule A to this proposal.*

The proposal provides as follows:

#### 1. **Constituent Authorities**

The constituent authorities making these proposals are the local transport authorities situated wholly or partly in the North East, North West and Yorkshire and the Humber regions of England, namely:-

Greater Manchester Combined Authority  
Liverpool City Region Combined Authority  
North East Combined Authority  
Sheffield City Region Combined Authority  
Tees Valley Combined Authority  
West Yorkshire Combined Authority  
Cumbria County Council  
Lancashire County Council  
North Yorkshire County Council  
Blackburn with Darwen Unitary Authority  
Blackpool Unitary Authority  
Cheshire East Unitary Authority  
Cheshire West and Chester Unitary Authority  
Warrington Unitary Authority  
City of York Unitary Authority  
East Riding of Yorkshire Unitary Authority  
Hull Unitary Authority  
North Lincolnshire Unitary Authority  
North East Lincolnshire Unitary Authority

#### 2. **Area of the STB**

The area of the STB will be the area of the constituent authorities

#### 3. **Name of the STB**

The name of the STB will be **Transport for the North (TfN)**

#### **4. Membership**

- 4.1 Each constituent authority will appoint one of their councillors/members or their elected mayor as a member of TfN. It is expected that the person appointed will be that authority's elected mayor, chair, leader or cabinet member for transport.
- 4.2 Each constituent authority will appoint another of their councillors / members or their elected mayor as a substitute member to act as a member of the TfN in the absence of the person appointed under paragraph 4.1.
- 4.3 There will be a presumption that decisions are normally taken by consensus. But in the absence of consensus, and subject to paragraphs 4.4 and 13.1, decisions will be taken on the basis of a system of weighted voting to reflect differences in the populations of the constituent authorities. The weighted voting entitlement of the constituent authorities will be determined on the basis of one vote for each 200,000 or part thereof of the resident population of its area as estimated annually by the Office of National Statistics (Resident Population).
- 4.4 Certain decisions will require both a super-majority consisting of 75% of the weighted vote and a simple majority of the members appointed by the constituent authorities to be carried. Such decisions will be :
- The approval and revision of TfN's transport strategy
  - The approval of TfN's annual budget
  - Any changes to TfN's constitution

#### **5. Co-opted Members**

- 5.1 The regulation should provide for the appointment of persons who are not elected members of the constituent authorities to be co-opted members of TfN
- 5.2 Persons to be appointed as co-opted members will include:
- (a) the person appointed by TfN as "independent chair of the Partnership Board" for the purposes of paragraph 6.3 below and
  - (b) one elected member appointed by each of the local transport authorities which are members of Rail North Ltd, but not constituent authorities of TfN, namely:-

Derbyshire County Council  
Lincolnshire County Council

Nottinghamshire County Council  
Nottingham City Council  
Staffordshire County Council  
Stoke-on-Trent City Council

- 5.3 Co-opted members will be non-voting members of TfN, except to the extent that the voting members of TfN resolve that such members should have voting rights.

## **6. Partnership with Business**

- 6.1 A business body will be established consisting of representatives of Local Enterprise Partnerships in the areas covered by TfN.
- 6.2 The functions of this body will be to advise TfN on its policies and priorities, to conduct its own reviews on matters relating to transport and the economic well-being of the North and to make representations to TfN
- 6.3 TfN and the business body will establish a Partnership Board which will hold regular partnership meetings to be chaired by the person appointed by TfN as the “independent chair”.

## **7. Executive Arrangements**

- 7.1 TfN will not operate formal statutory executive arrangements
- 7.2 TfN is a “local authority” for the purpose of section 101 of the Local Government Act 1972 and may delegate the discharge of its functions to a committee, sub-committee or officer, or to another local authority. As such, TfN may establish a committee(s) to discharge any functions as are delegated to it.
- 7.3 The functions of agreeing a budget and the transport strategy of TfN will not be delegated functions and will only be determined by a meeting of the full TfN.

## **8. Executive Body**

TfN will not establish an executive officer body, but will delegate the discharge of agreed functions to its officers in accordance with a scheme of delegation or on an ad hoc basis.

## **9. Functions**

The functions of TfN will include:

- General functions provided for in section 102H of the Local Transport Act 2008, including the preparation of a transport strategy.
- Local transport functions to be exercised by TfN concurrently with local transport authorities and PTEs
- Other public authority functions (including functions of the Secretary of State) to be exercised by TfN instead of by, or jointly with, the public authority
- The functional power of competence in **section 102M of the Local Transport Act 2008**

## 10. General Functions

The general functions of TfN should be:

- 10.1 to prepare a transport strategy for its area in accordance with **section 102 I of the Local Transport Act 2008**
- 10.2 to provide advice to the Secretary of State (SoS) about the exercise of transport functions in its area (whether exercisable by the SoS or others)
- 10.3 to co-ordinate the carrying out of transport functions that are exercisable by its different constituent authorities
- 10.4 to make proposals to the SoS for the transfer of transport functions to TfN
- 10.5 to make other proposals to the SoS about the role and functions of TfN

## 11. Exercise of local transport functions

- 11.1 It is **not** proposed that any transport functions exercisable by a local authority (or PTE) should be exercisable by TfN instead of by the local authority (or PTE), but it is proposed that various transport functions should be exercisable by TfN concurrently with the local authority or PTE as set out below.
- 11.2 TfN should have the same power of an ITA or CA under **sections 99 and 102 of the Local Transport Act 2008** to promote the economic, social and environment well-being of its area.
- 11.3 TfN should have the general powers of a PTE under **section 10 of the Transport Act 1968** (with the omission of the words “with the approval of the Authority” where they appear), including the power to carry passengers by railway between places in Great Britain.
- 11.4 TfN should have the same powers of a local transport authority under **sections 135-138 of the Transport Act 2000** in relation to making joint and through ticket schemes.

- 11.5 TfN should have the same powers of a local authority under **section 239 of the Local Government Act 1972** to promote and oppose local or personal Bills in Parliament (which bring in rights to apply for orders under the Transport and Works Act 1992).
- 11.6 TfN should have the same powers and rights of a PTE under **section 13 of the Railways Act 2005** including rights to be consulted in relation to franchise agreements for services to, from or within its area, and to enter into agreements with the SoS or franchisees in relation to such services.
- 11.7 TfN Should have the same power of a local authority under **section 56(2) of the Transport Act 1968** to give capital grants to persons for purpose of the provision of facilities for public passenger transport.
- 11.8 TfN should have the power of county councils and unitary districts under **section 24 of the Highways Act 1980** to construct highways (subject to the consent of the highway authority) and their powers under **Part XII of the Highways Act 1980** to acquire land etc.
- 11.9 There will be an operating agreement between TfN and the constituent authorities providing, inter alia, for the drawing up of agreed protocols in relation to the exercise of concurrent functions. Such protocols would be kept under regular review.

## **12. Other Public Authority Functions**

- 12.1 TfN should have the function of the SoS under **section 3 and Schedule 2 of the Infrastructure Act 2015** to set and vary the Road Investment Strategy (RIS) insofar as the RIS relates to TfN's area. This function would be exercised jointly with the SoS.
- 12.2 TfN should have the function of the SoS under **Schedule 4A, paragraph 1D, of the Railways Act 1993**. In relation to the High Level Output Specification (HLOS) insofar as it relates to railway activity in TfN's area. This function should be exercised jointly with the SoS.
- 12.3 Devolution of Rail Franchising

Under section 23 and 26 to 30 of the Railways Act 1993, the SoS is responsible for the rail franchising. RNL jointly manage with the SoS the Northern and Transpennine franchises and have various rights under a contractual agreement. At the end of the recently let franchises in 2023/25, it is envisaged that the function would be devolved to TfN. The preferred legal route is that there should be an exemption order under section 24 enabling TfN to let concessions in the same way as TfL and Merseyside PTE do with exempted services

in their area. *[An alternative route would be to devolve the franchising functions of the SoS under the Railways Act 1993 to TfN as in Scotland and Wales.]*

- 12.4 **Section 6(5) of the Highways Act 1980** enables the SoS or Highways England to enter into agreements with a county council or metropolitan district council for the construction or improvement of trunk roads. It is proposed that this section be modified to include TfN as an authority having power to enter into such agreements.
- 12.5 **Section 8 of the Highways Act 1980** enables local highways authorities or Highways England to enter into agreements with other such authorities in relation to the construction, improvement or maintenance of a highway for which any party to the agreement is the highway authority. It is proposed that this section be modified to enable TfN to be a party to such agreements as if they were a highway authority.

### 13. Financial

- 13.1 The Regulations should provide for the constituent authorities to make statutory contributions as determined by TfN towards the costs of TfN, provided only that a decision to require such contributions and the overall amount of such contributions is unanimously agreed by all TfN members appointed by the constituent authorities. The apportionment of such contributions should be determined on the basis of Resident Population, unless unanimously agreed to the contrary.
- 13.2 TfN should be able to accept voluntary contributions to its costs from constituent authorities.
- 13.3 An order should be made by the Treasury specifying TfN (or STBs generally) as a body to which **section 33 of the Value Added Tax Act 1994** applies. This would enable TfN to claim refunds of VAT paid by it in certain cases.

### 14. Scrutiny

- 14.1 It is proposed that TfN arrange for the appointment of a scrutiny committee including at least one member of each constituent authority nominated by the constituent authority.
- 14.2 The scrutiny committee appointed by TfN may not include a member, substitute member or co-opted member of TfN, but may include co-opted persons representative of non-constituent authorities and non-councillor representatives of passengers, road users, employers and employees.
- 14.3 *[The arrangements should ensure that the membership of the scrutiny committee reasonably reflects the political balance of elected members*

*on the constituent authorities (or, in the case of combined authorities, their constituent councils) taken together.]*

14.4 The arrangements should ensure that the scrutiny committee has power:-

- (a) to review and scrutinise decisions made, or other action taken, by TfN
- (b) to make reports or recommendations with respect to the discharge of the functions of TfN
- (c) to make reports or recommendations on transport matters that affect the area of TfN or inhabitants of the area
- (d) to require members or officers of TfN to attend meetings of the committee to answer questions.
- (e) to invite other persons to attend meetings of the committee

## 15. Rail North Ltd (RNL)

15.1 It is proposed that TfN should become the sole owner of RNL, provided that any changes to RNL's constitutional arrangements ensure:

- That the rights and interests of those RNL member authorities which are not constituent authorities of TfN are protected
- That RNL member authorities which are TfN constituent authorities are able to retain rights similar to their existing rights through TfN's constitutional arrangements

15.2 Such protection would include:

- Existing geographical sub-groups continuing to nominate directors of RNL
- RNL authorities which are not TfN constituent authorities becoming co-opted members of TfN with a right to vote on "Rail North matters"

## 16. Miscellaneous

It may be necessary that certain additional local authority enactments are applied to TfN as if TfN were a local authority, including staffing arrangements, pensions etc. In this respect, it is also proposed that TfN should be a "local authority" for the purposes of **section 1 of the Local Authorities (Goods and Services) Act 1970**, to enable constituent authorities to provide services to TfN.

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# TfN Proposed Voting Arrangements

TfN Combined Authority, County Council, Unitary Authority	Population	% of population	Weighted vote (1 vote per 200k of population or part thereof)	Rail North matters
				Rail North Votes (1 per 0.1% of pax miles)
Greater Manchester CA	2,732,854	18.08%	14	223
Leeds City Region / WYCA	2,264,329	14.98%	12	209
North East CA	1,952,473	12.92%	10	65
Liverpool City Region CA	1,517,463	10.04%	8	59
Sheffield City Region CA	1,365,847	9.04%	7	78
Lancashire CC	1,184,735	7.84%	6	55
Tees Valley CA	666,237	4.41%	4	33
North Yorkshire CC	601,536	3.98%	4	32
Cumbria CC	497,874	3.29%	3	40
Cheshire East UA	374,179	2.48%	2	21
East Riding of Yorkshire UA	337,115	2.23%	2	9
Cheshire West and Chester UA	332,210	2.20%	2	11
Hull City Council	257,710	1.71%	2	13
Warrington UA	206,428	1.37%	2	12
City of York UA	204,439	1.35%	2	54
North Lincolnshire	169,247	1.12%	1	4
North East Lincolnshire	159,804	1.06%	1	6
Blackburn with Darwen UA	146,743	0.97%	1	6
Blackpool UA	140,501	0.93%	1	15
<b>Total</b>	<b>15,111,724</b>		<b>84</b>	
<b>Enhanced Majority 75%</b>			<b>63</b>	
<b>TfN Rail North Co-opted Member Areas</b>				
Staffordshire CC	860,165			1
Nottinghamshire CC	801,390			3
Derbyshire CC	779,804			14
Lincolnshire CC	731,516			7
Nottingham City Council CC	314,268			15
Stoke-on-Trent City Council	251,027			8

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### Leadership Board

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**DATE:** 19<sup>th</sup> July 2016

**SUBJECT:** Large Local Major Schemes Fund

**REPORT OF:** Chief Executive Officer for Transport

#### **EXECUTIVE SUMMARY**

This report provides the Leadership Board with a summary of the transport schemes proposed to be submitted by the North East LEP to the Department for Transport's Large Local Major Schemes Fund, taking into account further clarification that is awaited from the Department.

#### **RECOMMENDATIONS**

The Leadership Board is recommended to:

- Endorse the prior submission of the 'Ashington, Blyth and Tyne Line re-opening' scheme for 'fast track' consideration to the Fund;
- Advise the LEP that the 'Sunderland Commercial Links' scheme is considered to be the NECA's main priority for the LEP's submission to the delivery element of the Fund, as it is the only scheme at the present time in a suitable state to draw down direct capital investment during the funding period, this in addition to the 'fast-track' scheme already submitted;
- Agree that, if following further discussion with DfT the opportunity arises, the 'Metrofutures' scheme should be included as an additional proposed scheme to the Fund, but that if not, the development of Metrofutures will be considered as a priority for the NECA, and other sources of funding will be sought; and
- Agree that development of improved transport modelling tools should be taken forward by NECA officers as a priority, and that sources of funding should be identified to achieve this.

# North East Combined Authority

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### 1. Background Information

- 1.1 The 2016 Budget announced that funding of £475m was available for 'Large Local' Major Transport Schemes through a competitive bidding process, with schemes to be put forward by Local Enterprise Partnerships (LEPs). This is part of the £12bn Local Growth Fund (LGF); however, the Large Local Major Schemes Fund is ring-fenced and administered directly by the Department for Transport (DfT). £151m of the available fund has already been allocated by the DfT to schemes in East Anglia.
- 1.2 The aim of the Large Local Major Schemes Fund is to provide funding for those exceptionally large, potentially transformative, local transport schemes that are too big to be taken forward within regular Growth Deal allocations and could not otherwise be funded. As the North East LEP (NELEP) is one of the largest LEPs in the country, a minimum cost threshold of £75 million has been set for each large scheme that it submits.
- 1.3 The Fund makes provision for LEPs to submit schemes for either development funding only or for a contribution to full scheme delivery. Given the limited funding nationally, the Fund is expected to be extremely competitive. Guidance received suggests that the DfT expects to receive bids for only one or two schemes for each LEP area although the parameters for this are unclear.
- 1.4 The deadline for submitting proposals is 28th July 2016 with decisions to be announced by the government around the time of the 2016 autumn statement.
- 1.5 A fast track process has been identified for LEPs that have potential schemes which are already at a relatively advanced stage of business case development and can make substantial progress in 2016/17 towards completing an Outline Business Case, utilising £10 million of the fund that is available this year. The advanced deadline for these submissions was 31<sup>st</sup> May 2016 and it is envisaged that a decision on these will be reached by government before the summer recess.
- 1.6 Economic Directors and Transport Officers have considered potential schemes based on expected economic benefits, the stage of development of each scheme, and DfT guidance. Those schemes considered to be most suitable to form part of the LEP's submission are outlined below.

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### 2. Fast-track scheme

#### Ashington, Blyth and Tyne line re-opening

- 2.1 This is a key strategic transport infrastructure investment identified in the Strategic Economic Plan in 2014 and in the devolution deal. Passenger forecasts indicate the potential of 360,000 users per annum by 2034. The service would enhance connectivity for many communities in South East Northumberland with the rest of the region, improving access to employment and learning facilities and locally acting as a catalyst to the further regeneration of communities along the line.

As part of the North East Devolution Agreement, government has committed to help develop the business case for the re-opening of the Ashington, Blyth and Tyne (ABT) line.

The Large Local Major Schemes Fund therefore provides an ideal vehicle to progress with this scheme. As a result the scheme was put forward in response to the call for fast-track schemes, requesting £1.78m of development funding.

### 3. Main bid

#### Sunderland Commercial Links

- 3.1 This is proposed as a full scheme bid (Outline Business Case). The scheme consists of improvements to the A1231 between the north bridgehead of the proposed new bridge over the River Wear (Sunderland Strategic Transport Corridor Phase 2) and the junction with A19, developing interface improvements with Highways England network. It also comprises improvements to A1018 between Wearmouth Bridge and the roundabout junction of Hendon Road with Commercial Road. This will include a proposed single carriageway road linking the A1018 Southern Radial Route with the Port of Sunderland. Improvements would provide direct access between the Port and the national road network (i.e. A19 and A1M). This would contribute towards development of the Port, which is currently constrained by poor standard of existing road access
- 3.2 This scheme is suitably developed to be able to draw down £94m of funding during 2016/17 to 2021/22 and is therefore recommended to be considered as the main priority for the LEP's submission to the fund, in addition to the 'fast-track' scheme already submitted.

## Leadership Board

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### 4. Additional considerations

- 4.1 Two other schemes were brought forward by scheme sponsors during the preparation process, which were seeking inclusion for development funding:

#### **Metrofutures**

- 4.2 Proposals for expansion of the Metro and local rail network are a key component of the Devolution Agreement, and are discussed in the proposed Metro and Local Rail Strategy. Expanding the Metro and local rail network is designed to support economic growth across the North East, as well as improving accessibility, equality of opportunity, and the environment.
- 4.3 Metrofutures is at an early stage of its development, and therefore Nexus is seeking to draw down £1.787m in development funding, in order to be able to develop the scheme further.
- 4.4 Economic Directors have proposed that, if following further discussion with DfT the opportunity arises, Metrofutures should be included as an additional proposed scheme to the Fund. If however the opportunity to bid into this Fund is not available, it is proposed nevertheless that the development of Metrofutures will be considered as a priority for the NECA, and other sources of funding will be sought.

#### **Newcastle Gateshead Urban Core Distributor Route Package**

- 4.5 This scheme will involve the upgrading of the Newcastle-Gateshead urban core distributor route, including the provision of Variable Message Signs around the loop road to keep traffic flowing freely – enabling a reduction in traffic and public realm improvements within the urban core. This scheme will improve traffic movement, enhance the reliability of bus services, encourage sustainable travel and improve air quality – benefiting all road users as well as the wider community.
- 4.6 This scheme is at an early stage of its development, and therefore Newcastle City Council and Gateshead Council are seeking to draw down £1.6 million of development funding, in order to be able to develop the scheme further.
- 4.7 Economic Directors recognised the importance of this scheme. However a key component of this scheme's development is through options appraisal, which is to be facilitated by the development of improved transport modelling capability covering the entire NECA area. It is therefore recommended that development of improved transport modelling tools, and

# North East Combined Authority

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an options appraisal exercise, be taken forward by NECA officers as a priority, and that sources of funding should be identified to achieve this.

### **5. Potential Impact on Objectives**

5.1 Securing funding for these schemes will assist the Combined Authority in delivering its objective to maximise the area's opportunities and potential.

### **6. Finance and Other Resources**

6.1 The proposed bids would help secure additional development funding for three projects, which will assist with the design and development of the projects, with one major full scheme bid.

### **7. Legal**

7.1 There are no legal considerations arising directly from this report.

### **8. Other Considerations**

#### 8.1 Consultation/Community Engagement

All large transport schemes are subject to appropriate consultation arrangements in line with statutory guidance.

#### 8.2 Human Rights

There are no specific human rights implications arising from this report.

#### 8.3 Equalities and Diversity

There are no specific equalities and diversity implications arising from this report.

#### 8.4 Risk Management

All schemes, if approved for funding, will be subject to appropriate risk management arrangements.

#### 8.5 Crime and Disorder

There are no specific crime and disorder implications arising from this report.

#### 8.6 Environment and Sustainability

The various schemes will contribute to congestion reduction and improved rail / public transport services and will therefore, if approved for funding, assist the Combined Authority in achieving a more sustainable transport system for the region.

# North East Combined Authority

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### 9. Background Documents

9.1 None.

### 10. Links to Plans in the Policy Framework

10.1 This report has no direct link to plans in the Policy Framework

### 11. Contact Officer

11.1 Mark Wilson, Head of Transport Policy (North East Combined Authority)  
[mark.wilson@northeastca.gov.uk](mailto:mark.wilson@northeastca.gov.uk) 0191 211 5679

### 12. Sign off

- Head of Paid Service ✓
- Monitoring Officer ✓
- Chief Finance Officer ✓

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