



Transport North East Committee

Friday 15th July 2016 at 2.00 pm

Meeting to be held in a Committee Room, Sunderland Civic Centre, Burdon Road, Sunderland, SR2 7SN

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Update on the Governance Review and draft Scheme for the proposed Mayoral Combined Authority	

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To All Members

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North East Combined Authority

Transport North East Committee

DATE: 15 July 2016
SUBJECT: Update on the Governance Review and draft Scheme for the proposed Mayoral Combined Authority
REPORT OF: Head of Paid Service

EXECUTIVE SUMMARY

The purpose of this report is to update the Transport North East Committee on the progress so far in developing the Governance Review and Draft Scheme for the proposed Mayoral Combined Authority, and to outline the proposals for consultation and the next steps in the process.

RECOMMENDATIONS

It is recommended that the Transport North East Committee:

- i. Consider the contents of this report.
- ii. Note that the NECA Leadership Board agreed on 4 July to postpone discussion on the Governance Review and draft Scheme whilst reassurance was sought from central Government that the terms of the Devolution Agreement would remain unchanged following the outcome of the European Referendum, and that the region would still be guaranteed fair funding.
- iii. Note that the Leadership Board will consider the Governance Review and draft Scheme, and agree the approach to consultation, after assurances from Government have been received.

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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.
- 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

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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.

- 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.

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, the Scheme will be published and forwarded to the Department for Communities and Local Government (DCLG).

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- 4.2 The Scheme will be subject to extensive public consultation for a minimum period of 6 weeks. 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 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, 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 17th 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.

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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 launched and will run for a minimum period of six weeks.

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 4 July - The Governance Review and Scheme for the proposed Mayoral Combined Authority

10 Links to the Local Transport Plans

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

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11 Appendices

None.

12 Contact Officers

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13 Sign off

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