

REQUEST FOR MAYORAL DECISION – MD1080

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

Executive Summary:

The Government announced on 7 September 2012 its intention to establish an Independent Commission to oversee the work on developing a national aviation policy. This commission, to be known as the Davies Commission, will report interim findings by the end of 2013 but will not conclude its work until the second half of 2015. This would mean the earliest a future government would be able to set a new policy for aviation would be late 2015.

It is essential that the Mayor contributes to the work of the Commission to ensure London's interests are protected. As the national policy debate continues, it is also important that the Mayor continues to canvass and represent the views of Londoners in a range of ways, including as part of the House of Commons Transport Select Committee's aviation inquiry.

Additionally, the Mayor has asked TfL to continue work on options for a new hub airport including the communities and environmental case to inform the Davies Commission. The Mayor is, therefore, asked to direct TfL to undertake the necessary work for the next 18 months and to delegate the powers it requires to do so.

Decision:

1. Extend the Direction he gave to TfL on 6 September 2012 under section 155(1)(c) of the Greater London Authority Act 1999 ('the GLA Act') that TfL progresses the issues associated with the Government's aviation policy review for aviation to, from or within Greater London including but not limited to assessing aviation capacity issues and the impacts of proposals, as well as engaging and communicating with Government and other stakeholders, including the general public, directly and through events and conferences, in relation to aviation policies as appropriate, responding to the DfT's consultation, the Davies Commission and other public investigations including the House of Commons Transport Select Committee's inquiry as appropriate and do any matter ancillary to these tasks ('the Amended Direction'). This Amended Direction is time limited to 30 April 2014 and will be reviewed on or around this date.
2. Authorise TfL under section 38(1) of the GLA Act 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 Amended Direction in accordance with the terms of the delegation annexed to this report.
3. Authorise Daniel Moylan as a member of the TfL Board to oversee the work that TfL will undertake pursuant to the Amended Direction.

Mayor of London

I confirm that I do not have any Disclosable Pecuniary Interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

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 In October 2010, the then Secretary of State for Transport announced a review of Britain's aviation policy. The Department for Transport ('DfT') engaged with Transport for London ('TfL') in preparing the draft Scoping Study for the Review, which was published for comment in March 2011.
- 1.2 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. A second part to the Mayor's Report was published in November 2011.
- 1.3 In taking the Mayor's Report forward, a number of elements of work are needed to strengthen the case for new airport capacity. These 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.
- 1.4 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 (MD806). The Mayor's Direction directed TfL to:
 - Assess issues associated with the Government's UK-wide review of aviation policy with regard to aspects of aviation to, from and within Greater London including but not limited to aviation capacity issues;
 - Assess the impacts of proposals for changing the use of airports and airspace;
 - 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 listed above.

So that TfL could fulfil the Direction, the Mayor delegated his powers under sections 30 and 34 of the GLA Act to TfL. The Direction was time limited to 31 May 2012. On 6 September 2012, the Mayor extended the Direction and delegation to 30 June 2013 (MD1037).

- 1.5 The Government announced on 7 September 2012 a change in its approach with the creation of an Independent Commission to oversee the work required to inform the development of a national aviation strategy. This Commission, to be known as the Davies Commission, has been tasked with reporting interim recommendations by the end of 2013 and a Final Report in the summer of 2015.
- 1.6 In addition, the House of Commons Transport Select Committee has announced its own aviation inquiry that will examine the Government's aviation strategy and will focus on aviation

capacity in the UK. The inquiry's terms of reference have been published and the deadline for submitting written evidence is 19 October 2012.

1.7 It is essential that the Mayor contributes to the work of the Commission to ensure London's interests are protected. It is therefore recommended that the Mayor extend the Direction that he issued to TfL on 6 September 2012 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;
- Assess the impacts of proposals for changing the use of airports and airspace;
- Communicate and engage with Government and other stakeholders, including the general public, directly and through events and conferences, in relation to aviation policies as appropriate and respond to the requests of the Davies Commission and the DfT's consultations;
- Engage with any other related public investigation including the House of Commons Transport Select Committee's aviation inquiry, and;
- Do any matter ancillary to those tasks listed above.

In order for TfL to comply with the Amended 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 Amended Direction is time limited to 30 April 2014 and will be reviewed on or around this date.

1.8 It is considered appropriate for a TfL Board member to oversee the work that TfL will undertake pursuant to the Amended Direction and it is proposed that Mr Daniel Moylan undertake this role. In addition to the board member fees that Mr Moylan currently receives, it is proposed that an additional sum be paid to him as consideration for assuming these additional responsibilities commensurate with the time commitment involved. The costs of this, and any associated administration costs in supporting Mr Moylan in this role, will be met by TfL.

1.9 It is anticipated that the financial implications for TfL undertaking the work, pursuant to the Amended Direction and Delegation will be up to £3,000,000. This will include a range of technical assessments to enable the feasibility of a number of options, including engineering feasibility, to be properly considered and tested; consideration of surface access implications; environmental impacts; socio-economic impacts and commercial viability

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 No impact assessments or consultation are required for the Mayor to make this decision.

- 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 Approval is being sought to extend the direction to TfL to undertake additional work in relation to aviation issues to 30 April 2014 following similar approvals in MD806 and MD1037.
- 3.2 There will be no financial implications for the GLA arising from the proposal, the full costs of which will be borne by TfL.

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 to undertake the additional work may be made under section 155(1)(c) of the GLA Act. It is attached at Annex 1.

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 Amended 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 Amended 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 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 below), the work TfL is being directed to do will be consistent with the fulfilment of these functions by the Mayor 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 professional or technical advice or assistance to any person, 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 Amended 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 the GLA in the proposal (see section 3) and since this is policy development rather than programme delivery, it does not fall under the remit of IPB.

6. Background/supporting papers

- 6.1 The following documents are attached:
- (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

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Tick to indicate approval (✓)

Drafting officer:

Rhiannon Hill, Senior Policy Officer – Transport, 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, Assistant Director of Transport and Environment, has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Sponsoring Director:

Fiona Fletcher-Smith, Executive Director of Development and Environment, has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Isabel Dedring, Deputy Mayor for Transport, 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