



Transport North East (Tyne and Wear) Sub-Committee

Thursday 26th February, 2015 at 2.00 pm

Members' Pre-meeting at 1.30pm

Meeting to be held at Gateshead Civic Centre, Regent Road, Gateshead, NE8 1HH

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AGENDA

Page No

1. **Apologies for Absence**

2. **Declarations of Interest**

Please remember to declare any personal interest where appropriate both verbally and by recording it on the relevant form (to be handed to the Democratic Services Officer). Please also remember to leave the meeting where any personal interest requires this.

3. **Minutes of the Previous Meeting**

1 - 4

4. **Metro Asset Renewal Programme - Management of Risk**

5 - 16

5. **Metro Performance Update**

17 - 20

6. **Governance of Nexus**

21 - 32

7. **Date and Time of Next Meeting**

30 April 2015 at 3pm or following the conclusion of Transport North East Committee, at Sunderland Civic Centre

Contact Officer: Victoria Miller Tel: 0191 211 5118 E-mail: victoria.miller@newcastle.gov.uk

To All Members

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North East Combined Authority

Transport North East (Tyne and Wear) Sub-Committee

29 January 2015

Meeting held: Civic Centre, Regent Street, Gateshead, NE8 1HH

Present:

Councillor: West (Chair)

Councillors: McCarty, McElroy and Watson

35 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Lott.

36 DECLARATIONS OF INTEREST

There were no declarations on interest.

37 MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting held on 13 November 2014 were approved as a correct record and signed by the Chair.

38 TYNE TUNNEL - RESPONSE TO THE HOUSE OF COMMONS TRANSPORT COMMITTEE INQUIRY INTO STRATEGIC RIVER CROSSINGS

Submitted: A report of the Chief Executive for the Thematic Lead for Transport (previously circulated and copy attached to Official Minutes).

Members considered the report which provided information on the Authority's response to the House of Commons Transport Committee's current inquiry into strategic river crossings. The ensuing discussion included matters such as:

- the co-operation between the key traffic crossing projects and the Tyne Tunnels;
- the tolling arrangements for the Tyne Tunnels; and
- the importance of continuing to lobby the government for a fair deal and assistance with the repayment of the debt.

RESOLVED – That the report be noted.

39 MONITORING NEXUS' PERFORMANCE

Submitted:

(i) A joint report of the Chief Executive for the Thematic Lead for Transport and the Managing Director (Transport Operations) (previously circulated and copy attached to Official Minutes); and

(ii) A graph showing the punctuality, reliability, revenue and patronage of Metro for the periods 1 to 10 (with the Chair's permission, due to the timetables involved circulated at the meeting and copy attached to Official Minutes).

Members considered the report which provided information on Nexus' corporate performance in delivering services and projects to the end of the third quarter. The ensuing discussion included matters such as:

- the performance of Metro;
- the recent restructure within DB Regio Tyne and Wear Ltd. (DBTW) who operated Metro on behalf of Nexus;
- the programme of actions to address seasonal issues in relation to low rail adhesion;
- the Metrocar refurbishment programme, including a door overhaul package;
- the recruitment and training programme to secure continued staffing levels in relation to the Metro drivers;
- the continued work to improve communication with customers during disruption;
- the recent power failures on the Metro system and the work to minimise associated risks and impacts for the future;
- smart ticketing, including achievements and capabilities;
- the Asset Renewal Programme and the forecast spending, programme management, asset performance and reporting to the Department for Transport (DfT) in relation to the programme;
- a review of Nexus' internal audit function by Mazars;
- the progress of the development of Sunderland Rail Station;
- the progress of the work with partners on the implementation of the North East Smart Ticketing Initiative (NESTI);
- the importance of the work to develop a single smart card that would be capable of loading on various multimodal products, and the understanding that there were difficulties involved in developing such a product.

Councillor P Watson commented on the importance of understanding relationships between NECA, Nexus and DBTW. It was noted that a report on this matter was scheduled for the next meeting.

Members congratulated officers on the quality of the report.

RESOLVED – That:

(i) the report be noted;

(ii) a future report would cover Nexus' management of risk in the Asset Renewal Programme;

(iii) information be provided to Members on how Nexus' spending in the Asset Renewal Programme was planned and monitored; and

(iv) a report for the next meeting would include information on the relationships between NECA, Nexus and DBTW.

40 **DATE AND TIME OF NEXT MEETING**

26 February 2015 at 2pm (Members' pre-meeting at 1.30pm) at Gateshead Civic Centre.

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North East Combined Authority

Transport North East (Tyne and Wear) Sub-Committee

DATE: 26th February 2015

SUBJECT: Metro Asset Renewal Programme - Management of Risk

REPORT OF: Managing Director (Transport Operations)

EXECUTIVE SUMMARY

The purpose of this report is to provide an overview of the Risk Management processes applied in the delivery of the Metro Asset Renewal Plan.

Attached at Appendix A is the Period 10 programme level risk log which provides an example of a project risk register; this one for Gateshead/Heworth escalator replacement.

The report also cites a 'case study' relating to the management of this dynamic programme where major track renewal works have been rescheduled from 2014/15 into the 2015/16 financial year in order to ensure value for money, with other projects being accelerated from future years in order to mitigate against a reduction in planned expenditure, something that is critical in achieving minimum spend levels, necessary to avoid loss of DfT grant funding.

The final point of note is that undertaking construction works within a live, operational railway environment is often complex, with a number of constraints such as:-

- the fact that passenger services operate for the majority of the 24 hour day
- the need to engage specialist contractors, many of whom tend to execute works on behalf of Network Rail where contracts are more significant and therefore much more lucrative
- the need to overcome difficult geographical and topographical conditions in order to access parts of the network, often with heavy and specialist plant and equipment

RECOMMENDATIONS

It is recommended that the Committee notes the approach taken by Nexus in Risk Management in ensuring effective Project Control and Governance.

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1 Background Information

- 1.1 At the meeting of the Tyne and Wear Sub-Committee (TWSC) held on 29 January 2015, members asked about the management of risk in relation to the delivery of the Tyne and Wear Metro Asset Renewal Plan (ARP) and the Managing Director (Transport Operations) resolved to bring a report back to the next meeting of the TWSC in order to provide a fuller explanation of the processes that are deployed.
- 1.2 Across the eleven year investment window (2010 to 2021), the ARP is composed of several hundred individual projects of varying size, value and complexity. An eleven year view of the programme that is informed by funding availability, planning dependencies and the ability to take 'control of the line' (i.e. access the live operational railway in order to execute works) means that at any one time, over 100 projects are being delivered whilst others are being developed, ready to be implemented in the event that planned activities are delayed or unable to be delivered for whatever reason. The ARP itself is set with this in mind, with a defined over-programming level at the start of the financial year. This is typically in the order of 15% to 25% of available funding.
- 1.3 Projects are often multidisciplinary in nature with multiple external dependencies. The most complex - such as radio replacement, traffic management systems and track renewals - have varied and competing demands in terms of meeting the needs and aspirations of key stakeholders such as Metro customers, the NECA and ward councillors, the Metro operator (DB Regio), Network Rail and the need to protect fare-box revenue, all of which also have to recognise the sensitivities to the environment and the needs of local residents and businesses.
- 1.4 An effective Risk Management Process is vital in ensuring that ARP objectives are achieved, stakeholders' needs are met and value for money is delivered within the total funding envelope of £389m. Risk management is central to control and governance within individual projects and also at overall programme level.

Examples of project risks and *mitigation approaches* include:

- Procurement - No market response, non-compliant tenders (*market engagement event and meetings with contractors*).
- Commercial risk - where the market returns unfavourable costs and/or conditions (*selection of appropriate contract and procurement strategies*).
- Delays in planning applications, consents, consultation processes (*early Stakeholder consultation, adequate programme contingency*).

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- Weather risk - cancelled or delayed works (*contract clauses based on measured weather statistics to allocate risk*).
- Scope changes and design changes (*early Stakeholder consultation*).
- Unforeseen ground conditions and utility services (*comprehensive site investigation and contingency provision*).
- Poor contractor performance (*tender prequalification, effective contractor supervision, KPI's, liquidated damages*).
- Unforeseen presence of asbestos or other hazardous materials (*comprehensive register and framework to ensure rapid remediation*).
- Unforeseen presence of protected species (*surveys and advance consultation with relevant bodies*).
- Incorrect design assumptions (*scrutiny at 'form A and B' design stages*).
- Availability and location of site compounds and access (*adequate mobilisation time and effective planning*).
- Availability of plant and materials - excessive lead times (*pre-purchase of critical items*).

These risks are mitigated to an acceptable level if effective risk management is undertaken from inception of the project.

2 Project Governance and risk

2.1 The key project controls applied in Nexus are:

The Stage Gate Process

This is an objective review process undertaken at 7 key stages of the lifecycle of all projects and includes scope definition, option selection, design, tendering and evaluation leading to contract award, delivery, handover and close down. Central to this process is the review of the project risk register - a live document mandated at each stage. This provides a detailed assessment of specific risks, ownership, mitigation strategy and actions, probability and impact. Additionally, this is costed and determines the value of any contingency budget that is assigned to the project. An inadequate risk register and mitigation strategy will result in failure of a project to progress through to the next stage of the projects' development until this is resolved.

A key feature of the Nexus Stage Gate process is that all projects of a particular value (over £0.5m) need to gain Nexus Management Committee approval to pass through Stage Gate 3 (where the precise scope of works to be undertaken and a recommended option for delivery is agreed) and Stage Gate 5 (when the tendering process is scrutinised and contracts are

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awarded).

Steering Groups

The most complex projects have their own steering groups with risk management being central to the agenda. Risk workshops will also be held with key stakeholders at critical stages of the project.

Project Specific Periodic (4 weekly) reviews

At each period end, the Programme Management Office - with each Project Manager - will review individual project risks in updating cost and programme forecasts for all projects. This is a rigorous challenge which explores the project managers' key planning assumptions, delivery timescales, contingencies and estimates of cost including how contractors are being managed in 'real time'. All projects are updated in a central programme management database and individual 'project dashboards' are issued for review at Steering Group.

Capital Project Steering Group

The Project Management Office presents a programme level review of risks to the Capital Project Steering Group at each period. This group is composed of Nexus' Director of Rail and Infrastructure, the Director Finance and Resources and the Heads of Service with responsibility for ensuring the delivery of projects. Programme Management direction and decision making is undertaken by this group with escalation to Nexus' Management Committee as required by standing orders.

Specialist Risk Simulation

In projects that are highly complex, high value and consist of a high number of activities occurring around a relatively short timescale some specialist modelling can be used. In the case of Nexus' ARP this has been in the form of Monte Carlo Simulation. This technique uses a breakdown of activities with various timescales and outcomes values apportioned to each. The use of specialist software drives computational algorithms to model or predict probability outcomes.

Project Delivery

Works are undertaken at different times and for different reasons. Some less intrusive activities can be undertaken when the railway is operational, in which case normal rules for undertaking such works will apply. Often works are executed during 'COL' or 'Control of the Line' which is a term Nexus use when passenger services aren't operating. Typically, this means through the early

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hours between the time of the last train of the day and the first train of the following day.

Since the inception of the ARP in 2010, by necessity Nexus has had to effectively turn parts of the network into a building site for prolonged periods of time. The most recent 'Blockade' was in August 2013 when the whole of the section of track between Jesmond and the Airport was closed.

Whether COL or Blockades, Nexus ensures that the risk of late handback to the Metro operator is mitigated through a series of measures, all under the control of the 'Person In Charge of the Blockade' or PICOB whose main focus is to manage the entire work site (or sites) and liaise with Nexus project managers and senior management in order to ensure hand back happens on time and in accordance with pre-determined planning processes, including lessons learned from previous Blockades.

Programme Funding

The ARP grant funding conditions limit the virement of funding between financial years and consequently forecast out-turn is a primary focus of this meeting in order to ensure that no grant funding from DfT is lost. Detailed analyses of programme risk scenarios are presented and mitigating actions are identified, monitored and reviewed. During the first four years of delivering the ARP it is important to recognise that Nexus has not lost any grant funding and it is on target to ensure this is also achieved in the current financial year. Part of the rigour is four weekly reporting to civil servants in DfT as well as quarterly liaison meetings between nexus and department officials.

Political Oversight

Ultimately, delivery of the Metro ARP is monitored through the Transport North East Committee where it receives quarterly capital monitoring reports from the Combined Authority's Chief Finance Officer. The ARP is an integral part of the Authority's overall capital programme.

Contract and Procurement Strategy

Within the Stage Gate process referred to earlier, a detailed evaluation of risk is undertaken in determining the optimum contracting and procurement strategy for each individual project. This enables the most appropriate form of Contract and any special terms and conditions to be determined and ultimately, which party (Nexus or its contractors) are better placed to manage risk, something that ultimately determines the cost of delivering a project.

3 Case study: QEII Bridge Re-railing

- 3.1 Re-railing of the Queen Elizabeth II Metro bridge over the Tyne was originally planned for delivery in the 2014/15 Capital programme. The initial proposal was to take advantage of the half term holiday period in February 2015 in order to minimise the impact on customers and consequently minimise any loss in fare-box revenue. This project was forecast to spend £1.3 million within the 2014/15 financial year.

Tendering under an existing framework contract resulted in a non-compliant tender - the contractor rejecting standard contractual risks relating to weather events and cost exposure arising. Additionally an extended delivery programme was proposed by the contractor and costs were therefore significantly above the original estimate.

Having rejected a solution that was clearly not providing value for money, these works were rescheduled to take place in May 2015 (again during a half term holiday window) and a re-tendering exercise subsequently led to a contract award which came within the original funding envelope. The expenditure forecast for 2014/15 was however, reduced by £1 million. Therefore options to militate against this loss of expenditure were developed. These included:

- Acceleration of the planned investment in Nexus' Rail Head Treatment Train (which provides a major reduction in Low Rail Adhesion incidents during the autumn leaf fall season).
- Advance material and equipment supply (including track renewal components and central corridor earthworks retaining steelwork - which has helped ensure lead times have no impact on project delivery in other projects).
- Bringing forward of escalator replacements - taking advantage of existing framework contract arrangements.
- Early replacement of critical pan / tilt / zoom CCTV Cameras avoiding a costly upgrade exercise.
- Bringing forward elements of Metro Car capital maintenance activities that were originally scheduled to take place in 2015/16.

These examples of rescheduling activities have provided 'expenditure recovery' during 2014/15 whilst still achieving efficiency in project delivery.

4 Potential Impact on Objectives

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4.1 Management of risk can help ensure achievement of desired objectives.

5 Finance and Other Resources

5.1 There are no direct financial or resource considerations arising from this report.

6 Legal

6.1 There are no direct legal considerations arising from this report.

7 Other Considerations

7.1 Consultation/Community Engagement

There are no specific consultation/community engagement considerations arising from this report.

7.2 Human Rights

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

7.3 Equalities and Diversity

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

7.4 Risk Management

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

7.5 Crime and Disorder

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

7.6 Environment and Sustainability

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

8 Background Documents

8.1 Tyne and Wear Metro Asset Renewal Plan.

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9 Links to the Local Transport Plans

9.1 This report has no direct links to plans in the Policy Framework.

10 Appendices

10.1 Appendix A – Period Risk Register – Heworth and Gateshead Escalators.

11 Contact Officers

11.1 John Fenwick, Director of Finance and Resources,
john.fenwick@nexus.org.uk, Tel: 0191 203 3248

12 Sign off

- Transport Lead Executive Officer ✓
- Monitoring Officer ✓
- Chief Finance Officer ✓

Project Title

Base Cost

Timescale Months

Categories	Strategy	Probability	Impact Score	Status	Group Risk Owner	Impact Categories
Approvals	AVOID	5	6	Active	Client	Delay to programme
Communications / Stakeholders	TRANSFER	4	5	Closed	Contractor	Nexus reputation impact
Commissioning	MITIGATE	3	4	Monitor	Shared	Statutory or Legislation impact
Construction	ACCEPT	2	3	New		Quality
Design	MAXIMISE	1	2			Impact to cost
Infrastructure		0	1			
Environmental			0			
Financial / Economic			-1			
Legislative / Regulatory			-2			
Operations			-3			
Political			-4			
Procurement			-5			
Resources						
Strategic						

Ref. 1 - Probability

	Score	Min	Likely	Max	Risk Level
Very High	4	71%	86%	100%	85%
High	3	51%	61%	70%	60%
Medium	2	31%	41%	50%	40%
Low	1	11%	21%	30%	20%
Very Low	0	0%	5%	10%	5%

Ref. 2 - Risk Level

Risk Score		Risk Level	Description
Range			
12	25	CRITICAL	Significant delays and/or budget implications beyond tolerances resulting to changes in project deliverables (i.e. time and cost implications) - urgent attention required
5	11	AMBER	Some risk of delay or acceleration of task completion dates or over/under spend but risks can be mitigated and have a plan to get back to green.
1	4	GREEN	We are on track to deliver committed scope by committed deadline with agreed resources/funding - On time and within budget tolerances

Ref. 3 - Risk Impact / Consequence

Description	Score	IMPACT						
		COST (£)			Overall Time Impact		Nexus Reputation Impact	
		Lowest	Highest	Average	Score		Score	
Showstopper	6	£161,045	£199,313	£180,179	6	Showstopper - enormous risk to schedule, action to be taken immediately	6	Showstopper - enormous risk to reputation, action to be taken immediately
Severe	5	£129,155	£159,450	£144,302	5	Severe impact to schedule	5	Severe harm/damage to Nexus reputation, likelihood of press attention & major customer dis-satisfaction
Major	4	£65,375	£119,588	£92,481	4	Serious Impact to schedule	4	Serious Impact to Nexus reputation & customer dis-satisfaction
Moderate	3	£33,485	£63,780	£48,632	3	Moderate Impact to schedule	3	Moderate Impact to Nexus reputation, likely customer dis-satisfaction
Minor	2	£12,756	£31,890	£22,323	2	Minor Impact to schedule	2	Minor Impact to Nexus reputation, possible customer dis-satisfaction
Negligible	1	£0	£11,162	£5,581	1	Negligible Impact to schedule	1	Negligible Impact to Nexus reputation, little risk of impacting on customers
No Score	0	0	0	0	0	No Impact	0	No Impact

£7000 value	£ 104,600
£7000 value	£ 54,850
Latest approved budget	£159,450



NEXUS ARP - Project Risk Register

Project:

Last Updated on:

By:

RISK DETAIL				RISK EVALUATION - Current Position										RISK TREATMENT ACTIONS				ADDITIONAL INFO		
ID	Category	Description	Source/Class	Effect/Impact	Status	Probability		Current			Time	Resources	Risk Score	Risk Level	Mitigation/Action	Who/When	By/When	Review/When	Additional Info	
						Frequency	Consequence	Cost	Impact	Effort										
1	Construction	Exposure of Staff to Asbestos Containing Materials (ACMs)	Presence of Asbestos on Stations	Impact to cost	Monitor	2	20%	1	£0	£5,581	£11,162	1	1	2	Active	1. Existing Asbestos Reports from Nexus register to be reviewed and for the Principal Contractor to carry out any additional demolition surveys as necessary prior to commencement of works. 2. Contract to include for Contractor to allow for removal of ACM's in controlled fashion where necessary. 3. Contractor staff to be trained in ACM awareness.	Contractor	1. 27/05/2014 2. Prior to ITT issue. 3. Details of training to be reviewed in tender return.	1. PCI to reference Asbestos Register in the ITT and to provide existing info and agree survey dates at March 2014 prestart meeting.	
2	Construction	Damage to Services Unrelated to the Escalator Installation	Shared services across the escalators	Impact to cost	Active	2	20%	1	£0	£5,581	£11,162	1	0	2	Active	Contractor RAMS to be robust.	N/A	Contractor	27/06/2014	
3	Construction	Slips, Trips and Falls	Poor House Keeping	Quality	Monitor	1	5%	0	£0	£0	£0	2	1	2	Active	Lessons learned and post implementation reviews with Framework Contractor.	N/A	PM/Contractor	27/05/2014	Contractor has had previous house keeping issues
4	Construction	Delay to Completion of Sprinklers and Linear Heat Detection Equipment	Underperformance of Sprinklers and Linear Heat Detection Contractors	Delay to programme	Monitor	1	5%	0	£0	£0	£0	2	1	2	Active	Principal Contractor to programme these works in a timely manner and manage sub-contractors effectively	N/A	PM/Contractor	01/09/2014	Contractor has had previous delays in completing these works
5	Procurement	Doubling the time spent on the escalators at Heworth	Unable to work on both escalators at Heworth at the same time	Impact to cost	Closed	2	0%	2	£12,758	£18,000	£31,850	4	0	0	Closed	Ensure that during stakeholder consultation, all stakeholders buy into working on both escalators at the same time	N/A	PM	01/03/2014	Prior to Contract Pre start Meeting
6	Construction	Delay to manufacture and delivery	Delay caused at factory	Delay to programme	Active	2	20%	1	£0	£5,581	£11,162	1	0	2	Active	Regular programme updates and project team meetings to identify early risk of slippage and apply appropriate mitigation where necessary	N/A	PM / Contractor	Until escalator is delivered to site	
7	Construction	Delay in commissioning and Handover	Caused by delay in manufacture and installation	Delay to programme	Active	3	40%	1	£0	£5,581	£11,162	1	0	3	Active	Regular programme updates and project team meetings to identify early risk of slippage and apply appropriate mitigation where necessary	N/A	PM/Contractor	Until Contract completion	
8	Procurement	Cost of raw materials	Due to fluctuation of raw materials prices	Impact to cost	Closed	2	0%	1	£0	£5,581	£11,162	0	0	0	Closed	Allow for small variations within contingency	N/A	PM	01/03/2014	Fixed Framework Rates
9	Procurement	Sharp increase in inflation	Increase in inflation	Impact to cost	Closed	2	0%	1	£0	£5,581	£11,162	0	0	0	Closed	Allow for small variations within contingency	N/A	PM	01/03/2014	Fixed Framework Rates
10	Construction	Damage or injury to public on stations	Interface with public on stations during operational hours	Nexus reputation impact	Active	1	5%	0	£0	£0	£0	1	3	3	Active	1. Agree site protection arrangements with contractor and Station Operator prior to commencement of works. 2. Ensure adequate Contractor supervision. 3. Undertake regular inspections of site protection arrangements involving station operator. 4. Plan deliveries and movement of materials out of service hours.	N/A	PM/Contractor	Until Contract completion	No impact on project costs.

Estimated Contingency Value **£52,485**

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Transport North East (Tyne and Wear) Sub-Committee

DATE: 26 February 2015

SUBJECT: Metro Performance Update

REPORT OF: Managing Director (Transport Operations)

EXECUTIVE SUMMARY

The purpose of this report is to provide an update on recent performance by the Tyne and Wear Metro.

RECOMMENDATIONS

It is recommended that the Committee note the report and accompanying presentation from the Managing Director of DBTW.

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Transport North East (Tyne and Wear) Sub-Committee

1 Background Information

- 1.1 Nexus have been asked to provide an update on the performance of the Tyne and Wear Metro following a number of issues relating to recent performance.
- 1.2 The Managing Director of DBTW has been asked to attend the meeting to deliver a presentation updating Members on the recent performance of Metro and to explain measures being put in place to improve service performance.

2 Proposals

- 2.1 Members are asked to note the presentation and measures in place to improve Metro performance.

3 Next Steps

- 3.1 Members will be kept informed of the performance of Metro through the regular quarterly updates provided to this meeting.

4 Potential Impact on Objectives

- 4.1 Performance monitoring can help ensure achievement of desired objectives.

5 Finance and Other Resources

- 5.1 There are no direct financial or resource considerations arising from this report.

6 Legal

- 6.1 There are no direct legal considerations arising from this report.

7 Other Considerations

7.1 Consultation/Community Engagement

There are no specific consultation/community engagements considerations arising from this report.

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7.2 Human Rights

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

7.3 Equalities and Diversity

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

7.4 Risk Management

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

7.5 Crime and Disorder

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

7.6 Environment and Sustainability

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

8 Background Documents

8.1 There are no background documents.

9 Links to the Local Transport Plans

9.1 This report has no direct links to plans in the Policy Framework

10 Appendices

10.1 A presentation will be delivered at the meeting.

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11 Contact Officers

- 11.1 Tobyn Hughes, Managing Director (Transport Operations)
Tobyn.hughes@nexus.org.uk
0191 2033246

12 Sign off

- Transport Lead Executive Officer ✓
- Monitoring Officer ✓
- Chief Finance Officer ✓

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Transport North East (Tyne and Wear) Sub-Committee

DATE: 26 February 2015

SUBJECT: Governance of Nexus

REPORT OF: Managing Director, Transport Operations

EXECUTIVE SUMMARY

Nexus was established by the Transport Act 1968, with a series of powers and duties to deliver services in line with the policies of the Local Transport Authority (which was also established by the Transport Act 1968). When the NECA was created it became the Local Transport Authority, and Nexus became its Executive for Tyne and Wear and its officer, providing an opportunity to make improvements in reporting and policy alignment. This involves consideration of how Nexus's officer-based arrangements work alongside the political structures in the NECA, and to potentially make some short-term adjustments whilst working towards a longer-term NECA-wide solution.

RECOMMENDATIONS

Members of the Committee are recommended to:

- Note the information on the current legal and constitutional arrangements;
- Consider and discuss the options presented for reform;
- Ask officers to develop proposals for reform which could, after feedback, be submitted to the Leadership Board, as well as medium-term options which would strengthen the integration of services into the two counties; and
- Note and endorse the proposal to develop working arrangements between Nexus, the NECA and Constituent Authorities, as appropriate, in relation to the discharge of transport functions.

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1 Background

Nexus' role, duty and powers

- 1.1 Nexus is the trading name of the Tyne and Wear Passenger Transport Executive (PTE). Seven PTEs were established by the Transport Act 1968, covering West Midlands, Greater Manchester, Merseyside, South Yorkshire, West Yorkshire, Strathclyde, and Tyneside. The latter was amended to cover Tyne and Wear in 1974.
- 1.2 The 1968 Act specifies the powers of the PTE, which are fairly wide-ranging in terms of the ability to provide and procure passenger transport services, along with related activities that would facilitate the delivery of passenger transport. These powers have generally remained unaltered since 1968, with the significant exception of the removal of the power to run bus services following de-regulation under the Transport Act 1985.
- 1.3 The 1968 Act established that a PTE is a 'body corporate', meaning that it exists as a public sector body in its own right, with a series of powers and duties accorded to it by the Act. A number of those powers and duties relate to financial matters such as ensuring that sufficient funds are available to perform functions, borrowing powers, and keeping proper accounts. In addition, general legislation relating to the governance and conduct of public sector bodies applies to the activities of PTEs. This gives rise to Nexus having its own set of Financial Regulations, Standing Orders, Corporate Procurement Rules, and various other corporate policies, under the control of an Executive Board.
- 1.4 Further powers, duties and obligations have been accorded to Nexus through time. For example, the construction of the Metro system and its subsequent extensions required specific Acts of Parliament; as an operator of a railway Nexus is bound by the Railways and Other Guided Transport Systems (Safety) Regulations 2006 ('ROGS') which is a statutory regime for rail safety; and Nexus was designated a Travel Concessionary Authority by the Concessionary Bus Travel Act 2007, with a statutory duty to reimburse bus operators for concessionary travel.

Relationship between Nexus and the NECA

- 1.5 Each PTE is closely associated with the Local Transport Authority to which it relates. Locally this was originally the Passenger Transport Authority (PTA -

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which itself was extended to cover all of Tyne and Wear in 1974), and then the Integrated Transport Authority (ITA) from 2008. When the ITA was created by the Local Transport Act 2008, it assumed sole responsibility for the Local Transport Plan for the Tyne and Wear area, including policies guiding Nexus' delivery and development of services.

- 1.6 Through the North East Combined Authority Order 2014 the ITA was abolished and its functions were passed to the NECA. Under the Order while Nexus remained as a separate 'body corporate by statute' it also became an Executive body and an officer of NECA, supplanting the previous statutory arrangements with the ITA.
- 1.7 The relationship between the general duties of the PTE and the Authority (i.e. the NECA) remains as defined by the 1968 Act. The Authority was given the duty 'so to exercise and perform the functions with respect to the general policy to be followed by the Executive'; and the PTE was given the duty 'so to exercise and perform their functions (...) with respect to the provision of passenger transport services'.
- 1.8 The 1968 Act gave the Authority the power to issue precepts to local councils in its area, although importantly this was later changed to being a power to issue a levy under section 74 of the Local Government Finance Act 1988. The purpose of the levy is so that the PTE can avoid there being a deficit in its revenue account, on the basis of its budget when approved by the Authority. This is the basis for Nexus' budget requiring approval by the NECA, and for the NECA providing a revenue grant to Nexus to help it avoid a deficit, after fare income and other forms of income (including central government grant funding) has been taken into account.
- 1.9 In general, levy funding for PTE's has tended to cover expenditure incurred on bus services in the main as well as capital financing costs. PTE finances changed dramatically in 2007 as a result of the introduction of free national bus travel for elderly and disabled people under the Concessionary Bus Travel Act. Bus operators were given a legal obligation to carry eligible pass-holders free of charge, and the PTE was given a statutory duty to reimburse bus operators for carrying pass-holders and this had the effect of requiring an increase in the levy of 33% between 2005/06 and 2006/07. However the funding for reimbursement is provided wholly to local councils (an additional specific top-grant to the ITA having been removed in 2011/12). Therefore the levy, among other things, is used as a mechanism for the passing of concessionary reimbursement funding from local councils in Tyne and Wear to Nexus, via the NECA, in order for Nexus to comply with its statutory duty to

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provide reimbursement to bus operators. The funding provided by central government has never been adequate to meet the costs of concessionary travel in this area, and has been cut by 39% since 2010.

- 1.10 In addition to the budget certain other aspects of the PTE's activities require specific approval from the NECA under the 1968 Act, for example: major reorganisation of transport services; the development or extension of services requiring significant capital expenditure; changes to fares or charges for services; and the acquisition or disposal of land. It is proposed that where appropriate these will be the subject of specific delegations to the Managing Director (Transport Operations) in the role of Nexus' Director General.
- 1.11 Under the NECA Constitution in 2014 a separate sub-committee, namely the Transport North East (Tyne and Wear) Sub-Committee (TWSC), was specifically established in order to exercise a variety of delegated operational functions over assets and services, as set out in the Constitution, the oversight of which remain the joint responsibility of the Tyne and Wear Authorities. Nexus therefore reports on these operational matters to TWSC.
- 1.12 The role of Director General of Nexus has recently been absorbed within a new role of Managing Director (Transport Operations) for the NECA. This provides a direct link between the PTE and the NECA, given that the Managing Director (Transport Operations) is a direct employee of the NECA and is also accountable to it. This arrangement also supports NECA's commitment to greater integration of public transport services between Tyne & Wear, Durham and Northumberland over time.

The Nexus Executive Board and Management Committee

- 1.13 The 1968 Act defined that a PTE would consist of: 'a Director General appointed by the Authority; and not less than two nor more than eight other members so appointed by the Authority after consultation with the Director General (...).' The Act does not specify who can be a 'member', but elected members of councils and bus operators were specifically excluded by the Transport Act 1985. These 'members' of the PTE, when acting together, became known as the 'Executive Board', although that term is not specified in the Act.
- 1.14 At present the Nexus Executive Board consists of the recently appointed NECA Managing Director (Transport Operations) (in his role as Director General) and two other Executive Directors together with two Non-Executive

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Directors (both appointed by the Authority). A list of current Directors identifying their responsibilities is available in the attached **Appendix A**.

- 1.15 To supplement the Nexus Executive Board, Nexus has an Audit Committee that meets quarterly, chaired by one of the Non-Executive Directors, and whose membership includes external representation from its independent external auditors, Mazars LLP.
- 1.16 The Nexus Executive Board meets once in each accounting period (13 times each year), and considers corporate performance updates, periodic financial updates, risk management strategies, and those matters reserved to it by Nexus' Standing Orders. Where appropriate it will consider reports before they are presented to the NECA for its approval, typically this would include the capital and revenue budget reports for the following financial year.
- 1.17 The ongoing business of Nexus is managed by its 'Management Committee', meeting every two weeks. The membership of the Management Committee is purely internal, and is made up of senior managers accountable for the various functions of the organisation. Management Committee's role is defined by Nexus' Standing Orders, and is generally to ensure that Standing Orders, Financial Regulations and other corporate policies are upheld, and to ensure that Nexus delivers and develops passenger transport services in line with the NECA's policies and Nexus' Corporate Business Plan.

2 Proposals

- 2.1 The arrangements described above have served the area well, and provided a firm basis for the delivery of services. There is however a strong case for change, to reflect:
 - a clearer and strengthened basis of accountability to political leaders arising from the creation of the NECA , with TWSC effectively becoming the political "board" for Nexus oversight, on the basis of clear delegated powers from the Leadership Board; and
 - streamlined management of Nexus, to create a rationalised officer management structure, reporting into the lead Chief Executive for transport, and removing the non-executive roles on the Nexus' Executive Board, and with renewed delegated authority.

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The opportunity for change

- 2.2 The creation of NECA and the new constitutional arrangements provides an opportunity to achieve greater alignment between the NECA's policies and Nexus' role as the body responsible for delivery of those policies in respect of passenger transport in Tyne and Wear under the leadership of NECA's Managing Director (Transport Operations).
- 2.3 The complex statutory structure giving rise to the PTE and its duties and powers has created an environment in which Nexus spends significant sums of public money on delivering transport services, for example through the Metro Concession or on Concessionary Travel reimbursement, but with only limited political visibility over how that expenditure delivers the NECA's policies.
- 2.4 Whereas in local government it is a requirement for officers to be authorised to act on behalf of an Authority through a clear and transparent set of officer Delegations , in the case of Passenger Transport Executives, such as Nexus, a different source of authority exists namely the Transport Act 1968 (as amended). The 1968 Act sets out the powers and duties of Passenger Transport Executives i.e. Nexus. This places an additional burden on Nexus to demonstrate transparently how its actions achieve the NECA's policies and deliver good value for money.
- 2.5 The creation of the NECA provides an opportunity to place Nexus within a clearer and more transparent framework of political governance and oversight, to strengthen the internal governance described in Appendix A.
- 2.6 Over the longer term, options will be explored for the integration of public transport services between Tyne & Wear, Durham and Northumberland. As part of this work, consideration will be given to the on-going relevance and flexibility of the 1968 Act, and how a review of governance arrangements can be undertaken and implemented most appropriately. Any such amendments to the NECA constitution would need to be implemented through the Secretary of State for Transport, potentially in the context of the "devolution deal" proposed by the NECA Leadership Board.

Nexus management structure

- 2.7 The Managing Director (Transport Operations) has recently carried out a review of the Nexus' internal management structures with the joint objective of better aligning the business to its key priorities, and achieving efficiency

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savings as required by the expected level of grant funding for the financial year 2015/16.

- 2.8 This has resulted in the permanent reduction in the number of Executive Director roles to three (including the Managing Director in his capacity as Director General). Nexus therefore remains compliant with the requirement of the 1968 Act.
- 2.9 In addition five 'Corporate Manager' roles have been created, populated by senior managers who together have the responsibility for directing and managing Nexus and being accountable to the NECA. It is intended that the Directors and Corporate Managers will together form a 'Corporate Management Team'.
- 2.10 This provides an opportunity for a single internal committee of officers governing Nexus' activities, replacing both the Executive Board described in paragraphs 1.13 to 1.16, and the Management Committee described in paragraph 1.17. This is because the Corporate Management Team would meet the requirements of the 1968 Act by having the NECA Managing Director (Transport Operations) in the role of Nexus' Director General plus the organisation's Director of Finance and Resources and Director of Rail and Infrastructure sitting on it i.e. providing the two other 'members' as required by statute (para 1.13 refers). A consequence of this would be that Non-Executive Directors would no longer be appointed to Nexus.

Alignment with NECA

- 2.11 NECA has a responsibility to produce a "Local Transport Plan" (LTP) by April 2016. We propose that we take this opportunity to significantly reform the arrangements for transport planning, with a much clearer link to our wider economic plans, and a more visionary and people-focused approach. The new plan should be multi-modal, and cut across local council boundaries. The NECA Financial Regulations also require that Nexus develop a three-year forward plan, which should be aligned to LTP, and form a key element of its delivery.
- 2.12 At an officer level, it is proposed that the Managing Director (Transport Operations) will provide regular formal performance updates on behalf of Nexus to the Lead Chief Executive for Transport, along with proposals for the development of delivery policies to align to the NECA's objectives. A summary of this activity will be provided in turn to the Chief Executives' Group. Reports will also be provided to the NECA Statutory Officers covering

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financial and governance matters, including changes to the existing Standing Orders and Financial Regulations of Nexus, and matters relating to their discharge, at least annually to enable such changes to be reported to the Authority as appropriate.

- 2.13 Nexus will continue to provide a quarterly operational performance report to the Transport North East (Tyne and Wear) Sub-Committee (TWSC). In addition other reports and information will be submitted to the Sub-Committee to oversee and monitor Nexus' operational performance on behalf of the NECA. Some activities may require approval from TWSC, for which a series of working arrangements will be developed to align with TWSC's transport functions and delegations as set out in the Constitution (Part 3.3 refers).
- 2.14 As required by the Constitution, Nexus will continue to provide financial reports covering the management of its revenue and capital budgets as part of the quarterly monitoring reports provided to the Transport North East Committee (TNEC) by the Chief Financial Officer. This will also include consideration and approval of Nexus' annual revenue and capital budgets by the Leadership Board.
- 2.15 It is proposed that the NECA's Governance Committee will take an active role in examining and scrutinising Nexus' financial and risk management processes, and other assurance control processes in order to provide assurance to the NECA regarding Nexus' delivery of value for money. . It is proposed to explore the option that the NECA Governance Committee fully take on the functions of the Nexus audit committee, allowing full alignment of audit responsibilities for Nexus and the wider NECA role.
- 2.16 As a separate measure to improve local accountability to passengers and stakeholders, Nexus is working with councils in Tyne and Wear to establish 'user forums' where local performance will be discussed and reported, and views sought over areas for service improvement.

3 Next Steps

- 3.1 Members of TWSC and TNEC are being invited to consider the proposals contained in this report and provide feedback on matters where further consideration or more detail is required.
- 3.2 Working with the Lead Chief Executive for Transport and the NECA's Statutory Officers, the Managing Director (Transport Operations) will then develop these proposals further, having regard to the feedback provided where possible.

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- 3.3 Final proposals will be submitted to the Leadership Board's annual meeting, incorporating any proposed changes to the Constitution including changes to any committee terms of reference that may be required.

4 Potential Impact on Objectives

- 4.1 The arrangements proposed are intended to create a better alignment between Nexus as a delivery body, and the NECA. This will assist with the effective achievement of the NECA's objectives.

5 Finance and Other Resources

- 5.1 There are no financial consequences arising directly from this report, although the Nexus management review that includes the permanent removal of an Executive Director post is intended to reflect the reduction in the grant from the NECA to Nexus for 2015/16.

6 Legal

- 6.1 The proposed revised working arrangements comply with the Transport Act 1968 and subsequent Transport Acts and any amendments relevant to that legislation.

7 Other Considerations

7.1 Consultation/Community Engagement

Consultation and engagement will take place as required, should these proposals be further developed.

7.2 Human Rights

There are no consequences for Human Rights arising directly from this report.

7.3 Equalities and Diversity

There are no consequences for Equalities and Diversity arising directly from this report.

7.4 Risk Management

There are no consequences for Risk Management arising directly from this report.

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7.5 Crime and Disorder

There are no consequences for Crime and Disorder arising directly from this report.

7.6 Environment and Sustainability

There are no consequences for Equality and Sustainability arising directly from this report.

8 Background Documents

9 Appendices

Appendix A: List of Nexus' current Directors (attached)

10 Contact Officers

Tobyn Hughes, Managing Director (Transport Operations)

tobyn.hughes@nexus.org.uk

Tel: 0191 2033246

12 Sign off

- Transport Lead Executive Officer ✓
- Monitoring Officer ✓
- Chief Finance Officer ✓

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Appendix A

List of Nexus' current Directors, appointed by the NECA:

1. Executive Directors:

- Tobyn Hughes, NECA Managing Director (Transport Operations) & Nexus' Director General
- John Fenwick, Director of Finance and Resources, Nexus
- Raymond Johnstone, Director of Rail and Infrastructure, Nexus

2. Non-Executive Directors:

- Pat Ritchie
- Peter Wignall

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