

To the Chair and Members of the Cabinet

**TRANSPORT FOR THE NORTH - INCORPORATION AS A SUB-NATIONAL
TRANSPORT BODY**

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr Blackham		Yes/No

EXECUTIVE SUMMARY

- 1 The report requests that the Council as Local Highway Authority gives formal consent to the establishment of Transport for the North (TfN) as a Sub - National Transport Body under section 102J of the Local Transport Act 2008.
- 2 Before the Secretary of State can make the Regulations he must obtain consent from each of the 19 Constituent Authorities and also consent to the granting of concurrent highway powers from each of the Highway Authorities within TfN's area.

EXEMPT REPORT

- 3 No

REASONS FOR URGENCY

- 4 DMBC (along with all the other Local Authority affected), only received the request for the formal Council consent on 22 September 2017. Due to the lateness of the request and the need to seek clarity on a number of complex legal, operational and constitutional issues there is no longer the ability to provide the 28 days' notice required for the Forward Plan. TFN have been advised by the Government that due to a lack of Parliamentary time it is not possible to delay this matter.

RECOMMENDATIONS

- 5 It is recommended that formal consent is approved under section 102J of the Local Transport Act 2008 to establish Transport for the North as a Sub-National Transport Body and giving TfN concurrent highway powers.
- 6 DMBC will establish in separate notification that the Combined Authority does not provide implied delegated representation at TFN in relation to matters affecting our statutory role as Highway Authority for the Metropolitan Borough of Doncaster. Any consents required in relation to Doncaster must be received from Doncaster MBC itself.

- 7 DMBC will also notify TfN, separately to this consent, that it must seek to represent all communities in its transport aspirations not just linking core cities and towns.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

- 8 Doncaster, as a member of the SCR, is a Constituent Authority of the TfN and supports the ambitions of the TfN transport agenda in addressing historic chronic underinvestment in transport infrastructure in the north. The establishment of TfN as a statutory body will enable the body to deliver its plan to deliver the improvements needed to truly connect the region with fast, frequent and reliable transport links, driving economic growth and creating a Northern Powerhouse.

BACKGROUND

Background to TfN

- 9 To address concerns about transport connectivity across the North, Local Transport Authorities and Local Enterprise Partnerships across the North of England came together in 2014 in partnership with the Department for Transport and the National Transport Agencies to form Transport for the North (TfN). Together they have developed an ambitious pan-northern transport strategy to drive economic growth in the North. The purpose of TfN is to transform the transport system of the North of England and the aim of TfN is to plan and deliver the improvements needed to truly connect the region with fast, frequent and reliable transport links, driving economic growth and creating a Northern Powerhouse.
- 10 Getting transport right is central to achieving the Northern Powerhouse ambition which is itself central to a successful UK industrial strategy. A world class transport system across the North will create a unified economic area, attracting new business, improving productivity in the North and thereby rebalancing the UK economy.
- 11 There has been long term underperformance of the Northern economy when compared with other parts of the UK. There is a significant economic performance gap between the North and the rest of the UK economy
- 12 The North has had no way of agreeing strategic priorities, with the responsibility for transport divided over many organisations at different geographical levels. This has made it hard to properly consider and prioritise the right strategic transport interventions to transform economic growth at the regional scale. As a result, the North has been unable to speak with one clearly evidenced voice to Government on its transport priorities in Spending Rounds or rail and road investment plans.
- 13 The ambition of TfN over time is to achieve significant devolution of transport responsibilities for the North of England and specifically to:
 - (a) Develop and deliver a multi-modal, integrated strategic transport plan that drives transformational economic growth in the North;
 - (b) Set the strategic outcomes, outputs and priorities for the North of

England's rail infrastructure and strategic road network; and

- (c) Determine specifications and contracts for future rail service franchises in the North of England.
- 14 In October 2016, with the agreement of the Constituent Authorities set out below, TfN submitted a proposal to the Secretary of State for Transport that TfN should be established as the first Sub-National Transport Body (STB) under the provisions of section 102E of the Local Transport Act 2008 as amended by the Cities and Local Government Devolution Act 2016.
- 15 The 19 Constituent Authorities of TfN are:
- Greater Manchester Combined Authority
 - Liverpool City Region Combined Authority
 - The Durham, Gateshead, Newcastle on Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland 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 Borough Council
 - Blackpool Borough Council
 - Cheshire East Council
 - Cheshire West and Chester Council
 - Warrington Borough Council
 - The Council of the City of York
 - The East Riding of Yorkshire Council
 - Kingston upon Hull City Council
 - North Lincolnshire Borough Council
 - North East Lincolnshire Council

The Submission Proposal

- 16 The Proposal submitted by the Constituent Authorities requested the following powers and functions:
- (a) To prepare a Transport Strategy for the Combined Area in accordance with section 102I of the Local Transport Act 2008;
 - (b) To provide advice to the Secretary of State about the exercise of the transport functions in the Combined Area;
 - (c) To be a Statutory Partner with the Secretary of State in both road and rail investment processes and to be responsible for setting the objectives and priorities for strategic road and rail investments in the Combined Area;
 - (d) To be consulted in relation to rail franchise agreements for services to and from or within its area;
 - (e) To co-manage with the Secretary of State the TransPennine Express

and Northern Rail Franchises;

- (f) To co-ordinate the carrying out of specified transport functions that are exercisable by its different Constituent Authorities with a view to improving the effectiveness and efficiency of the carrying out of those functions;
 - (g) To promote and co-ordinate road transport schemes;
 - (h) To make proposals to the Secretary of State for the transfer of transport functions to TfN;
 - (i) To make other proposals to the Secretary of State about the role and functions of TfN;
 - (j) To undertake Smart Ticketing within the Combined Area;
 - (k) To promote and oppose local or personal bills in Parliament;
 - (l) To pay Capital Grants to support the funding and delivery of joint projects;
 - (m) To exercise powers to construct highways and to acquire land for that purpose under section 8(1), 24 and 239 of the Highways Act 1980 concurrently with local Highway Authorities
- 17 In carrying out these functions TfN will act as a Statutory Partner with the Secretary of State and will take devolved responsibilities from the Secretary of State. It will exercise a co-ordinating role in relation to specified transport functions

The Proposal also contained the following key provisions:

- (a) All Constituent Authorities will be entitled to appoint a representative to TfN, such representative to normally be the Elected Mayor, Chair, Leader or Member with delegated responsibility for transport;
- (b) Decisions will be expected to be unanimous but where voting is required votes will be weighted in accordance with the populations of the Constituent Authorities;
- (c) Decisions in relation to the Budget, the adoption of a Transport Strategy and the Constitution will require a Super Majority;
- (d) Funding will be provided by the Secretary of State and no decision to require financial contributions from Constituent Authorities can be made without the agreement of each Authority;
- (e) There will be appropriate mechanisms for Scrutiny of TfN's decisions;
- (f) Rail North Limited will be wholly owned by TfN;
- (g) A wider Partnership Board including representatives of government bodies and the LEPs will be set up to inform TfN's decision making.

The Secretary of State's Response

- 18 The Secretary of State has now formally responded to the Proposal and has indicated that he is minded to make Regulations creating TfN as the first Sub-National Transport Body with the following functions:
- (a) The preparation of a Northern Transport Strategy;
 - (b) The provision of advice on the North's priorities, as a Statutory Partner in the Department's investment processes;
 - (c) The coordination of regional transport activities, (such as smart ticketing), and the co-management of the TransPennine Express and Northern rail franchises through the acquisition of Rail North Ltd.

Regulations

- 19 Regulations have now been drafted which once they are passed will confer on TfN the majority of the functions and powers requested in the Proposal. Before the Secretary of State can make the Regulations he must obtain consent to the making of the Regulations from each of the 19 Constituent Authorities and also consent to the granting of concurrent highway powers from each of the Highway Authorities within TfN's area. The Authorities which are County Councils or Unitary Authorities are Highway Authorities but the Combined Authorities are not and in these areas the individual Highway Authorities are being asked to give their consent to the granting of highway powers within the Regulations.

Highway Functions

- 20 The highway powers which are contained in the Regulations are firstly the following powers of the Secretary of State in relation to the construction of trunk roads which may be delegated down to TfN:
- (a) Section 6(5) Highways Act 1980 (power to enter into agreements for works relating to trunk roads)
 - (b) Sections 105A – 105C Highways Act 1980 (functions relating to environmental impact assessments)
 - (c) Sections 239 to 240 and 246 Highways Act 1980 (powers to acquire land in connection with highways)
 - (d) section 250 Highways Act 1980 (powers relating to the acquisition of powers over land)
 - (e) Secondly the following powers under the Highways Act 1980 are conferred on TfN concurrently with the local Highway Authority.
 - (f) Section 8(1) (power to enter agreements with local highways authorities etc for doing certain works)
 - (g) Section 24(2) (power of local highway authority to construct new highways)

- (h) Section 25(i) (powers to enter into agreement for creation of footpath etc)
 - (i) Section 26 (i) (compulsory powers for creation of footpaths etc)
 - (j) Various functions in sections 239, 240, 246 and 250 relating to the acquisition of land for highway purposes
- 21 Importantly Regulations 14 and 15 taken together provide that TfN will not be able to exercise any of the highway powers which they hold concurrently with the Highway Authorities unless the manner in which it proposes to exercise the function has been approved by each of the Highway Authorities through whose area the highway will pass.
- 22 There is no intention that TfN will itself become a Highway Authority and as set out above the Regulations make it clear that before these powers may be exercised TfN will need to obtain the express consent of the relevant Highway Authority to the manner in which the powers would be exercised. These powers would therefore only be exercised in circumstances where all the local Highway Authorities consider that there would be a benefit in TfN carrying out the work.
- 23 It is intended that before TfN exercises any transport powers or functions it holds concurrently with any of the Constituent Authorities or Highways Authorities within the TfN area, TfN will enter into a written Protocol with the Constituent Authorities or the local Highway Authorities covering the way in which the functions will be exercised.

The Highways North Board

- 24 TfN will participate in the Highways North Board which will consist of the Members of TN along with representatives of the Department for Transport and Highways England. The role of the Board will be to make recommendations in respect of the future Roads Investment Strategy and competitive major roads funding programmes.

Consent to the Regulations

- 25 Regulations have now been drafted to create TfN as a Sub-National Transport Body. Before the Secretary of State may make these Regulations each of the Highway Authorities within the areas of the Combined Authorities which are Constituent Authorities must consent to the making of the Regulations. It is anticipated that the Secretary of State will send a letter to each of these Highway Authorities requesting formal consent to the making of the Regulations. It is understood that the letter will request a response before the end of October 2017

OPTIONS CONSIDERED

- 26 **Do Nothing**
Not providing consent to the establishment of Transport for the North as a Sub-National Transport Body under section 102J of the Local Transport Act 2008 and giving TfN concurrent highway powers, could critically delay the establishment of the body and risk delivery of the key investment on transport across the north.

REASONS FOR RECOMMENDED OPTION

- 27 The establishment of Transport for the North as a Sub-National Transport Body could significantly help the re-distribution of transport infrastructure investment from the south to the northern authorities, stimulating economic growth and employment creation.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

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	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>A modern effective transport network is vital to a thriving and resilient economy</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>A modern effective transport network is essential to active leisure and mobility</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>A modern effective transport network is essential to work and social accessibility</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>A modern effective transport network is vital to a resilient service provision</p>
	<p>Council services are modern and value for money.</p>	<p>A modern effective transport network is vital to a thriving and resilient economy</p>

	Working with our partners we will provide strong leadership and governance.	We will work with the statutory body for transport in the north seek much need improved transport infrastructure in the borough
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RISKS AND ASSUMPTIONS

- 29 Not providing consent to the establishment of Transport for the North as a Sub-National Transport Body under section 102J of the Local Transport Act 2008 and giving TfN concurrent highway powers, could critically delay the establishment of the body and risk delivery of the key investment on transport across the north

LEGAL IMPLICATIONS

- 30 S102J of the Transport Act 2008 provides that the Secretary of State may by regulations allow local authority functions in their area to be exercisable by a strategic Transport Body (TFN in our area). The consent of the Local Authority, the Secretary of State and TFN are required for this to occur and this report details the giving of consent by the Council.
- 31 As set out in Section 102J (5) (b) of the Transport Act 2008, the functions referred to in this report will be exercised by TFN concurrently with the Council. The Regulations which will be approved by Parliament after this consent are very clear that the functions can only be exercised by TfN with the consent of the Council for actions within our borough. The report is very clear that such consent must be exercised by Doncaster MBC itself, not others acting on its behalf.
- 32 The decision to consent is a significant one. Once the Strategic Transport Body has been established by regulations, withdrawal of an Authority would require the Secretary of State to exercise a power to make regulations to change its boundaries.

FINANCIAL IMPLICATIONS

- 33 There are no financial implications associated with this report.

HUMAN RESOURCES IMPLICATIONS

- 34 There are no HR implications to this report.

TECHNOLOGY IMPLICATIONS

- 35 There are no anticipated technology implications associated with this report. If as a result of implementing the recommended option, any ICT or technology requirements are identified, a business case should be submitted to the ICT Governance Board for approval and consideration of implications in respect of data and network security.

EQUALITY IMPLICATIONS

- 36 There are no Equality implications to this report.

CONSULTATION

- 37 The Mayor and Portfolio Holder for Highways, Street Scene and Traded Services have been consulted with regards to the proposal and contents of this report.

BACKGROUND PAPERS

- 38 None

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