

REQUEST FOR MAYORAL DECISION – MD1037

Title: Direction to TfL to undertake additional work in relation to aviation issues

Executive Summary:

The Secretary of State for Transport announced in October 2010 a review of Britain's aviation policy. A Scoping Study for the Review was published for comment in March 2011. The Department for Transport ('DfT') engaged with Transport for London ('TfL') in preparing the draft Study. The importance of aviation to London's businesses, jobs and prosperity means that the Mayor should be fully involved as London's elected leader, in the formulation of the new aviation policy. To help inform this, the Mayor's report 'A New Airport for London – Part 1' was published in January 2011 with a second report published in November 2011. The Mayor also responded directly to the Government's Sustainable Aviation Framework: Scoping Document, in October 2011.

As the Government's Policy review continues, further work will be required to assess issues associated with aviation to, from or within Greater London, including but not limited to aviation capacity issues and impacts of proposals, and to engage with Government in relation to aviation policies as appropriate. This includes responding to DfT consultations. In May 2011, the Mayor directed Transport for London to undertake this work and do any matters ancillary to it ('the Direction'). The Mayor delegated his wider powers to TfL so that it could comply with his Direction. The Direction was time limited to 31 May 2012 when it was to be reviewed. As the Government's aviation policy is still in the process of being developed and it is anticipated that the DfT will consult on its draft policy framework in the near future, the need for the Mayor to influence aviation policy as it affects Greater London and engage with Government on aviation matters remains. The Mayor is, therefore, asked to extend the Direction for a further 12 months when it will be reviewed again and further authorise TfL to exercise certain of his powers.

Decision:

The Mayor is asked to:

- Extend the Direction he gave to TfL on 13 May 2011 (MD806) under section 155(1)(c) of the Greater London Authority Act 1999 ('the GLA Act') that TfL assess issues associated with the Government's aviation policy review for aviation to, from or within Greater London including but not limited to aviation capacity issues and the impacts of proposals, as well as engage with Government in relation to aviation policies as appropriate, respond to the DfT's consultations and do any matter ancillary to these tasks ('the Extended Direction'). This Extended Direction is time limited to 30 June 2013 and will be reviewed at this date; and
- Authorise TfL under section 38(1) of the GLA Act to continue to exercise the Mayor's powers under sections 30 and 34 of the GLA Act to do all things necessary and expedient to undertake the works required by the Mayor's Extended Direction in accordance with the terms of the delegation annexed to this report.

Mayor of London I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct for elected Members of the Authority. Any such interests are recorded below.

The above request has my approval.

Signature

Date

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 The Secretary of State for Transport announced in October 2010 a review of Britain's aviation policy. A Scoping Document for the Review was published for comment in March 2011. DfT officials engaged with Transport for London in preparing the draft Scoping Document. The importance of aviation to London's businesses, jobs and prosperity means that the Mayor should be fully involved, as London's elected leader, in the formulation of the new aviation policy. The Mayor's report 'A New Airport for London' ('the Mayor's Report') launched in January 2011 has helped re-start the debate about the need for new airport capacity. The Mayor's Report referred to additional work that would be undertaken to assess the options for new airport capacity including the option of a new airport in the Thames Estuary. The Mayor published a second part to the Report in November 2011.
- 1.2 In taking the Mayor's Report forward, a number of elements of work are needed to strengthen the case for new airport capacity. These will include work on aviation's role in facilitating economic growth; the environmental impacts of aviation; the commercial issues involved in promoting new runway capacity and a new hub airport; and work on the options for the location of a new airport. In addition, work may be called for directly responding to Government thinking as their review of national aviation policy progresses.
- 1.3 It was proposed that this work would be undertaken by TfL and in May 2011, the Mayor directed TfL to undertake the work and delegated his wider powers to TfL for the purposes of it doing so. The Mayor's Direction directed TfL to assess issues associated with the Government's UK-wide review of aviation policy. The policy review encompasses a wide range of aspects of aviation to, from and within Greater London including but not limited to aviation capacity issues and the impacts of proposals for changing the use of airports and airspace. TfL was also directed to engage with Government in relation to aviation policies as appropriate and respond to the DfT's consultations, and do any matter ancillary to those tasks. The Direction was time limited to 31 May 2012. So that TfL could fulfil the Direction, the Mayor delegated his powers in sections 30 and 34 of the GLA Act to TfL.
- 1.4 In the coming months, there will be further opportunities for contributions to be made in relation to the Government's aviation policy review particularly as the Government is yet to publish and consult on its draft policy framework. It is proposed that the works to be undertaken by TfL will form part of a continuing engagement with Government on these matters.
- 1.5 It is recommended that the Mayor extend the Direction that he issued to TfL in May 2011 thus enabling TfL to continue to assess issues associated with the Government's aviation policy review for aviation to, from or within Greater London including but not limited to aviation capacity issues and the impacts of proposals, engage with Government in relation to aviation policies as appropriate and respond to the DfT's consultations, and do any matter ancillary to those tasks. In order for TfL to comply with the Extended Direction, it is also recommended that the Mayor further authorise TfL to use his powers in section 30 and 34 of the GLA Act. The Extended Direction is time limited to 30 June 2013 and will be reviewed at this date.

2. Issues for consideration

a) Links to strategies and Mayoral and corporate priorities

The London Plan

- 2.1 The London Plan published in July 2011 makes reference to aviation capacity. Policy 6.6A states:
Adequate airport capacity serving a wide range of destinations is critical to the competitive position of London in a global economy. Airport capacity serving the capital and wider south east of England must be sufficient to sustain London's competitive position.

Mayor's Transport Strategy

- 2.2 The Mayor's Transport Strategy published in May 2010 makes reference to airport capacity and surface access to airports. Proposal 48 states:

The Mayor recognises that the provision of adequate airport capacity serving the South East is critical to the competitive position of London in a global economy, but will oppose any further increases in runway capacity at Heathrow.

Economic Development Strategy

- 2.3 The Mayor's Economic Development Strategy, published in May 2010 recognises the role airport capacity plays in supporting London's global economic success. Paragraph 5.42 states:
The Mayor recognises that some additional runway capacity will be needed in the wider South East. He will resist the provision of further capacity at Heathrow because of its unacceptable environmental and community impacts and will support the evaluation of alternatives.

Mayor's Air Quality Strategy

- 2.4 The Mayor's Air Quality Strategy published in December 2010, acknowledges the role of aviation in generating key air pollutants. One of the principal reasons why the Mayor is opposed to the expansion of Heathrow is because of its potential to worsen local air quality, and breach permitted limits. The Mayor is keen to explore whether proposals at locations other than Heathrow can adhere to strict air quality limits.

Mayor's Climate Change Mitigation and Energy Strategy

- 2.5 The Mayor's Climate Change Mitigation and Energy Strategy, published in October 2011, supports a number of actions and activities that will help to reduce the harmful impacts of aviation. If the industry continues to successfully adopt these practices and other sectors of the economy make significant cuts in carbon emissions, substantial aviation expansion can be fully compliant with the UK's national and international climate change and emissions commitments. This vision is endorsed by the UK Government's Committee on Climate Change.

b) Impact assessments and Consultation

- 2.6 TfL have been consulted on the drafting of this MD, and are supportive of it; their comments have been fully incorporated.

c) Risk

- 2.7 If the Mayor does not make this decision there is a risk that Greater London considerations are not appropriately taken into account by Government when determining aviation policy.

- 2.8 In addition, if this decision is not made, there is a risk that the economic development of Greater London is not maximised and that the impact on Greater London of the Government's aviation policy, including transport implications, are not properly taken into account.

3. Financial Comments

- 3.1 The GLA will incur no direct costs associated with these proposals.

4. Legal Comments

Direction to TfL

- 4.1 Under section 155(1) of the Greater London Authority Act 1999 ("the GLA Act") the Mayor may issue directions to TfL as to the manner in which it is to exercise its functions.
- 4.2 Section 155(4) provides that any directions issued under section 155(1) must be issued in writing and notified to such officer of TfL as it may from time to time nominate to the Mayor for this purpose.
- 4.3 The proposed direction to TfL by the Mayor (at Annex 1) may be made under section 155(1)(c) of the GLA Act.

Delegation of Mayoral powers

- 4.4 The Mayor is being asked to delegate his powers under sections 30 and 34 of the GLA Act to TfL so that it can comply with the Extended Direction.
- 4.5 Section 30 of the GLA Act gives the Mayor a general power to do anything which he considers will further one or more of the principal purposes of the GLA. The principal purposes, as set out in section 30(2), are:
- (a) promoting economic development and wealth creation in Greater London;
 - (b) promoting social development in Greater London; and
 - (c) promoting the improvement of the environment in Greater London.
- 4.6 Further, section 34 of the GLA Act allows the Mayor to do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of any of his functions (including his functions under section 30).
- 4.7 It is considered that the work required by the Extended Direction may be undertaken pursuant to the principal purposes of the GLA.
- 4.8 In determining whether or how to exercise the power under section 30, it is necessary for the Mayor to comply with the requirements of sections 30 to 33 of the GLA Act, and in particular the requirements set out below. The Mayor has considered these requirements in relation to the exercise of the principal powers and considers that it appropriate to do so.
- (a) Under sections 30(4) and (5), the Mayor must have regard to the effect of the proposal on health, health inequalities, sustainable development and climate change and exercise the power in such a way as to promote improvement in these areas.

- (b) Under sections 31(1) and (1A), the Mayor may not incur expenditure in doing anything which may be done by TfL, the Mayor's Office for Policing and Crime, the London Fire and Emergency Planning Authority or a Mayoral Development Corporation.
 - (c) Under section 32, the Mayor must consider the appropriateness of consulting with various categories of bodies, including the London borough councils, and any other bodies he may consider appropriate.
 - (d) Under section 33, the Mayor must make appropriate arrangements with a view to securing that due regard is given to the principle of equality of opportunity.
- 4.9 The Mayor's functions under section 378(1) of the GLA Act are also relevant and include the following duties:
- (a) to encourage people to visit Greater London;
 - (b) to encourage people from outside the UK to visit the UK via Greater London; and
 - (c) to encourage the provision and improvement of tourist amenities and facilities in Greater London.
- 4.10 Further, section 378(2) of the GLA Act gives the Mayor power to do anything for the purpose of discharging these duties or which is incidental or conducive to the discharge of those functions. While the Mayor cannot delegate his functions under section 378 to TfL (as explained in the paragraph below), the work TfL is being directed to do is consistent with the Mayor's fulfilment of these functions as it will encourage tourists to visit London and lead to the provision of facilities and amenities to meet their travel requirements.
- 4.11 Section 38(1) and (2) of the GLA Act allow the Mayor to authorise TfL to exercise certain of his functions under the GLA Act, including those contained in sections 30 and 34. However, the Mayor's functions under Part X of the GLA Act (Culture, Strategy and Tourism), including those contained in section 378, can only be delegated to certain other bodies under section 380 and not to TfL.
- 4.12 Section 38(7) of the GLA Act gives TfL the power to exercise any functions delegated to it by the Mayor pursuant to section 38, whether or not TfL would otherwise have had that power and irrespective of the nature of the function.
- 4.13 In summary therefore, sections 30 and 34 of the GLA Act give the Mayor the power (and therefore the function), acting on behalf of the GLA and after appropriate consultation, to do anything which he considers will further the promotion of economic and social development and environmental improvement in Greater London. The work TfL is being directed to do may be undertaken pursuant to the principal purposes and consequently the work is a function of the Mayor under sections 30 and 34 which may be delegated to TfL pursuant to section 38 of the GLA Act. The proposed delegation is being sought on this basis.
- 4.14 The Mayor may impose conditions on any delegations under section 38(1). A number of recommendations for conditions are set out in the form of delegation annexed to this report. These include requirements to provide progress reports, comply with any instructions or guidance issued by the Mayor and co-operate with the GLA Monitoring Officer (who has a duty under section 5(2) of the Local Government and Housing Act 1989 to monitor TfL's activities when it is exercising functions delegated by the Mayor).
- 4.15 Section 38(10) of the GLA Act requires the section 38 delegation to be in writing. The proposed delegation is attached at Annex 2.

TfL's powers

- 4.16 TfL has its own powers which are relevant to undertaking the work it is being directed to do, including its power to provide or secure the provision of public passenger transport services to, from or within Greater London under section 173 of the GLA Act (relevant to airport access and capacity issues) and its power to provide for any person professional or technical advice or assistance, including research and other services as respects any matter in which TfL has skill, experience or expertise under paragraph 9 of Schedule 11 to the GLA Act (relevant to major transport project planning and delivery). In addition, section 154(3) states that TfL shall exercise its functions for the purposes of securing or facilitating the implementation of the Mayor's Transport Strategy.
- 4.17 In order to supplement these powers and ensure that TfL is able to deliver all aspects of the Extended Direction, it is appropriate for the Mayor to delegate his wider powers to TfL.

5. Investment & Performance Board

- 5.1 There are no costs to GLA in the proposal and since this is policy development rather than programme delivery, as such IPB advise that it does not fall under their remit.

6. Background/supporting papers

- (a) Annex 1 – Direction to TfL
- (b) Annex 2 – Delegation of Mayor's powers to TfL

Public access to information

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the GLA website within 1 working day of approval. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would compromise the implementation of the decision being approved.

Is the publication of this approval to be deferred? NO

If yes, for what reason:

Until what date:

Is there a part 2 form - NO

ORIGINATING OFFICER DECLARATION:

Tick to indicate
approval (✓)

Drafting officer:

Richard McGreevy has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

Assistant Director/Head of Service:

Stephen Tate has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Sponsoring Director:

Fiona Fletcher-Smith has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Isabel Dedring has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

OFFICER APPROVAL**Executive Director, Resources**

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report.

Signature

Date

Chief of Staff

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

Date