

## **NORTH EAST COMBINED AUTHORITY**

### **Request for Special Urgency**

#### **EXECUTIVE SUMMARY**

The report requests the consent of:

1. The Chair of the Overview and Scrutiny Committee under Paragraph 13 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (the '**Order**'); and
2. [The Chairs and Vice-Chairs of the North East Combined Authority under sections 32 and 33 of the Leadership Board Rules of Procedure set out in Part 4.1 of the NECA Constitution].

The request is made on the basis that it is impractical to include the matter on the NECA Forward Plan for a period of 28 clear days before the decision is made and the matter is urgent and cannot be reasonably be deferred (even for a period of 5 days). **Consent or refusal should be communicated to the Monitoring Officer as soon as possible following due consideration.**

#### **OUTLINE:**

The purpose of this report is to attain the approval of NECA, as the Accountable Body to the LEP, of an Urgent Decision about a revision to a loan facility that is also being approved by the LEP Board using an urgent process.

In 2015 the North East LEP approved a loan facility to help finance the installation of an ICT broadband infrastructure loop and Stellium Data Centre at Cobalt Business Park North Tyneside. The loan is in the process of being repaid and the current balance is £1.769m.

The LEP has been approached to assist with further short-term loan facility to help fund additional investment into the Cobalt ICT Infrastructure Project. The additional investment will connect the existing ICT broadband infrastructure loop and Stellium Data Centre at Cobalt Business Park North Tyneside to Seaton Sluice, Northumberland where a high-speed broadband cable will make landfall linking the North East to Esbjerg, Denmark and mainland Europe. This additional infrastructure is to create a piece of transatlantic super-high speed broadband infrastructure linking the Eastern Seaboard of the United States to the North East and on to Mainland Continental Europe.

This additional investment has the potential to deliver significant economic benefits for the North East and an urgent decision is required that that the infrastructure works can be implemented over the next few months. The additional investment is estimated to cost £1.44m and the LEP is being recommended to agree a loan contribution of £0.777m to help fund this cost. The loan facility can be provided by revising the current terms of the existing loan facility, with a £0.5m further advance in the next two months increasing the outstanding loan amount to £2.293m by the end of March (within the original approval of £2.5m) and an agreement to defer a loan repayment of £277,939 due by the end of March 2019 to later in 2019.

The decision is urgent as if it were to be delayed until next Leadership Board the project would not meet commercial deadlines for delivery. The Applicant (CUOS Ltd), has approached NECA/NELEP for additional financing to complete a trans-Atlantic ICT infrastructure proposal in part to meet the imminent requirements of a global data-user. To meet the delivery deadline set by the Global Data-User of 14<sup>th</sup> May 2019, infrastructure investment needs to be undertaken with immediate effect, with a build period of up to 17 weeks. As a result actions are now being taken to seek an urgent decision from NECA/NELEP.

The NECA Head of Paid Service have examined the background and context of this decision and concur that it is urgent and cannot reasonably be deferred. The need to make this decision urgently outweighs the general public interest in giving greater notice and transparency to the public in this case.

Head of Paid Service: ...signed on original...

Monitoring Officer: ...signed on original...

## **RECOMMENDATIONS:**

The Chair of the Overview and Scrutiny Committee and the Chair and Vice-Chair of NECA are each requested to consent to permit the decision to be made without it being entered onto the Combined Authorities Forward Plan as a key decision.

## **NEXT STEPS:**

In accordance with Paragraph 12 (1(b) and (c)) of the Order, a copy of this report will be published on the North East Combined Authority website indicating whether consent has been given.

Subsequent to the consent of the Chair of the Overview and Scrutiny Committee and the Chair or Vice-Chair of the North East Combined Authority, the North East Combined Authority Head of Paid Service will be invited to make the decision.

Next steps regarding the project following Urgent Decision approval are:

- Agreement to Conditions of Approval
- Confirmation of Security (6<sup>th</sup> March)
- Formal Approval Provided to Applicant (6<sup>th</sup> March)
- Amendment Agreement Issued for Signature (11<sup>th</sup> March)
- Works undertaken at risk (4<sup>th</sup> Feb)
- Completion of Works (14<sup>th</sup> May)
- Repayment of additional NEIF finance (30 June 2019)

## **1. Background**

- 1.1 Full details are placed in a confidential urgent decision paper which cannot be published due to Paragraph 3 Part 1 of Schedule 12A of the Local Government Act 1972.
- 1.2 In 2015, the North East LEP invested £2.5m in the creation of a 23km super high-speed broadband infrastructure loop connecting to broadband infrastructure running down the spine of the UK. The loop runs from the west of Newcastle along the banks of the Tyne to Cobalt Business Park back round through North Tyneside to the north of Newcastle City Centre. It provides the area with speed of connection only comparable to Media City, Manchester and the Olympic Park in London. Primarily for benefit to businesses of seriously high data use, work undertaken by the Applicant (CUOS Ltd) has since involved creating strategic partnerships with deliverers in Ireland as it seeks to land some of the global data users to the region. This request for additional investment is linked to that activity.
- 1.3 Work in the past 24 months has involved establishing commitment to the building of a transatlantic high-speed broadband cable from the Eastern Seaboard to Dublin and from Dublin to the North East. Work is also being undertaken to provide the connection from the North East to Esbjerg, Denmark. This will create an alternative high speed broadband link between the US and Europe that improves resilience and takes traffic away from the overburdened broadband links through London and Amsterdam. The piece of the jigsaw for which additional investment is sought is between the existing Cobalt ICT Broadband Loop at the Stellium Data Centre, Cobalt Business Park and where the Esbjerg Link will land on the North East Coast at Seaton Sluice. This work has been accelerated at short notice because of commercial requirement of a significant global data user seeking to utilise the new network and the Data Centre.

## **2. Proposals**

- 2.1 The additional investment request is to allow a specific contract to be undertaken to link the Data Centre at Cobalt to the broadband infrastructure that is landing at Seaton Sluice, Northumberland. Please see further detail in Confidential Urgent Decision Report.

## **3. Reasons the Decision is Urgent and Cannot Reasonably be Deferred**

- 3.1 The Applicant (CUOS Ltd) approached the North East LEP with regard additional

financing for infrastructure to accelerate completion of the transatlantic ICT broadband cable network. CUOS Ltd approached the Partnership at a late stage following imminent requirements of a global data-user. To meet the delivery deadline set by the data-user of May 2019, infrastructure investment needs to be undertaken with immediate effect, given build out can be up to 17 weeks, and needs to be in place by 14 May 2019. As a result actions are now being taken to seek an urgent decision from NECA/NELEP.

#### **4. Alternative Options Available**

4.1 The alternative option would be for the Chair of the Overview and Scrutiny and the Chairs and Vice-Chairs of NECA to decline to make the decision to enable the decision to be made without being put on the Forward Plan. The result would be a delay of 28 clear days, plus five days call-in period from publication of the decision notice.

4.2 Alternative routes options have been given consideration. This has included the possibility of grant and progressing through usual approval routes. How each of those have been considered is provided below:

(1) Grant Funding. Currently there is very limited grant funding available to the LEP. Furthermore at a very early stage in discussion with the applicant it became clear that for a marginal adjustment to payment profile, the income that will be made available as a result of the investment will be sufficient to repay the additional lease of funds, and therefore grant is not justified.

(2) Progressing through standard approval routes. The matter has been drawn to our attention by the Applicant at a very late stage in delivery when it has become clear to them that the significant international Data User are ready to commit. This is requiring the last stage of infrastructure works to move at pace and investment, and thus the request has been approached as an Urgent Decision.

(3) To Not Invest. This would not necessarily impact on the ability of the MAN as it currently exists to operate and repay the outstanding debt. It would jeopardise the opportunity of land the significant global data user to the region and the economic impact of such an inward investment. In addition the opportunity to accelerate the development of the transatlantic super high speed cable through the region and to the continent would be lost.

#### **5. Next Steps and Timetable for Implementation**

5.1 The Head of Paid Service will be invited to make an urgent decision in accordance with constitutional delegation HPS4. A copy of this report and any decision notice will be published on the North East Combined Authority website

5.2 Next steps regarding the project following Urgent Decision approval are:

- Agreement to Conditions of Approval
- Confirmation of Security (25<sup>th</sup> Feb)
- Formal Approval Provided to Applicant (27<sup>th</sup> Feb)

- Amendment Agreement Issued for Signature (27<sup>th</sup> Feb)
- Works undertaken at risk (4<sup>th</sup> Feb)
- Completion of Works ( 14<sup>th</sup> May)
- Repayment of additional NEIF finance (30<sup>th</sup> June 2019)

## **6. Potential Impact on Objectives**

6.1 As was the case with the original project, this innovate intervention has the capacity to significantly contribute towards SEP Objectives, not least in fostering the delivery on more and better jobs through providing a more attractive inward investment environment to high tech high data users.

## **7. Financial and Other Resources Implications**

7.1 As set out in confidential Urgent Decision Report.

## **8. Legal Implications**

8.1 As set out in confidential Urgent Decision Report.

## **9. Key Risks**

9.1 As set out in confidential Urgent Decision Report.

## **10. Equality and Diversity**

10.1 There are no direct impacts

## **11. Crime and Disorder**

11.1 There are no direct impacts

## **12. Consultation/ Engagement**

12.1 In addition to the three Senior Officers of NECA, the Chair of North East Investment Board has been briefed on the matter and provided his support.

## **13. Other Impacts of the Proposals**

13.1 Wider implications are covered in the report.

## **14. Appendices**

14.1 No appendices attached

## **15. Background Papers**

15.1 Confidential Urgent Decision report.

## **16. Contact Officer(s)**

16.1 Matthew Ebbatson, Programme Manager, North East LEP, 0191 561 5432

[Matthew.Ebbatson@nelep.co.uk](mailto:Matthew.Ebbatson@nelep.co.uk)

**17. Sign Off**

17.1 The Chief Officers listed below must be satisfied that the matter is urgent and cannot reasonably be deferred, and must specifically authorise that a request for special urgency is made. Recorded below are the comments and confirmation of consent of the Chief Officers.

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

**18. Glossary**

18.1 Not Applicable

<b>Approval record:</b>	<b>Approved/Rejected</b>	<b>Date</b>
Chair / Vice Chair Overview and Scrutiny Committee	Approved	5/3/2019
Chair of NECA	Approved	5/3/2019
Vice Chair of NECA	Approved	5/3/2019
Vice Chair of NECA		