

# North Tyneside Council Report to Cabinet Date: 23 March 2016

## ITEM 3

Title: North East  
Combined Authority –  
Proposed Devolution  
Agreement

Portfolio(s): Combined Authority

Cabinet Member(s): Mrs N Redfearn,  
Elected Mayor

Report from: Chief Executive's Office

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Wards affected: All

### PART 1

#### 1.1 Executive Summary:

This report seeks the support of Cabinet to progress proposals contained in the North East Devolution Agreement including the proposal that the North East Combined Authority (NECA) become a Mayoral Combined Authority subject to receipt of clarification and commitment of Government in relation to outstanding matters as set out in the report.

On 23 October 2015 the North East Combined Authority (NECA) signed a proposed Devolution Agreement (the proposed Agreement) with Government setting out the proposed transfer of powers for employment and skills, transport, housing, planning, business support and investment from Government to NECA. An allocation of revenue funding for capital financing of £30 million a year for 30 years would be given to NECA to help create an investment fund. The investment fund would also include new flexibilities over capital grant funding from other devolved programmes, with five year certainty over grant levels enabling the region to plan ahead effectively. The proposed Agreement also paves the way for further devolution in the future and for the reform of public services including health and social care and the approach to support for employment and skills.

Included in the proposed Agreement is a proposal that NECA becomes a Mayoral Combined Authority. This proposal, as with all aspects of the proposed Agreement, is subject to the formal consent of NECA and its Constituent Authorities.

There has been extensive consultation with the public and business across the NECA area in relation to the proposed Agreement, including the provision of an Elected Mayor. The extent of the consultation with the public, business and others is set out in the report and Appendix 2.

Although approval of the proposed Agreement is a Cabinet responsibility, Cabinet consulted with Council on 17 March to elicit Council's views on the proposals.

Council voted unanimously to support the proposed Agreement but considered clarification should be sought in relation to specified areas.

## **1.2 Recommendations**

Cabinet is recommended to

- (1) Note the content of the report and the views of Council, the responses to the public consultation undertaken, and the financial implications of the Devolution deal as set out in the North East Combined Authority Devolution Agreement entered into on 23 October 2015 (the "Proposed Agreement") and the governance arrangements as outlined in the report
- (2) Confirm the Authority's support for the proposals set out in the Proposed Agreement but note that the outstanding issues referred to in the report require clarification and commitment by Government, and
- (3) Authorise the Chief Executive (working with the Head of Paid Service for the NECA) to secure appropriate clarification and commitment from Government on the outstanding issues referred to in Recommendation (2) above, and
- (4) Delegate to the Elected Mayor in consultation with the Chief Executive, the Head of Law and Governance and Head of Finance authority to consent to the making of the enabling Orders necessary for the implementation of the Proposed Agreement subject to the provision of the necessary clarification and commitment of Government in relation to the outstanding matters referred to at Recommendations (2) and (3) above.

## **1.3 Forward plan:**

This item appears on the current Forward Plan dated 18 January 2016

## **1.4 Council plan and policy framework**

The report contributes towards the following priorities of the 2014-18 Our North Tyneside Plan:

Our People will be listened to by services that respond better and faster to their needs and our people will be supported to achieve their full potential, especially our children and young people.

Our places will be places that people like living in and will attract others to either visit or live, our places will have more quality affordable homes and our places will work with residents, communities and businesses to regenerate the borough.

Our economy will grow by building on our strengths, including existing world class companies in marine technology and engineering, our economy will have the right conditions to support investment and create new jobs, especially apprenticeships and our economy will have local people that have the skills that businesses need.

The ratification of the Devolution Agreement will mean that the decisions relating to the powers devolved to NECA will be made in the North East by NECA rather than in London and will therefore have a significant impact on the way in which NECA will meet its objectives.

## **Background Information**

1. In April 2014 to promote the economic regeneration and prosperity of the area, seven local authorities of the North East formed the North East Combined Authority (NECA). The Members are County Durham, Gateshead, Newcastle, Northumberland, South Tyneside Sunderland and North Tyneside. Working with the North East Local Enterprise Partnership, the Combined Authority establishes a statutory democratic framework for decision making across the region. It is not a new tier of government, but a basis for collaboration between authorities with a common purpose. The existence of the Combined Authority does enable the devolution of decision making powers to the North East region.
2. In January 2015, the NECA Leadership Board agreed and consulted on a set of outline proposals to assess support for devolution of powers and resources from Government. The initial process of engagement with the public, local and regional stakeholders, generated significant interest and the principle of devolution to the North East attracted support.
3. Following consultation, the Leadership Board published a Statement of Intent and commenced a process of detailed negotiation with Treasury. A proposed agreement was signed by the Leadership Board (including the Elected Mayor), the Chancellor and Commercial Secretary to the Treasury on 23 October 2015. Similar Agreements have also been signed by Greater Manchester, Sheffield City Region, Liverpool City Region, the Tees Valley, West Midlands, Greater Lincolnshire, East Anglia and the West of England.
4. Overall, the North East devolution proposal is well positioned in the national context of other existing devolution deals with similar content across a number of themes. Only Manchester and West Midlands have more coverage, but these are specialist themes such as Fire Services and Energy and Environment.

## **The Proposed Agreement**

5. The proposed agreement is attached to this Report at Appendix 1. In summary the agreement includes:
  - Additional resources of £30 million a year revenue funding, committed for 30 years, to support the financing costs of a North East Investment Fund worth up to £1.5bn
  - An allocation from the Local Growth Fund, committed until 2020, replacing the current project-by-project bidding system.
  - The option to raise a further £25-30 million a year through a supplement on business rates to fund infrastructure, subject to support from business through the Local Enterprise Partnership.
  - An Employment and Skills Board to oversee creation of a devolved and integrated system to raise skills, help people into work, improve the life chances of young people, increase employment and overcome skills shortages experienced by North East employers.
  - The fully integrated transport system, bringing together responsibilities for rail, local highways, Metro, buses and ferries. This would include a consolidated local

transport budget, integration of the metro with rail services, long-term investment in the Metro system, and the opportunity to deliver a new approach to bus services through powers in the forthcoming Buses Bill.

- Greater local control over the management of around €500 million in European funding.
- Devolution of business support, and greater responsibility for securing inward investment in the region.
- Establishment of a North East Land Board to identify land for new homes and to improve the quality of existing housing in the North East.
- A Commission for Health and Social Care Integration to consider opportunities for devolution and integration to reduce inequalities and improve the health and wellbeing of residents across the region; reporting by Summer 2016.
- A review of regulatory and planning powers that could be deployed by Authorities to create safer, more attractive environments for all of the region's communities. For example, this could allow local bylaws to improve public health, which currently can only be delivered with the approval of Ministers.
- Identifying ways for the North East to play a major role in the UK's business, cultural and sporting events.
- A commitment from both Government and the Combined Authority to consider further opportunities for devolution over time.

### **Conditions on which the agreement was signed**

6. The proposed Agreement was conditional on the completion of the legislative processes, the Spending Review, further public consultation, agreement of the Constituent Authorities of NECA and formal endorsement of the Leadership Board of NECA.
7. The Spending Review did not impact on the proposed Agreement directly. However, it made clear that austerity will continue for Local Government until at least 2020. The March 2016 Budget has announced that further public spending cuts will need to be implemented from 2019/20. In addition, the North East is expecting to face higher cost pressures, due to the higher demand on services in the region. This will introduce additional funding pressures.
8. The primary legislation in the form of the Cities and Local Government Devolution Act 2016 is now in place and secondary legislation will be required to enable the creation of a Mayoral Combined Authority and the devolution of powers and responsibilities. If the devolution proposals are supported the secondary legislation would be brought forward later this year.
9. Conferring the specific Combined Authority and mayoral powers will be subject to Orders, all of which will require the consent of all of the constituent authorities and the NECA Leadership Board. Advice from DCLG has indicated the following timetable
  - Order 1 will deal with the creation of a Mayoral Authority and initial term of Elected Mayor. The Order will need to be laid by May 2016 and implemented by 4 November 2016.
  - Order 2 will address issues relating to the devolution of powers and responsibilities to NECA. This order requires a Governance Review and the development of a Scheme which will be consulted on for a minimum of six weeks. Consultation on the Scheme must commence in early July following completion of the Governance review. The Order will need to be laid in October and the Order will need to be in place by the end of December 2016.

- In addition there will a number of generic Orders developed which cover all Combined Authorities and Government will be consulting on these during 2016
10. Since the conclusion of the proposed Agreement further public consultation has taken place including:-
    - Six public events across the NECA area in November 2015 where participants received a presentation on the proposals, then participated in round table discussions followed by a question and answer session. The consultation exercise and local events were publicised through press releases, individual local authority websites and on social media gaining interest from local and national media and helping to raise awareness of both the North East Combined Authority and the devolution proposals. Over 370 people signed in at the local events and others submitted written responses through the NECA website or completed an online feedback form
    - Views of the NECA's Overview and Scrutiny Committee were sought at their meeting in December 2015 and
    - Dedicated sessions have taken place with representatives of the voluntary, community and social enterprise sector, the regional business sector and also with trade union representatives.
  11. The consultation undertaken by NECA is set out in Appendix 2 which is Report on the engagement process undertaken by NECA.
  12. In addition to the consultation undertaken by NECA, each of the Constituent Authorities including North Tyneside Council, has undertaken their own consultation within their respective. Information on Constituent Authorities' consultation is also set out in that appendix.
  13. Overall the feedback collected during the consultation period demonstrated strong support among a wide range of stakeholders from communities, businesses and partners for the principle of devolution to the North East. Respondents felt that the North East loses out under current arrangements and there was broad positive support for the proposals. Stakeholders were keen that devolution sought from government should be ambitious and set out the potential for North East growth within the context of supporting national growth.

### **Progress to date and outstanding issues**

14. Since the deal was agreed there have been continuing discussions with central government on detailed implementation of the deal. The outcome of these discussions, and outstanding issues, are detailed below.

### **Governance**

15. Throughout the negotiation process, Ministers made clear that devolution was conditional on the creation of an elected Mayor for the Combined Authority's area. They argued that significant transfer of responsibilities would only be appropriate if the public could hold an individual elected person accountable for the exercise of those responsibilities. The Leaders and Elected Mayor have expressed opposition to this precondition, arguing that devolution should not depend on a particular model of governance imposed from the centre. Nevertheless, in the interests of securing the region's proposals for devolution, and as a basis for future devolution opportunities, the Leaders and Elected Mayor have kept an open position on this issue during the

negotiations with Government and has sought to establish a model for an elected Mayor that included appropriate checks and balances.

16. The proposed devolution agreement provides for a Mayor to work within the Combined Authority, which they would Chair, through a Cabinet made up of the Leaders and Elected Mayor of the local authorities. The Mayor would be subject to the Combined Authority's Constitution and they would only have the power to make decisions in relation to those matters specifically allocated to them by legislation. The Cabinet (and Overview and Scrutiny) will examine the Mayor's annual draft budget, plans and strategies and will be able to amend them if two-thirds of the local authority appointed Cabinet members agree to do so. In particular, any decision making powers which are not specifically allocated by legislation to the Mayor are vested in the Combined Authority.
17. Notwithstanding these important checks and balances, it is clear that the Mayor would be an influential and visible figure within and beyond the region.
18. Further information on the governance of the Mayoral Combined Authority is set out in Appendix 3, which reflects the current understanding of decision-making principles and arrangements as discussed with government officials. The final form of governance arrangements will be based on the outcome of the governance review and Scheme, which following consultation and agreement by all constituent authorities and the Leadership Board, NECA must submit to the Secretary of State for agreement.
19. For each of the Combined Authority areas entering into a proposed Devolution Agreement with the Government the decision making responsibilities and powers of their Elected Mayor are set out. In relation to NECA it is proposed that the Mayor will have decision making responsibilities and personal accountability in relation to:
  - Integrated transport including rail, Metro, bus and ferry services as described above.
  - Strategic planning through the creation of a Planning Development Framework which will provide an overarching framework for development in the North East reflecting the specific needs of local communities, supporting local development frameworks, and incorporating the duty cooperate between the Constituent Authorities. This is not a Regional Spatial Strategy and does not convey any powers to grant or refuse planning consent and the decision making powers in relation to planning applications will remain with the Constituent Authorities.
  - The power to apply a supplement on business rates up to a cap to fund infrastructure projects with the agreement of the local business community. Such agreement is currently provided through a ballot of affected businesses.
  - The Mayor will Chair the North East Land Board which will identify land in public ownership (such as health bodies or government departments), suitable for housing or other use to support economic development.
20. It is currently envisaged that should the local authorities and the Leadership Board consent to the creation of the Mayoral Combined Authority an election for a Mayor would take place in May 2017.

### **North East Investment Fund**

21. One of the key proposals in the Devolution Agreement was the establishment of a North East Investment Fund. In response to a proposal in the Statement of Intent, Government agreed the allocation of £30 million a year revenue funding for 30 years (subject to review at 5 year gateway assessment conducted by an independent panel). This funding would support the financing costs of an investment fund, to be

supplemented by capital grant finance from other devolved programmes. The Fund would allow NECA to make long-term investments across a wide range of priorities and give freedom to flex resources between programmes and across years. This section of the report sets out the position that has been reached about the North East Investment Fund in discussions with Government.

22. The operating principles agreed in the offer were that a North East Investment Fund would allow the NECA to:
  - Select projects based on North East conditions and priorities to maximise economic impact.
  - Integrate and align various funding sources and make multi-year commitments.
  - Vire resources between projects and programmes and across financial years.
23. By establishing the Fund, NECA would be able to plan for substantial long term change, increase the prospects of leveraging in private sector financial support and have the opportunity to recycle some of the funding to create an enduring investment pot, as well as helping to deliver additional growth in the short to medium term.

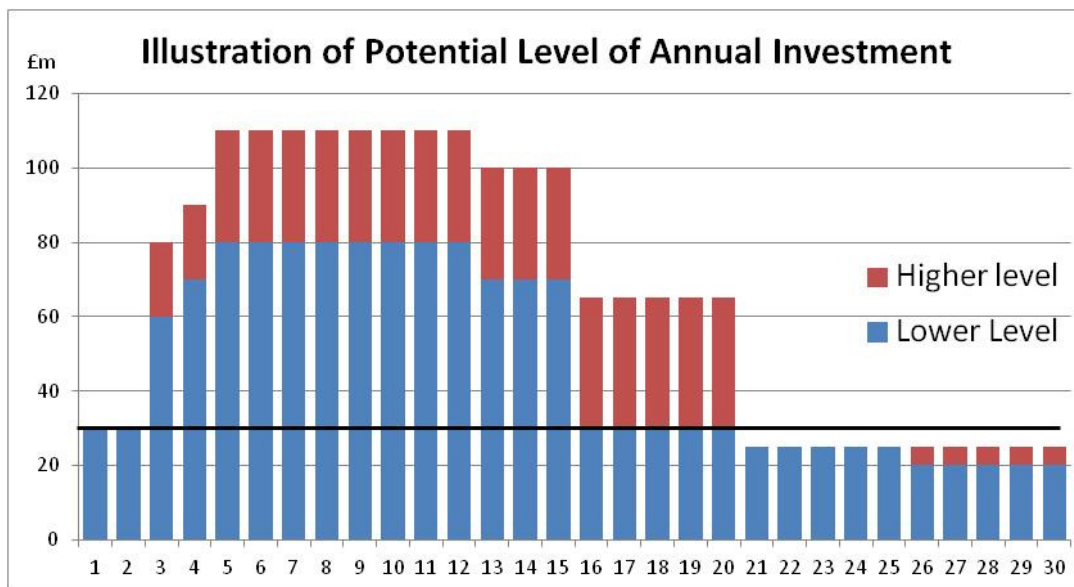
#### Components of Fund – Current Position

24. The following paragraphs set out the latest position which has been established on each potential element of the Fund in discussions with government officials.

#### Investment funding of £30m a Year for 30 Years

25. The largest additional element of extra funding is the provision of a revenue grant of £30m a year planned for 30 years to help create a transformational North East Investment Fund. This extra grant of £900m is equivalent to an extra £997 per dwelling across the NECA area over 30 years. The 'revenue' nature of this grant provides the opportunity to significantly increase the level of investment that can be delivered over the initial 15 year period, with the grant received in the last 15 years helping to finance the upfront capital loan for investment, as well as funding some new investment over the last 15 years of the scheme.
26. NECA's proposed Agreement includes the flexible use of the grant to finance an accelerated capital investment programme and to provide an investment fund, to support business growth, while generating income that could be reinvested over the period. This approach has the potential to significantly increase the level of investment than can be actually delivered with this grant. It is estimated that this could be between £1bn to £1.4bn in the first 15 years; rising to between £1.60bn to more than £1.8bn over the whole 30 year period. We are working to secure the wording needed to give reasonable and sufficient confidence that the grant would be provided over the whole 30 year period, provided that the grant was invested for the purposes that it was provided and that reasonable and realistic economic growth outcomes were achieved in the medium / longer term.
27. The range of potential investment reflects a level of uncertainty over the details of the 5 yearly gateway arrangements in future years and the level of recyclable investment than can actually be achieved. NECA is working with the Government to ensure that the gateway test is reasonable to enable the maximum grant to be released over the period and to give the funding certainty needed to support prudential borrowing for capital investment purposes.

28. The ability to secure borrowing would enable the frontloading of expenditure on infrastructure and investment to help grow the economy. Further details of the availability of borrowing powers for NECA are set out in paragraphs 41 and 42 below. The profile of spending in our current model gives an indicative illustration of how investment can be significantly accelerated and frontloaded into the early part of the 30 years period, significantly in excess of the £30m annual revenue grant. This shows the impact of different assumptions, but both require sufficient confidence about future funding to meet the prudential borrowing code requirements, that financial risk can be managed and assume that we can operate our single pot flexibly and effectively. The actual profile would be determined by NECA based on an understanding of the spending profile of key projects and the level of available resources. This does not include the additional private sector leverage of other public sector funding that could also be attracted. This accelerated pattern of spending would bring benefits of the earlier achievement of additional jobs and economic growth.



**Local Growth Fund (LGF) Clarify what the NECA has allocated now- does this include the £167m**

29. Of the national commitment of £12bn to the LGF, a first tranche of £7.7bn has already been announced and provisionally allocated in July 2014 and January 2015. LGF allocations to NECA from this tranche amounted to £330 million. The £167m already allocated for 16/17 to 20/21 will be included in the North East Investment Fund, enabling the region to use its new flexibility to vire funding between years or projects if it wishes.
30. Under the devolution deal, NECA will be able to bring forward a five-year programme proposal for a future Local Growth Fund allocation. Once agreed with Government, this funding will also form part of the Investment Fund. The level of national flexible future funding available has only recently been announced in the March budget as £1.8bn, which will include funding for local sustainable transport schemes. A further £475m will be available for major transport schemes. In addition £2bn is now being earmarked for Housing 'loan' finance, as opposed to flexible grant funding, with bids for loans to be made by developers to the Homes and Communities Agency. As a result the total of LGF is significantly less than the total of £4.3bn of flexible grant previously envisaged.
31. The future North East LGF bid will be subject to a competitive process with the result not known until the autumn. It had been expected that a fair allocation of funding could



have been agreed to be included in the Investment Fund at this point. However, due to the change to the approach to the funding to be made available as described above this is not possible at present. We are continuing to negotiate a fair share of all three elements of the new LGF Funding, including the local sustainable transport funding, which the deal stated would form part of the region's devolved transport budget.

32. The multi-year flexibility and confidence about the agreed funding over the period once it has been announced is valuable as it will enable projects to proceed with confidence and possibly ahead of the backloaded phasing of the grant that is now expected.

### **Single Transport Budget**

33. The deal commits Government to providing a devolved and consolidated local transport budget with a multiyear settlement, including all relevant local highways and sustainable travel funding. This funding will be incorporated within the North East Investment Fund, giving the region full flexibility over how it is used.
34. An initial single transport budget amounting to £54.7m a year and £273m in total has been proposed over the next five years. This includes –
  - the Integrated Transport Block £13.9m a year – its current level
  - the Highways Maintenance Block of £40.7m a year, including the highest level of the incentive funding that would have been based on performance.
35. An allocation of the highest level of incentive funding in the Highways Maintenance Block over a five year period provides £19.9m more funding than the lowest performance band possible. This represents a clear benefit from the devolved arrangements.
36. The figures for Metro capital and Metro revenue rail grant are separate and additional to the Investment Fund at this point. The capital element of Metro Asset Renewal Programme grant is confirmed over the period at £120m, with Metro Rail Grant over the next 3 years confirmed at £25m a year. There is no confirmation about the level of the revenue grant from 2019/20 onwards when the results of any new Metro franchise arrangement is expected to commence. There are advantages in terms of flexibility and cash flow of including the Metro funding within the investment fund single pot and discussion will continue to have this included in the investment fund for future years.
37. Positive discussions have taken place about securing substantial additional capital investment for the replacement of Metro cars and extension of the Metro System. Discussion will continue to secure the necessary additional investment and clarity about the level of the local contribution to the cost of the schemes by 2017, so that this can be reflected in any new franchising agreement and in the planning of the use of our local Investment Fund.

### **Additional financial implications**

38. In addition to the funding streams included in the Investment Fund, there are a range of further financial implications of the deal. These are discussed in turn below.

#### **Transport Levies and Precept**

39. The transport responsibility that would be the functions of a mayor will be set out in the Scheme to be developed in the forthcoming weeks. The national legislation requires for

the costs of mayoral functions to be funded by way of a council tax precept. The current transport responsibilities of NECA, including those for concessionary travel, secured bus services and historic transport financing costs are funded by way of three transport levies. This has been designed to provide a fair funding solution in the Durham, Northumberland and Tyne and Wear County areas because the transport costs are very different in these areas. We have received written assurances that solutions will be found to avoid any material redistribution of costs between these three areas by any new precepting arrangements. There is the ability to retain levy arrangements for the current costs.

40. The NECA agreement did not include any specific proposal on a mayoral precept for the other mayoral related cost such as the costs of holding a mayoral election. These costs will be met from the £30m revenue grant funding. Other costs such as the development and implementation of detailed devolved powers, responsibilities and funding on employment and skills will also be met from the £30m revenue grant for the next two years at least. The NECA Scheme will include details of decision-making arrangements in relation to the exercise by a mayor of any precepting powers, including provision for constituent authorities to change a mayoral budget and any associated proposed precept. The Scheme will be subject to public consultation.

#### Borrowing Powers

41. The provision of borrowing powers to NECA to cover its full range of functions is considered to be important to the efficient and effective delivery of these functions, such as economic development and could deliver important financial cost savings as part of the operation of our Single Investment Fund. At this time HMT are considering further the expansion of the borrowing powers of NECA beyond its current Transport powers limit. However, to date, HMT has proposed that non-transport borrowing could be arranged through the individual constituent authorities of NECA. It is clear however, that such an approach would require the agreement of each of the Constituent Authorities.
42. Discussions are continuing with the support of other combined authorities and CIPFA to secure an expansion of these powers. This is considered important by all other combined authorities to give combined authorities similar flexibilities already provided to other local authorities across the country. A suitable proposal has been included in the Manchester Schemes which has just been published for consultation. Controls over the overall level of borrowing would rest with the Combined Authority and the application of the Prudential Code would ensure that individual borrowing decisions are affordable and sustainable.

#### Mayoral Supplementary Business Rate

43. The Mayor would also have the opportunity to raise a supplementary business rate from 2018/19 or in future years, with the support of business and the NELEP, to fund major infrastructure projects, within a cap set by the Government. There would be flexibility about the geographic area that this could cover and the types of businesses that would be asked to pay the supplement. The nature of any proposal would be a matter for the Mayor to decide, in consultation with the NECA Cabinet and the business community. The potential level of infrastructure investment that this could generate is potentially substantial, with, subject to the agreement of the business community, the maximum business rate able to raise between £25m to £30m and year across the whole region. Which if use to fund capital infrastructure over 25 years could support initial capital investment of over £500m. The exact amount that could be raised will depend on the

nature of any proposal and the result of the latest reductions in business rates and future business rate revaluations.

#### Early Retention of 100% Business Rate Growth

44. NECA will also receive 100% of business growth over the next four years, in advance of a national scheme being introduced. This scheme would ensure that no individual authority was worse off. At this stage it is unclear what the value of this is and it is not prudent to prejudge the level of growth that could be secured. Decisions on the use of any growth will be taken in future years by NECA once the income has been secured.

#### Enterprise Zones

45. Last year NELEP and NECA proposed 10 new enterprise zones across the NECA area, which were approved in full and were announced as part of the Autumn Statement for implementation from 2017/18. These will provide incentives for businesses, with an estimated £11m of discounted business rates and £59m of expenditure qualifying for capital allowances. The estimate of total retained business rates was over £120m over the 25 years, which would enable £88m of intervention works needed to develop these sites being undertaken in the next five years. An indicative profile of the intervention works is provided in the summary table below.

#### Adult Skills

46. The adult skills budget is proposed to be devolved to NECA in 2018/19. Discussions on the detail of this will continue over 2016 and 2017. While the level of funding to be devolved will not be confirmed until 2017/18, our indicative estimate for the devolved amount is around £80m

#### Summary of Single Pot and Other Funding from 2016/17 to 2020/21

47. A summary of the latest information about the single pot and potential devolution funding is shown below. While some figures have been confirmed others are uncertain or will be announced at a later point in time. An estimate of our LGF proposal for new funding has been provided to give an indication of the potential scale of this opportunity and the results are expected to be announced in the Autumn.

Table 1: Summary of Potential Funding over the next Five Years

	2016-17	2017-18	2018-19	2019-20	2020-21	Total 2016-21
<b>Proposed Investment Fund</b>	£m	£m	£m	£m	£m	£m
Local Growth Fund (current)	79	32	24	17	15	167
Integrated Transport (current)	14	14	14	14	14	70
Highway Maintenance (current)	41	40	41	40	41	203
New Investment Fund grant	30	30	30	30	30	150
<b>Sub Total</b>	<b>164</b>	<b>116</b>	<b>109</b>	<b>101</b>	<b>100</b>	<b>590</b>
<b>Other Funding announced</b>						
Metro Capital (current)	31	30	23	18	18	120
Metro Revenue Rail Grant (current)	25	25	25	25*	25*	125

Enterprise Zone (new capital investment funded by business rates)	2	15	25	25	21	88
<b>Sub Total</b>	<b>58</b>	<b>70</b>	<b>73</b>	<b>68</b>	<b>64</b>	<b>333</b>
<b>Other Potential Funding *</b>						
100% Business rates Growth Retention – new revenue	-	1	1	2	-	4
Bus Services Operator Grant	-	-	28	28	28	56
LGF next round – anticipated share of £1.8bn	-	10	20	40	40	110
LGF, Major Highways - anticipated share of £0.45bn	-	2	3	10	10	25
Estimate of Devolved Skills Funding	-	-	80	80	80	240
Metro Capital funding for replacement cars and development of extensions	-	-	*	*	*	*
Mayors Supplementary Business Rates (new revenue to fund investment)	-	-	25	25	25	75
<b>TOTAL of figures shown</b>	<b>222</b>	<b>199</b>	<b>339</b>	<b>354</b>	<b>347</b>	<b>1,461</b>

\* While funding lines have been agreed in principle, figures in the Other Potential Funding section or marked with an \* are uncertain at this point.

48. The total of £1,461m shown above includes £875m of existing funding in the NECA area where NECA would have greater devolved local control and flexibility over these funds and £452m of new funding over the next five years. It is estimated that £229m of this new money is directly related to the Devolution Agreement and would not be received without the Devolution Agreement. Only the core annual revenue grant of £30m a year for the investment fund and an annual estimate for supplementary business rates of £25m is included above. The actual level of new capital investment over this first five period could be increased significantly by the use of borrowing powers, potentially by over £200m in this first period.

### Fair Funding

49. The proposed Agreement includes a commitment that were functions are agreed to be devolved or to be jointly accountable, the Spending Review will identify a fair level of revenue funding for those functions over the Spending Review period, in the form of a place-based funding settlement for the North East Combined Authority. In addition, the agreement also includes a clause ensuring the North East does not suffer disproportionately in relation to the fiscal freedoms granted to the Scottish Government and from future reductions in funding through a “fair funding settlement”. These remain important issues for the North East and this is being addressed with Government to ensure that there is true consideration of fair funding moving forward.

### Update on other devolution themes

50. The Governance and funding components of the proposed devolution agreement set the framework for the devolved powers and responsibilities across a number of themes such as transport, skills, business support, housing and more. These components have therefore been the focus of negotiations since October 2015.

51. Work is underway with Government with regards to outstanding matters arising from the proposed Devolution Agreement. Progress is ongoing across all themes and the matrix in Appendix 4 provides an overview of progress against each proposal. There are two areas that we are actively discussing with Government to ensure that the commitments made in the proposed agreement are delivered.
52. Firstly, within the context of Area Based Reviews (ABR), the North East will benefit during the initial devolution process from oversight by an Employment and Skills Board with dual accountability to both NECA and the Government. This oversight is not available in other areas of the country. The Board will be chaired by the Commercial Secretary to the Treasury, Lord O'Neill and will undertake a comprehensive review and redesign of the post 16 education and skills system, which will encompass the ABR. However, despite national political assurances that the ABR would be undertaken as described above, Government has issued notification of the start of the North East ABR. We are currently seeking confirmation that Government will delay the ABR until such time that a North East Devolution Deal is confirmed, and therefore the Employment and Skills Board is able to proceed with the wider review.
53. In addition the Prime Minister committed during the 2015 general election campaign to protecting Newcastle Airport from the impacts of devolution of Air Passenger Duty to Scotland. The proposed agreed also commits Government to addressing this issue. This has become increasingly urgent since the Scottish Government's recent publication of a document setting out its detailed plans for implementation of a 50% cut to APD at Scottish Airports. The region calls upon Government to clarify how it intends to fulfil the Prime Ministerial commitment as soon as possible.

#### Delivery, Evaluation and Monitoring

54. Programme governance is in place across all the themes of the Devolution Agreement and supported by a programme management team. Specific working groups for each theme have been established and the programme reports fortnightly into the Economic Directors Steering Group and the Chief Executives Group (Programme Board). Conversations are ongoing with DCLG representatives to review the status of the Devolution programme and particularly the joint Implementation Plan document, which is due to go for cross-Whitehall review at the Decentralisation Implementation Group on 22nd April 2016.

#### Further Devolution

55. The proposed agreement set out a commitment for the North East Combined Authority and the NHS to jointly establish a Commission for Health and Social Care Integration, to establish the scope and basis for integration, deeper collaboration and devolution across the Combined Authority's area, in order to improve outcomes and reduce health inequalities. The Commission is established, a public call for evidence has been published and the Commission is due to report back in September 2016.
56. County Durham is in a unique position within the combined authority regarding the police, fire and health and social care as the geographical footprint extends beyond NECA. Any proposed devolution in these areas will be subject to consent of DCC (and all other Constituent Authorities) and NECA. Such devolution proposals would be supported by the inclusion of appropriate safeguards in decision-making to protect the interests of DCC or other Constituent Authorities in a minority voting position in decision making.

57. Devolution in areas not currently covered by the proposed Agreement is an option for the future but any such proposal would be subject to consultation and consent of all Constituent Authorities and NECA. The proposed agreement sets the framework for ongoing dialogue with Government to transfer more power and resources from Whitehall to the North East

### **The key outstanding issues**

58. Work continues with Government with regards to outstanding matters arising from the proposed Devolution Agreement. These are summarised below.
- The proposed Agreement establishes the principle of a single five-year programme allocation of local growth funding, to form part of the flexible North East Investment Fund. The region has proposed a five-year programme allocation of local growth funding to Government, and awaits clarification on how Government intends to fulfil this commitment.
  - A lack of certainty on £30 million a year funding over all 30 years and the 5-year gateway tests which is needed if NECA are to create a substantial investment fund. Although Government have provided some reassurance on the gateway process, uncertainties remain which needs to be clarified. Specifically, confirmation is sought that longer term borrowing is to support economic development initiatives which have met both Government and NECA's rigorous assurance and appraisal processes, that the 5-year gateway review process should not be able to reduce the level of funding received to the extent that it is not possible to finance that borrowing.
  - The proposed Agreement committed to providing a single devolved transport fund covering 'all highways and sustainable travel budgets'. The confirmation of £273m in devolved, flexible local highways funding for the region announced alongside the budget is positive but confirmation on how Government plans to devolve sustainable travel funding to the region is still outstanding.
  - The proposed Agreement sets out commitments that future funding outcomes would ensure the North East is not disadvantaged in relation to the fiscal freedoms granted to the Scottish Government and that the North East does not suffer disproportionately from future reductions in funding through a fair funding settlement. This is an outstanding issue.
  - The Prime Minister committed during the 2015 General Election campaign to protecting Newcastle Airport from the impacts of devolution of Air Passenger Duty to Scotland. The proposed Agreement commits Government to addressing this issue. This has become increasingly urgent since the Scottish Government's recent publication of a document setting out its detailed plans for implementation of a 50% cut to APD at Scottish Airports and confirmation on how this issue is to be addressed by Government remains outstanding.

### **Further Consideration**

59. The proposed Agreement provides a substantial devolution of powers to the North East, enabling the region join up policies in ways previously not possible, ensuring that transport, infrastructure, skills, employment support, housing and health policies all work together to improve opportunities for the people of the region. It also opens the door to further devolution in future.

60. Key benefits include:
- the long-term certainty provided by five year grant allocations and a thirty year allocation to the investment fund, enabling the region to invest across priorities according to local needs rather than being constrained by ring-fences determined in Whitehall and 'stop-start' annual funding processes;
  - Fiscal devolution which includes an opportunity for business rates supplement to fund critical infrastructure
  - Local control over adult skills, DWP employment support programmes, distribution of ESIF funding, UKTI activity in the region and regional transport investment
  - Access to regulatory powers to support housing, neighbourhood and health outcomes
  - Opportunity to shape North East Health and Social Care integration ahead of National programme
  - Opportunity to progress transformational infrastructure projects
  - In its totality the agreement will support increasing the region's ability to support all in society, through new responsibilities for skills training for young people, support for those struggling to find employment, improving transport services and infrastructure and helping the region build more homes.
61. The proposed agreement also respects the North East's specific circumstances. The "embedded mayor" model set out in the deal ensures significant control for local leaders, an acknowledgement that the "metro mayor" approach adopted in largely urban combined authority areas is not appropriate for the NECA geography. If the region chooses not to adopt the mayoral combined authority we could expect the loss of £30M a year investment funding, putting in jeopardy £1.5bn in additional investment. The region would also lose multiyear certainty on local growth and transport funding, reducing the region's ability to plan for the long-term and putting the region at a competitive disadvantage compared to the areas to have adopted mayoral combined authorities. The region would also lose the ability to vire funding between devolved programmes, and return to the status quo of decisions on local growth funding, the future of local transport and employment and skills dominated by Whitehall.
62. At the same time, it is recognised that approval of the proposed Agreement also creates risks. The model for an Elected Mayor could create tensions with individual authorities. There are concerns that, without well-designed checks and balances, the mayoral model could invest too much responsibility in one individual. However these necessary checks and balances are recognised and are being positively progressed with Government. Finally, there are risks that the region makes insufficient progress in developing the capacity to deliver new responsibilities, or that government devolves insufficient funding to meet the new responsibilities.
63. Since agreeing the deal, discussions with Government have clarified a number of detailed points about how funding will be distributed, and have confirmed that Government is largely content with our proposed governance arrangements. Outstanding issues include, ensuring flexibilities are sufficient to enable the investment fund to function as envisaged, and confirmation that a satisfactory five year allocation of local growth fund will be provided.

## **Next Steps**

64. Following the Cabinet meeting on 2 March where Cabinet agreed to seek the views of Council on the proposed Devolution Agreement, the matter was considered by full Council on 17 March 2016. Following consideration of a report on the proposed

Devolution Agreement and consideration of the current progress made with fulfilling the terms of the agreement, Council supported the Proposed Agreement and the proposal to create a mayoral combined authority for the NECA area but also noted that further clarification and commitment was required from Government in relation to certain matters. The outstanding issues at the time related to Government gateway reviews on the £30m revenue grant, transport levies, Local Growth Fund/housing funding and Local Major Transport Schemes and Airport Passenger Duty. The position on transport levies has now been clarified with Government and means of ensuring the current differential transport levies for Northumberland and Durham, if necessary, may be reflected in new arrangements should a mayoral precept be applied in relation to mayoral transport responsibilities.

65. In view of the support for the proposed Devolution Agreement and the creation of a Mayoral Combined Authority by full Council, Cabinet is recommended to agree the recommendations as set out in the report. The recommendations delegate authority to the Elected Mayor (in consultation with others) to consent to the making of Orders enabling the creation of the Mayoral Combined Authority and devolution of new powers and responsibilities once appropriate clarification and commitment of government in relation to outstanding issues has been provided.
66. For the sake of completeness, should at least one other Constituent Authorities and the Leadership Board support the creation of the Mayoral Combined Authority following receipt of formal responses from Government on the outstanding issues, legislation will be laid by DCLG to create the Mayoral Combined Authority. In addition, if the devolution of specific powers to NECA is to be progressed, a governance review and associated Scheme must be produced. Such a Scheme is subject to a period of public consultation and will set out how the proposed devolved powers are expected to improve the exercise of statutory functions in the NECA area. The Scheme and consultation responses will be submitted to the DCLG and subject to Ministerial consent will form the basis of the Order devolving powers to NECA. More information regarding the timescales and process for the making of the requisite Orders is set out in Appendix 3. Further reports will be submitted to the Leadership Board regarding the next steps in due course.

## **1.5 Decision options**

Cabinet is asked to consider the draft Devolution Agreement entered into in October 2016 and determine whether, on the basis of the information contained in the report and the views of Council at their meeting of 17 March, to agree to the Recommendations in paragraph 1.2. Cabinet may decide to refer the matter back to officers for further consideration and the submission of a further report to Cabinet on the matter. It is recommended that Cabinet agree to the Recommendations as set out in the report for the reasons set out below.

## **1.6 Reasons for recommended option:**

Cabinet is requested to agree the Recommendations as set out in the report as this will enable the necessary clarification and commitment from Government in relation to the outstanding issues identified in the report to be secured. The delegation to the Mayor will also enable the Mayor, following consultation with relevant officers, to consent to the required Orders within the challenging timescales identified for the Parliamentary processes to be completed.



## **1.7 Appendices:**

Appendix 1 – North East Combined Authority Devolution Agreement

Appendix 2 Consultation/Engagement Report

Appendix 3 – Proposed Governance Arrangements

Appendix 4 – Progress on devolution proposals

## **1.8 Contact officers:**

Patrick Melia – Chief Executive (Tel: 643 2001)

Viv Geary – Head of Law and Governance and Monitoring Officer (Tel: 643 5339)

John Barton – Lawyer (Tel 643 5354)

Janice Gillespie, Head of Finance (Tel: 643 5701)

## **1.9 Background Documents**

The Cities and Local Government Devolution Act 2016

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

If approved, the Devolution Agreement will bring additional resources from 2016/17 onwards to the NECA area, which could increase significantly in future years with the devolution of skills and other funding. These additional resources will be administered by NECA and the use of these resources will be determined by the NECA cabinet, which would include the elected mayor.

The devolution of additional flexibility and the ability to take decisions locally about the allocation of existing and new resources is also a significant benefit of the devolution agreement. The intention is to maximise the benefits of flexibility through the operation of a NE Single Investment Pot. Flexibilities such as wider borrowing powers if secured would give real benefits in terms of accelerating capital investment and creating opportunities to achieve savings in revenue financing costs, which could be used to increase the level of investment and/or help cushion the impact of some cuts in services that NECA and the area are facing in this parliament.

Information about the funding is set out in the body of the report. In some cases discussions are continuing to confirm the details of the proposals and to seek confirmation of additional flexibilities such as borrowing powers. Discussion about additional funding, such as new investment for Metro Cars and extensions, which will take longer to be concluded.

It is important for the region to have a strong voice to help secure the principle of fair funding. While there has been some improvement in the fairness of some of the funding decisions this year, some other decisions may not appear supportive of this principle. It is therefore important to continue take advantage of the opportunity to discussions 'fair funding' with the Secretary of State and the Chancellor, potentially working in concert with other areas of the country, including other combined authorities in the Northern powerhouse.

In terms of the revenue budget for 2016/17, once the Devolution agreement is agreed the budget will be increase by the £30m Investment fund revenue grant. Details about how this will be used will be reported for approval for future meetings of the Leadership Board.

## **2.2 Legal implications**

Decisions relating to the implementation of the proposed Devolution Agreement are executive decisions and therefore the responsibility of Cabinet of each Constituent Authority and the Leadership Board of the NECA.

The Cities and Local Government Devolution Act 2016, enables the creation of Mayoral Combined Authorities. A key principle of the legislation is that changes to the powers and responsibilities of the NECA and the introduction of an elected Mayor can only proceed with the agreement of the Constituent Authorities and with NECA. Ministerial consent is also required.

The creation of a Mayoral Combined Authority and devolution of new powers and responsibilities requires new secondary legislation in the form of Orders. Two Orders are currently envisaged, one to provide for an elected Mayor for NECA and their initial term of office, the initial Order, and a further Order devolving new responsibilities to NECA, and the allocating specific decision making responsibilities to the Mayor. Any responsibility which is not specifically allocated to the Mayor remains the responsibility of the Leadership Board which will be renamed the "Cabinet".

The Department of Communities and Local Government (DCLG) have advised that the legislation is proposed to be created in two phases, the initial Order must be in place by 4 November 2016 at the latest and that the Parliamentary processes would be commenced with a view to the first Order being laid before Parliament prior to the summer recess. Subsequent Order(s), that require additional public consultation before being made must be laid in October and in place by the end of this year.

The proposed devolution Agreement provides that the Mayor will be the Chair of the Cabinet but the Mayor will not have a casting vote. Decisions taken by the new Cabinet and decisions that are the responsibility of the Mayor are to be subject to "Call in" by the Overview and Scrutiny Committee, which would be a new power for that Committee. Where a Mayor is not supportive of decision taken by Cabinet they will also have the power to ask for such a decision to be reconsidered but, if reconfirmed, the matter will proceed without Mayoral support.

Decisions in relation to the responsibilities of the NECA (Cabinet) may, like now, be taken by Committees, sub Committees and Officers if delegated. A Mayor would also have the option to delegate their decision making responsibilities.

The responsibilities of the Mayor not otherwise funded though government grants or contributions by Constituent Authorities will be funded through a precept. The budget proposed by the Mayor for their responsibilities may be changed with the agreement of 2/3 of the Constituent Authorities' Leaders/Elected Mayor on the Cabinet. The budget for the remaining responsibilities of the NECA will be funded in accordance with the current arrangements through by government grants, Constituent Authority contributions and appropriate levies.

Not only does the Cabinet have the power to change the Mayor's budget proposals where 2/3 of the Constituent Authorities' Cabinet representatives agree to do so but the

Mayor's plans and strategies are also subject to change if the requisite majority is achieved.

## **2.3 Consultation/Community Engagement**

### **2.3.1 Internal Consultation**

The full Council was consulted on the proposals at the meeting on 17 March 2016 and unanimously supported the proposals moving forward. Further information is contained under Next Steps above.

The proposed Devolution Agreement was discussed at the Leadership Forum. The Elected Mayor together with two Leaders of Constituent Authorities attended before the Overview and Scrutiny Committee of NECA to answer questions on the proposed Devolution Agreement.

### **2.3.2 External Consultation/Engagement**

The North East Combined Authority has undertaken a wide range of consultation and engagement activity over the last year to obtain views on the devolution proposals. This has generated over 750 responses using a variety of consultation methods across a wide range of public and private sector stakeholders, the voluntary and community sector and members of the public, in addition to consultation activity undertaken at local level.

Consultation on the devolution proposals took place in two phases – in March 2015 on the initial proposals, then between November 2015 and January 2016 on the proposed devolution agreement. A range of methods was used to gather views, including:

- A series of local facilitated events across the NECA area
- A regional stakeholders event
- A trade union event
- A Voluntary, Community and Social Enterprise Sector event
- Meetings of the NECA Overview and Scrutiny Committee
- A meeting of North East MPs and Lords at Westminster
- The opportunity to submit comments via the NECA website through an online questionnaire

As well as the public meetings coordinated centrally by NECA, the constituent authorities are continuing to gather views locally from residents and stakeholders in their area.

Responses across the full range of stakeholders have been positive overall, welcoming the opportunities offered by the devolution agenda and the progress made on key areas of priority. Support has been expressed for the issues identified as areas of priority in the outline proposals as they have been translated into the specific proposals in the proposed devolution agreement, with clear views expressed around extending the scope to consider culture, tourism and the environment in any future discussions with Government. Respondents have been keen to obtain more detailed information on the individual proposals as they develop and are particularly interested in how the new governance arrangements will operate in practice following the introduction of an elected Mayor.

The consultation process generated a high level of interest across the North East and a clear message across all stakeholders that they want to remain involved as further progress is made. The detailed comments, suggestions and concerns raised in responses will be noted as activity moves towards implementation should the proposed

agreement be formally agreed. The full range of activity enabled engagement with over 750 stakeholders including residents, political representatives, business representatives and members of the voluntary and community sector.

The results of the consultation exercise are detailed in the report attached at Appendix 2.

## **2.4 Human Rights**

There are no specific human rights implications arising from this report.

## **2.5 Equalities and Diversity**

There are no specific equalities and diversity implications arising from this report.

## **2.6 Risk Management**

The risks, issues and dependencies associated with the Devolution programme are actively identified, analysed and managed by the NECA programme management team. NECA is the owner of the strategic risk register for Devolution and will ensure that all key risks are aligned with the LA7 strategic risk registers.

The identification and analysis of risks is an ongoing process that is undertaken with the various stakeholder groups and the LA7 working groups that have been established to deliver the specific themes of the Devolution Deal. The NECA programme will report on key risks and mitigating actions as part of the fortnightly status reporting to the CEX Group which operates as the Programme Board.

## **2.7 Crime and Disorder**

There are no specific crime and disorder implications arising from this report.

## **2.8 Environment and Sustainability**

There are no environment and sustainability implications arising from this report.

### **PART 3 - SIGN OFF**

- Deputy Chief Executive
- Head(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy