

REQUEST FOR MAYORAL DECISION – MD1334

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

Executive Summary:

In December 2013, the Government appointed Airports Commission (the Commission) published its interim findings, namely:

1. Those short to medium term interventions deemed necessary to make the best use of the UK's current airport infrastructure.
2. That there should be a net increase in runway capacity in the south east of England by 2030
3. That three options for providing additional runway capacity should be placed on a formal shortlist, with further work to be completed in the next phase between January 2014 and summer 2015:
 - One new runway at Heathrow Airport (proposed by Heathrow Airport Ltd)
 - Double the length of Heathrow's two runways (proposed by Heathrow Hub consortium)
 - One new runway at Gatwick Airport (proposed by Gatwick Infrastructure Partners)
4. That the option of a new airport in the Inner Thames Estuary (proposed by a number of different parties) is worthy of further investigation to consider whether or not it could be shortlisted at a later date (yet within the Commission's current timeframe of up to summer 2015).

As the policy development process enters the next phase, it is essential that the Mayor continues to contribute to the work of the Commission to ensure that London's interests are protected and that he is able to fulfil his statutory functions on planning and development, housing, economic development and regeneration, transport, environmental issues, health inequalities and culture. It is also important that the Mayor continues to represent the views of Londoners by taking an active part in the national policy debate and by responding to any other relevant or related inquiries and consultations.

The Mayor is, therefore, asked to direct TfL to undertake the necessary work to assess the impacts of any short to medium term proposals and options for increasing runway capacity in the long term until such time that the Commission makes its final recommendation to Government (summer 2015), and to delegate the powers it requires to do so.

Decision:

1. Extend until 30 September 2015 the Direction given to Transport for London (TfL) on 13 May 2011 (MD806, as amended by MD1037 and MD1080) under section 155(1)(c) of the Greater London Authority Act 1999 ('the GLA Act'). This Amended Direction (attached as Annex 1) will be reviewed on or around 30 September 2015.
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 Amended Direction in accordance with the terms of the annexed delegation.
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: 9 April 2014

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, prosperity and environment means that the Mayor should be actively 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 helped to re-start the debate about the need for new airport capacity. A second part to the Mayor’s Report was published in November 2011.
- 1.3 In taking the Mayor’s Reports forward, a number of elements of work were needed to strengthen the case for new airport capacity, including work on the options for the location of a new airport. 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). 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).
- 1.4 The Government announced on 7 September 2012 a change in its approach with the creation of the independent Airports Commission to oversee the work required to inform the development of a national aviation strategy. This Commission was tasked with reporting interim findings by the end of 2013 and providing a final recommendation to Government in the summer of 2015.
- 1.5 In light of the establishment of the Commission, on 5 November 2012 the Mayor further extended the Direction and delegation in order to actively engage with the first phase of the Commission’s process (MD1080). This Direction was time limited to 30 April 2014 to allow for any slippage in the Commission’s timetable.
- 1.6 Between November 2012 and December 2013 the Mayor positively contributed to the work of the Commission by asking TfL to develop options for a new hub airport to the east of London. In July 2013, following a shortlisting process looking at 16 different options, TfL formally submitted three technically robust and credible proposals for a new hub at Stansted, on the Isle of Grain (also referred to as the Inner Thames Estuary) and on a man made island in the Thames Estuary (also referred to as the Outer Estuary) to the Commission. All of these submissions and the supporting technical evidence have been published and can be viewed at www.newairportforlondon.com
- 1.7 On 17 December 2013 the Commission published their interim findings, namely:
 1. Those short to medium term interventions deemed necessary to make the best use of the UK’s current airport infrastructure, through investment in improving surface transport links and the application of operational techniques to generate additional capacity at existing airports in London and the south east of England
 2. That in the long term there should be a net increase in runway capacity in the south east of England by 2030

3. That three options for providing additional runway capacity should be placed on a formal shortlist, with further development, appraisal and consultation to be undertaken in the next phase of the process, between January 2014 and summer 2015:
 - One new runway at Heathrow Airport (proposed by Heathrow Airport Ltd)
 - The doubling in length of Heathrow's existing two runways (proposed by the Heathrow Hub consortium)
 - One new runway at Gatwick Airport (proposed by Gatwick Infrastructure Partners)
4. That the option of an entirely new airport in the Inner Thames Estuary (proposed by a number of different parties – including the Mayor and Fosters and Partners), was worthy of further investigation to consider whether or not it could be shortlisted at a later date (yet within the Commission's current timeframe of up to summer 2015).

1.8 As stated above, the Commission has concluded that the option of a new airport in the Inner Thames Estuary is worthy of further investigation to consider whether or not it could be shortlisted at a later date (within the Commission's current timetable).

1.9 As the policy development process enters the next phase, it is essential that the Mayor continues to contribute to the work of the Commission to ensure London's interests are protected and that he is able to fulfil his statutory functions on planning and development, housing, economic development and regeneration, transport, environmental issues, health inequalities and culture. It is also important that the Mayor continues to represent the views of Londoners by taking an active part in the national policy debate and by responding to any other relevant or related inquiries and consultations.

1.10 The Mayor is, therefore, asked to direct TfL to undertake the necessary work to actively contribute to the next phase of work of the Commission as it prepares to make its final recommendation to Government (summer 2015), and to delegate the powers it requires to do so. This may include, but is not limited to:

- Technical assessments of the short to medium interventions recommended by the Commission, including the impacts of surface access improvements to existing airports and any measures to change or modify flight patterns that affect London residents
- Technical assessment of elements of all of the options taken forward by the Commission to the next phase of the process, including those not formally shortlisted at this stage. This may include, but is not limited to, engineering feasibility; consideration of surface access implications; environmental impacts; socio-economic impacts; commercial viability and legal and regulatory considerations
- Responding to requests from and consultations undertaken by the Commission and any other related Government consultations
- Communication and engagement with Government and other stakeholders, including the public, directly and through a range of channels such as social media, online communications, consultations, events and conferences in relation to aviation policies as appropriate
- Engaging with any other related public investigation on aviation related issues
- Working with relevant partner organisations in carrying out those tasks listed above, and
- Do anything that is conducive or 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 September 2015, to allow for any slippage in the Commission's timetable, and will be reviewed on or around this date.

- 1.11 It is considered appropriate for a TfL Board member to continue to oversee the work that TfL will undertake pursuant to the Amended Direction and it is proposed that Mr Daniel Moylan continues to 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.
- 1.12 It is anticipated that the financial implications for TfL undertaking the work, pursuant to the Amended Direction and delegation will be up to £2,000,000. This would bring the total budget for work on aviation to £5,200,000 to date.

2. Objectives and expected outcomes

2.1 The objectives of directing TfL to undertake further work on aviation related matters are to ensure that London's interests are properly represented in the policy development process and to enable the Mayor to fulfil his statutory functions on planning and development, housing, economic development and regeneration, transport, environmental issues, health inequalities and culture.

2.2 The work undertaken by TfL will seek to understand and address the impacts of all the remaining options for additional airport infrastructure in London and London's future planning needs.

2.3 On 16 January 2014 the Airports Commission published for consultation a Draft Appraisal Framework upon which the development of those shortlisted options for long term runway capacity will be based. On the same date the Commission published for consultation a Terms of Reference document for the work they intend to undertake on an Isle of Grain option. In the second half of 2014 the Commission has committed to undertake a public consultation exercise on the shortlisted options. It is vital that the Mayor is properly able to actively engage and respond to such important elements of the policy development process.

2.4 Beyond this, it is expected that the Commission will make a recommendation to Government on where additional runway capacity should be located in the summer of 2015.

3. Other considerations

3.1 Key risks and issues

- 3.1.1 If the Mayor does not make this decision there is a very real risk that London's interests will not be properly taken into account by Government when determining national aviation policy.
- 3.1.2 It could be strongly argued that no new airport locations would have been taken forwards to the next phase of the policy development process had it not been for the Mayor's involvement in the national debate since 2010. This demonstrates the importance of his being able to actively participate in a matter of such importance to London.
- 3.1.3 In addition, if this decision is not made, there is a risk that the economic development and regeneration potential of London is not maximised and that the impacts of the Government's

aviation policy, including transport, environmental, economic development and housing implications, are not properly taken into account, impacting the Mayor's ability to carry out his statutory functions.

3.2 Links to Mayoral strategies and priorities

The London Plan

- 3.2.1 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 Draft Housing Strategy

- 3.2.2 The Mayor's Draft Housing Strategy, consultation upon which concluded on 17 February 2014, sets out the need to build 42,000 homes a year to support London's growing population. The expansion of the UK's aviation infrastructure in the South East will have a significant impact on where housing is required, particularly for employees, and if located in the right place could act as a catalyst bringing forward much needed housing developments.

Mayor's Economic Development Strategy

- 3.2.3 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 Transport Strategy

- 3.2.4 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.*

Mayor's Ambient Noise Strategy

- 3.2.5 Under sections 370 and 371 of the GLA Act (1999), the Mayor is required to prepare and publish the London Ambient Noise Strategy and is a statutory consultee on potential changes or additions to routes regularly used by civil aircraft in Greater London.

Mayor's Air Quality Strategy

- 3.2.6 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 deliver air quality benefits.

Mayor's Climate Change Mitigation and Energy Strategy

- 3.2.7 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.

3.3 Impact assessments and consultations

- 3.3.1 No impact assessments or consultations are required for the Mayor to make this decision.

4. Financial comments

- 4.1 Approval is being sought for the Direction to TfL to undertake additional work in relation to aviation issues to be extended to 30 September 2015 following similar approvals in MD806, MD1037 and MD1080.
- 4.2 There will be no financial implications for the GLA arising from the proposal, the full costs of which will be borne by TfL.

5. Legal comments

Direction to TfL

- 5.1 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.
- 5.2 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.
- 5.3 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

- 5.4 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 Direction.
- 5.5 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.

- 5.6 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).

- 5.7 It is considered that the work required by the Direction may be undertaken pursuant to the principal purposes of the GLA.
- 5.8 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.
- 5.9 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.
- 5.10 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.
- 5.11 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.
- 5.12 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.
- 5.13 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.

- 5.14 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).
- 5.15 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

- 5.16 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.
- 5.17 In order to supplement these powers and ensure that TfL is able to deliver all aspects of the Direction, it is appropriate for the Mayor to delegate his wider powers to TfL.

6. Investment & Performance Board

- 6.1 This decision does not fall under the terms of reference of IPB.

7. Planned delivery approach and next steps

- 7.1 In the first quarter of 2014 the Commission will consult on the Appraisal Framework upon which the development of options for long term runway capacity will be based. In the second half of 2014 that the Commission will undertake a public consultation exercise on those options shortlisted in the interim report. TfL's activities will be to some extent focused on the preparation of technical work and communications activity in order to inform and support these consultations.
- 7.2 TfL reserves the right to undertake further work outside of the Commission's process where it can be demonstrated to represent London's interests in the debate.

Appendices and supporting papers:

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 (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Christian van der Nest 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:

Tim Steer 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/Daniel Moylan has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered 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